



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 11, 2020

CASE NUMBER: 2020OPA-0026

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)

Named Employee #3

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 #4

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 the Named Employees subjected him to biased policing.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the review and approval of the Office of Inspector General for Public Safety, 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, during its intake investigation, OPA determined that Named Employee #2 did not have reasonable suspicion to detain the Complainant or, in the alternative, failed to sufficiently articulate the legal basis for the Terry stop in his reports. Specifically, OPA noted that two males were identified as the suspects and there was no indication from the CAD or any other report that a female was involved. As such, it is unclear why the Complainant, who is a female, was detained. While it was later verified that the Complainant did, in fact, engage in criminal activity, this does not provide a justification for the initial detention. However, given that Named Employee #2 was a student officer at the time and as OPA found that he acted in good faith during this incident, OPA concluded that this matter was better handled by the chain of command via a Supervisor Action.

OPA further determined that a supervisor approved the reports concerning the Terry stop of the Complainant and did not identify the lack of reasonable suspicion, which is required under policy. Lastly, OPA noted that the supervisor made the decision to make an OPA referral when, under policy, he could have properly completed a Bias Review. While not necessarily a violation of policy, OPA believed that the supervisor's chain of command should discuss this matter with him. These issues were ultimately sent back to the chain of command as Supervisor Actions.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

The Named Employees responded to a report of an ongoing physical fight in a DESC facility. The suspects were both described as Black males. Officers also received general descriptions of the suspects' clothing.

When the officers arrived, they observed a man and a woman leaving the DESC facility. The male appeared to match the description. Specifically, he was wearing a Lakers jersey, which was consistent with the information provided to 911 and relayed to the officers. Named Employee #2 (NE#2) reported that he detained the male, as well as the female – who was later identified as the Complainant. NE#2 told them that they were not free to go. At that time, a second male exited the facility and punched the individual wearing the Lakers jersey. The officers broke up the altercation and took the second male into custody against his resistance. NE#2 documented that the male wearing the Lakers jersey and the woman attempted to leave the scene at that time and he informed them that they could not do so until the officers completed their investigation.

The officers conducted additional investigation, which included watching security video from DESC. Based on that review, the officers identified that the Complainant had also engaged in assaultive behavior. As such, they placed her under arrest. When she was taken into custody, the Complainant asserted that the officers arrested her because of her race. A supervisor was informed of that allegation and he made an OPA referral. This OPA 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.*)

The Named Employees' response to this incident and the law enforcement action that they took was completely recorded on Body Worn Video (BWV). Based on a review of that video, OPA finds no evidence indicating that the Named Employees engaged in biased policing towards the Complainant. This is the case even though OPA does not believe that NE#2 had reasonable suspicion to initially detain the Complainant or, in the alternative, sufficiently articulated the reasonable suspicion supporting that detention. While this may have been in error, it was not due to bias. Moreover, it was later conclusively determined that the Complainant did, in fact, engage in criminal conduct and her ultimate arrest was based on her conduct, not her race.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded as against all of the 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), OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #3 - 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), OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #4 - 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), OPA recommends that this allegation be Not Sustained – Unfounded.

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