



## CLOSED CASE SUMMARY

ISSUED DATE: MARCH 19, 2018

CASE NUMBER: 2017OPA-1006

### 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)

*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 reported that Named Employee #1 was biased and unprofessional against him because of his race when he responded to a fight incident and treated him like the suspect.

### ADMINISTRATIVE NOTE:

I agree with the OPA Auditor that, given the Complainant’s statement, a professionalism allegation should have been added to this case and should have been investigated. It appears as if it was added as an allegation initially, but was then deleted based on an administrative error. While, based on my review of the facts, I would not have issued a sustained finding, it is still problematic that it was not included as an allegation and that I did not have this chance to issue recommended findings.

I further note that a Sergeant who is currently assigned to OPA was a witness to this incident. As such, and in order to protect against any potential conflicts of interest or the potential appearance of bias in OPA’s investigation, this case file was not shared with him and he was not consulted in or apprised of OPA’s recommended findings.

### ANALYSIS AND CONCLUSIONS:

#### **Named Employee #1 - Allegation #1**

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

The Complainant, who is African-American, stated that Named Employee #1 (NE#1) was biased against him because of his race. NE#1 responded to a call of a male who had assaulted a female. When NE#1 arrived at the scene, he observed several individuals holding the Complainant. Those individuals indicated that the Complainant had assaulted and spit on several women. He ordered the individuals holding the Complainant to release him. The victim then identified the Complainant as the man who had assaulted her and she stated that he had hit her several times in the back of the head. The Complainant was also identified as the perpetrator by another witness. The Complainant was upset and, himself, alleged that he had been the victim of an assault. He engaged in a heated back-and-forth concerning the incident with NE#1, during which NE#1 repeatedly told the Complainant that he was trying to figure out what was going on. Ultimately, the Complainant told NE#1 that he no longer wanted to speak with him.

A sergeant responded to the scene and spoke with the Complainant. The Complainant asserted to this sergeant that he believed that NE#1 had subjected him to biased policing. The sergeant referred this matter to OPA.

During its investigation, OPA was able to speak with the Complainant who provided limited information concerning the incident, including that he believed that NE#1 had been condescending and indifferent towards him. The Complainant stated that he wanted to speak with his lawyer before providing a statement to OPA. The Complainant ultimately did not contact OPA to provide a formal statement. OPA interviewed NE#1. NE#1 denied initially stopping the Complainant based on his race or that he treated the Complainant differently based on his race. OPA also interviewed two officers who witnessed the incident. Neither reported observing NE#1 take law enforcement action against the Complainant based on the Complainant's race.

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 SPD Policy 5.140.) The policy provides guidance as to when an allegation of biased policing occurs, explaining that: "an allegation of bias-based policing occurs whenever, from the perspective of a reasonable officer, a subject complains that he or she has received different treatment from an officer because of any discernable personal characteristic..." (*Id.*)

Based on my review of the record, and applying a preponderance of the evidence standard, I find no support for the Complainant's allegation that NE#1 subjected him to biased policing. The Complainant was identified as the perpetrator of an assault by numerous individuals. I find that this, not the Complainant's race, was the basis for stop and his interaction with NE#1. As such, I recommend that this allegation be Not Sustained – Unfounded.

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