



## CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 29, 2019

CASE NUMBER: 2019OPA-0169

### 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)

***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 his arrest by the Named Employee was due to bias.

### 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 Employee. As such, the Named Employee was 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***

On March 3, 2019, the Named Employee was dispatched to a "fight with a knife" call. When he arrived on scene, NE#1 conducted an investigation into what had occurred. This investigation revealed that the suspect, who is the Complainant in this case, and another individual approached the victim, who was playing a piano on the sidewalk. At first, all of the individuals were talking to each other. However, the Complainant got increasingly closer to the victim’s piano and possessions and repeatedly bumped the instrument. The victim reported that he asked the Complainant to back away from his space so that he could comfortably play piano, but the Complainant became upset and postured aggressively by thrusting his chest out while asking the victim why he was treating him so rudely. The victim told the Complainant to get back and the Complainant responded by pulling a fixed-blade, double-edged dagger-style knife out. After doing so, the Complainant inadvertently dropped the knife. The victim picked it up and kept it away from the Complainant. The victim reported that the Complainant advanced towards him with a raised and clenched fist and failed to get back when the victim screamed for him to do so. The victim stated that, at this time, he hit the Complainant with a flashlight in self-defense. The victim stated that he then knocked the Complainant to the ground and held the Complainant there until officers arrived.



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As part of its investigation, statements were obtained from witnesses to the incident. Those witnesses corroborated the account provided by the victim. This established probable cause and, accordingly, the Complainant was placed under arrest for assault. During a Sergeant's later screening of the Complainant's arrest, the Complainant alleged that he was only arrested because he is White and the victim is Black. The Complainant asked the Sergeant to refer his complaint to OPA, which the Sergeant did. This investigation ensued. As part of its review of this case, OPA made multiple attempts to interview the Complainant but these attempts were ultimately unsuccessful. Thus, the Complainant was not interviewed as part of this investigation.

OPA reviewed the Body Worn Video (BWV) associated with this incident and found that it was consistent with NE#1's documentation of the incident. The BWV further confirmed that NE#1 developed sufficient probable cause to arrest the Complainant.

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 – most notably the BWV, there is no indication that bias played any role in NE#1's decision to arrest the Complainant. The Complainant was arrested based on his conduct, not because of his or the victim's his race or membership in any protected class. For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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