



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 9, 2019

CASE NUMBER: 2018OPA-1017

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)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)

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)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)

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 the Named Employees subjected him to excessive force by tripping and assaulting him as he was walking away. He also alleged that the Named Employees subjected him to biased policing based on his religion.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the OIG 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.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

The Complainant in this case was contacted in a park by the Named Employees. They reported observing the Complainant drinking a beer and attempted to stop him to discuss that violation. However, the Complainant walked away from them and refused to stop. The Named Employees told the Complainant that he was not free to leave and began escorting him back across the street. The Complainant was subsequently arrested for obstruction.

A Sergeant was called to the scene to screen the arrest. The Complainant reported to the Sergeant that the Named Employees were biased towards him because of his religion. The Sergeant did not identify any evidence of bias and



concluded that the Complainant may have been suffering from mental illness, due to his meandering statements and speech pattern. However, pursuant to SPD policy, the Sergeant referred this matter to OPA and this investigation ensued.

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 other discernible personal characteristics of an individual.” (SPD Policy 5.140.) This includes different treatment based on the race of the subject. (*See id.*)

From my review of the record, including the Department video, I find no evidence indicating that the Named Employees engaged in biased policing or acted in any type of a discriminatory manner towards the Complainant. The Named Employees had no way of knowing what the Complainant’s religion was at the time of this stop and took law enforcement action against him based on his conduct, not due to his membership in any protected class. As such, I recommend that this allegation be Not Sustained – Unfounded as against both Named Employees.

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

Named Employee #1 - Allegation #2

8.200 - Using Force 1. Use of Force: When Authorized

As noted above, The Named Employees attempted to detain the Complainant to investigate his consuming an alcoholic beverage in a public location. The Complainant refused to obey the Named Employees’ commands for him to stop walking away from them. When he failed to do so, the Named Employees made physical contact with him by taking hold of the Complainant’s arms and escorting him back to the park. This force was de-minimis. The Complainant reported to the screening Sergeant that the officers tripped him and assaulted him; however, the Department video of this incident did not support the Complainant’s account.

SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary and proportional. Whether force is reasonable depends “on the totality of the circumstances” known to the officers at the time of the force and must be balanced against “the rights of the subject, in light of the circumstances surrounding the event.” (SPD Policy 8.200(1).) The policy lists a number of factors that should be weighed when evaluating reasonableness. (*See id.*) Force is necessary where “no reasonably effective alternative appears to exist, and only then to the degree which is reasonable to effect a lawful purpose.” (*Id.*) Lastly, the force used must be proportional to the threat posed to the officer. (*Id.*)

I find that the force used on the Complainant was reasonable and necessary to place the Complainant under arrest, to handcuff him, and to escort him back to the park. Moreover, the force was also proportional to effectuate the officers’ lawful purpose and was only that force needed to do so. Lastly, the Department video of this incident does not support the Complainant’s allegations concerning the force used by the Named Employees. For these reasons, I find that the force applied during this incident was consistent with policy and I recommend that this allegation be Not Sustained – Lawful and Proper as against both Named Employees.

Recommended Finding: **Not Sustained (Lawful and Proper)**



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)**

Named Employee #2 - Allegation #2

8.200 - Using Force 1. Use of Force: When Authorized

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Not Sustained – Lawful and Proper

Recommended Finding: **Not Sustained (Lawful and Proper)**