



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 28, 2018

CASE NUMBER: 2017OPA-1065

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 reported that the Named Employees were gender biased and that his arrest was “illegal.”

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Named Employees responded to a call concerning an ongoing domestic violence incident between a husband and wife. When they arrived, they observed that both the husband, who is the Complainant in this case, and his wife had visible injuries. The Complainant had a bite mark on his right hand and scratches to his left hand. The Complainant’s wife had a red swollen eye and redness to her forearms.

During their investigation, the officers determined that, after a dispute, the Complainant spat at his wife. After she spat back at him, he slapped her in the face, causing the swelling to her eye. He then grabbed her arms and would not let her go. She scratched his hand and bit him until he released her arms. Based on this information, the officers developed probable cause to believe that the Complainant was the primary aggressor. This was premised both on the injuries suffered by both individuals and on the content of their statements. Given this fact, the officers were required by Washington State law to arrest the Complainant for a domestic violence assault.

At that time, the Complainant alleged that he was being arrested because he was a man. He contended that the officers were biased in their law enforcement actions towards him because of his gender. Due to the Complainant’s allegations, the officers notified their supervisor and the supervisor responded to the scene. The Complainant reiterated his allegations to the supervisor and this matter was referred to OPA.



The Named Employees were interviewed by OPA. Both stated that they had probable cause to arrest the Complainants, explained the facts that supported their beliefs, and indicated that they were required by law to place him under arrest. The Named Employees further denied engaging in biased policing towards the Complainant. OPA attempted to interview the Complainant through his attorneys but he was not made available for an interview.

SPD policy 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 as other discernible personal characteristics of an individual.” (SPD Policy 5.140.) This includes different treatment based on the race of the subject. (*See id.*) 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, I find that there was abundant probable cause for the Complainant’s arrest. His conduct, not his race, was the reason that law enforcement action was taken against him. Moreover, as discussed above, once the officers developed probable cause that the Complainant was the primary aggressor, they were required by law to arrest him. There is no evidence establishing that the Named Employees engaged in biased policing in this matter.

As such, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #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)**