



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 27, 2018

CASE NUMBER: 2018OPA-0191

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	15.170 - Conducting Identification Procedures 1. Preparing and Administering Photomontages and Show-ups	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 Employee violated his rights; that she was racially biased against him; and that she violated Department policy when she did not conduct a "photo line-up".

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

SPD officers, including Named Employee #1 (NE#1), were investigating a possible extortion. The victim reported that his daughter had been kidnapped and that individuals were trying to extort money from him. The victim stated that one of the suspects was in possession of his daughter’s phone and was answering it when he called. One of the two suspects was located and arrested. This suspect admitted to committing extortion and identified the Complainant as also being involved. This suspect provided a photograph of the Complainant from Facebook. NE#1 also pulled a photograph of the Complainant from a Department database and showed it to the suspect. She did so in order to confirm that the Complainant was, in fact, the other individual who had engaged in criminal behavior with the suspect. The suspect confirmed the Complainant’s identity. NE#1 determined that the Complainant had numerous past convictions and arrests, as well as that he had an open DOC warrant. Officers located the kidnapped woman and she informed them that she had been assaulted by the Complainant. The Complainant was also located and was placed under arrest for both extortion and arrest.

The Complainant later filed this complaint with OPA. He made several allegations. Most notably, he claimed that he was subjected to biased policing. He alleged that NE#1 conducted her investigation “as a parent,” instead of as a dispassionate detective. He further asserted that NE#1 was “gung ho” because of his past criminal history. The Complainant suggested that NE#1 saw him as a Black man with a criminal history and pursued him and thought he was guilty for these reasons. As further evidence of NE#1’s alleged bias, the Complainant pointed to the fact that she put him on a “phone lock” (restricting his phone access while he was incarcerated), falsely alleged that he was



tampering with witnesses, bought a sandwich for the suspect, and failed to show the suspect a photo montage containing the Complainant's picture.

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.*)

Based on my review of the record, I find no evidence suggesting that NE#1 engaged in biased policing. The Complainant was arrested and prosecuted based on his conduct and on the incriminating statements made by the other suspect, the victim, and the kidnapped daughter. Moreover, I disagree that any of the actions pointed to by the Complainant as suggesting bias on the part of NE#1 rose to that level. I see no support in the record that NE#1 investigated this case "as a parent," or that she had some animus against the Complainant based on his race or past criminal history. I do not believe that NE#1 was particularly "gung ho" in this case and NE#1, who has the reputation of being an exceptional detective, appeared to treat this case as she would any other investigation. Contrary to the Complainant's allegations, NE#1 was not responsible for the restrictions on his phone usage. Instead, this was based on the fact that, as clearly indicated by the evidentiary record, he tried to tamper with multiple witnesses. Similarly, the fact that NE#1 bought a sandwich for the suspect does not suggest any bias. Indeed, it simply suggests the kindness of providing food to someone who was being interviewed during the dinner hours. Lastly, as discussed below, there was no need to conduct a photo array in this case. As such, that NE#1 did not do so does not constitute bias.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

15.170 - Conducting Identification Procedures 1. Preparing and Administering Photomontages and Show-ups

SPD Policy 15.170-POL-1 concerns preparing and administering photomontages and show-ups. This policy was classified for investigation due to the fact that NE#1 used a single photograph to have the suspect identify the Complainant, instead of using a photo array with six different photographs. As NE#1 explained at her OPA interview, a photo array was unnecessary in this case. The suspect had already provided the Complainant's name and a photograph of him. When NE#1 showed the suspect a single photograph, she was simply trying to verify that they were speaking about the same person. As such, I find that her actions in this regard were appropriate, consistent with policy, and that she had no obligation to use a photo array. For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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