



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 22, 2019

CASE NUMBER: 2019OPA-0384

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged that Named Employees detained and arrested him because he is Black.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

In addition, the video of this incident indicated that the Complainant made a vague allegation that excessive force was used on him during some past incident and by unidentified officers. OPA’s intake investigation yielded no evidence that the Complainant had ever been involved in a prior use of force involving SPD officers. As such, and without the Complainant’s interview given his failure to cooperate with OPA’s investigation, this allegation was not further explored.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) were dispatched to a 911 call regarding a disturbance at a docked boat. The call concerned an intoxicated male who was preventing others from providing assistance to an intoxicated female. Prior to the Named Employees’ arrival, they received a detailed description of the intoxicated male, who is the Complainant in this case. When the Named Employees got to the scene, multiple witnesses pointed



out the Complainant as the perpetrator of an assault. The Complainant was detained by the Named Employees while they investigated the underlying crime.

During the investigation, NE#2 discovered that there was an active domestic violence no contact order that prohibited the Complainant from being in the same location as the intoxicated female. Pursuant to Washington State law and SPD policy, a violation of such an order warrants a mandatory arrest. Accordingly, NE#2 arrested the Complainant for violation of the order.

After he was taken into custody, the Complainant alleged that the officers only arrested him because he was Black. The Complainant also said: "...it's some racist ass Washington shit man..." The Complainant's allegation of biased policing was reported by the officers to their supervisor. The supervisor documented the allegation and, pursuant to policy, made an OPA referral. This investigation ensued.

As part of its investigation, OPA reviewed the Body Worn Video (BWV) for this incident. The BWV documented the entirety of the Named Employees' interaction with the Complainant, as well as the screening of this incident by the supervisor. OPA further attempted on multiple occasions to locate the Complainant and to secure his interview. However, the Complainant did not respond to OPA and, as such, he was not interviewed as part of this case.

SPD Policy 5.140 prohibits biased policing, which it defines as "the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual." This includes different treatment based on the race of the subject. (*See id.*)

Based on its review of BWV, OPA finds insufficient evidence to support the Complainant's allegation that he was subjected to biased policing. First, the officers responded to a potential crime in progress and, once they arrived on the scene, multiple witnesses identified the Complainant as the perpetrator. Second, once the officers determined that there was an open no contact order and that the Complainant was in violation of that order, they were required to arrest him and had no discretion in this regard. As such, the evidence clearly indicates that the Complainant's arrest was based on his conduct, not on his membership in any protected class or due to any bias on the part of the Named Employees.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded as against both Named Employees.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #2 - Allegations #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

For the same reasons as stated above (*see* Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**