



CLOSED CASE SUMMARY

ISSUED DATE: MAY 14, 2019

CASE NUMBER: 2019OPA-0048

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)

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:

On December 10, 2018, the Named Employees responded to a call of a reported shoplift at a downtown clothing store. The call, which was placed by the store manager, included a description of the suspect and direction of travel. The Named Employees stopped and detained the Subject because he matched that description. When the store manager was brought to the location of the Subject, he stated that the Subject appeared to be the same person, but that he was unable to positively identify him as the shoplift suspect. The Subject later alleged that he was stopped by police because of his race and not because he matched the description of the shoplift suspect.

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.



SUMMARY OF INVESTIGATION:

This complaint stemmed from a Bias Review that was completed concerning this incident by the Named Employees' chain of command. After conducting its review, the Office of Inspector General (OIG) initiated an OPA complaint to determine whether the Named Employees engaged in biased policing when they effectuated a *Terry* stop of the subject.

During its investigation, OPA determined that the initial description of the suspect was as follows: *BM (Black Male), 30, 508, MED, SUNGLASSES, BB CAP, BLK VEST, BLU JEANS, CARRYING NORDSTROM BAG WITH DUCT TAPE*. It was also reported that the suspect left the store and walked westbound in the direction of Pike Street.

OPA further reviewed the reports generated the underlying incident. As indicated in those reports, Named Employee #1 (NE#1) and Named Employee #2 (NE#2) responded to the shoplift call by driving to the area of 3rd and Pike because they knew that to be an area where many stolen goods are sold. NE#1 reported that he viewed the Subject, who he believed matched the description of the shoplift suspect, standing in front of a Starbucks. NE#1 specifically noted that the Subject was carrying a Nordstrom's bag with duct tape on it. NE#1 listed on his report that he perceived the Subject as being a Black male, around 5'8", with a medium build, who was between the age of 36-45. NE#1 also reported that the Subject was not wearing sunglasses or a cap, but that his clothing matched that described by the store manager. NE#1 and NE#2 then detained the Subject to investigate whether he was involved in the shoplift. Named Employee #3 (NE#3) arrived at the scene and assisted with the detention while NE#1 took steps to bring the store manager to the scene for a show-up. The reports indicated that, while the store manager thought that the Subject was the shoplift suspect, he was unable to positively identify the Subject because the Subject was not wearing a baseball cap and sunglasses at the time. Additionally, the store manager reported at that time that there was no video footage of the incident at the store for officers to review.

OPA's review of the Named Employees' Body Worn Video (BWV) supports their contention that they identified the Subject because they believed that he matched the description of the shoplift suspect that was provided by the store manager. The differences between what was reported by dispatch and the Subject were that he was not wearing sunglasses or a hat and that the Subject was wearing a lighter colored vest and jeans.

As part of its investigation into this matter, OPA located and interviewed the Subject. He told OPA that he should not have been stopped because his pants and vest were not the same color as the suspect's. He also stated that the Named Employees needed to be more focused on the details and should not guess because an incident could quickly escalate.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

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." (SPD Policy 5.140.) This includes different treatment based on the race of the subject. (*See id.*)



Based on OPA's review of the evidence, including the BWV, there is no indication that any of the Named Employees engaged in biased policing. The Subject was detained because he closely matched the description of the shoplift suspect, including the fact that he was carrying a distinct Nordstrom's bag with duct tape on it. There is no support for the contention that this law enforcement action was taken against the Complainant due to his race or membership in any protected class. For these reasons, I recommend 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), I recommend 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), I recommend that this allegation be Not Sustained – Unfounded.

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