



CLOSED CASE SUMMARY

ISSUED DATE: JULY 30, 2019

CASE NUMBER: 2019OPA-0123

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 alleged that the Named Employees subjected him to biased policing when they detained him while investigating a domestic violence assault.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’s 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.

In addition, two issues identified by OPA during its intake investigation were addressed via Supervisor Actions rather than through a full investigation. The first concerned the Named Employees’ Sergeant’s decision to complete a Bias Review for the Complainant’s allegation. A Bias Review is only appropriate where an investigating supervisor deems the bias allegation to be unfounded and also speaks with the subject and informs the subject of the option of filing an OPA complaint. Here, the Sergeant never spoke to the Complainant and, as such, an OPA referral should be have been completed instead of a Bias Review.

The second issue identified concerned Named Employee #1’s decision to frisk the Complainant during the *Terry* stop. While OPA did not necessarily believe that the frisk was improper, OPA requested that the chain of command discuss this matter with Named Employee #1 and asked that this discussion include a review of relevant case law. OPA further noted that Named Employee #1 did not articulate the basis for the frisk in any of the documentation that he generated concerning this incident.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

On February 4, 2019, the Named Employees responded to a 911 call regarding a domestic violence (DV) assault. The information provided to the Named Employees was that a male suspect had just kicked a female victim in the face. The male suspect was reported to be traveling southbound from the location of the incident. The following description was provided of the male suspect: “BM, 37, DK GRY JKT, BLK PANTS,” and the victim was, “BF, 37-41, BLU COAT, BLK PANTS.” After the Named Employees arrived in the vicinity of the scene, they located and detained a male. The Named Employees reported that they stopped the male, who they believed matched the description of the possible suspect. The male is the Complainant in this case.

While the Named Employees were speaking with the Complainant, officers located and interviewed a woman who was believed to be the victim of the DV assault. However, she denied any involvement in this alleged DV incident. The Named Employees concluded their investigation by determining that the DV had not occurred or, in the alternative, that the incident did not involve the Complainant and the woman who had been interviewed.

During the Named Employees’ detention of the Complainant, he stated that he believed he was only stopped because he is Black. The Named Employees requested that a Sergeant come to the scene to investigate the Complainant’s bias allegation; however, the Complainant departed before the Sergeant arrived. The Named Employees reported that they offered a business card with an incident number to the Complainant, but he ignored them and walked away. The Sergeant reported that he tried to call the Complainant but could not ultimately reach him.

During its investigation of this matter, OPA made multiple attempts to contact the Complainant but these attempts were unsuccessful. Thus, the Complainant was not interviewed as part of this investigation.

OPA further reviewed the Body Worn Video (BWV) associated with this incident. The BWV confirmed that the Complainant largely matched the description provided by the 911 caller.

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.” This includes different treatment based on the race of the subject. (*See id.*)

Based on OPA’s review of the evidence, there is no indication that either of the Named Employees engaged in biased policing. The Complainant was stopped and questioned because the Named Employees reasonably believed that he matched the description of the DV suspect, not because of his race or membership in any protected class. This is further established by the BWV of this incident. For these reasons, I recommend that this allegation be Not Sustained – Unfounded as against both 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)**