



## **CLOSED CASE SUMMARY**

ISSUED DATE:     OCTOBER 11, 2018

CASE NUMBER:     2018OPA-0342

### **Allegations of Misconduct & Director’s Findings**

**Named Employee #1**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)
# 3	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)

**Named Employee #2**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)

***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 engaged in biased policing towards her and subjected her to excessive force. The Complainant further alleged that Named Employee #1 may have engaged in criminal activity.

**ADMINISTRATIVE NOTE:**

This case was designated as an Expedited Investigation. This means that OPA, with the OPA Auditor’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.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegations #1**

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

In a conversation after her arrest with a Department supervisor, the Complainant made what appeared to be an allegation of biased policing. She contended that she may have been arrested because of her status as an unsheltered person.



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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.*)

From a review of the Body Worn Video (BWV), which fully captured the Named Employees’ interaction with the Complainant, there is no evidence that the Complainant was discriminated against based on her housing status or her membership in any other protected class. Instead, the Complainant was arrested based on an open warrant and her refusal to comply with the officers’ lawful orders. For these reasons, I find this allegation meritless and I recommend that this allegation be Not Sustained – Unfounded as against both Named Employees.

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

**Named Employee #1 - Allegation #2**

**8.200 - Using Force 1. Use of Force: When Authorized**

The Named Employees observed a vehicle that had previously fled from them. The officers were aware that the passenger, who was later identified as the Complainant, had an open felony warrant. Officers conducted a Terry stop of the vehicle and, during that stop, confirmed that the Complainant had an open warrant. They ordered her to get out of the vehicle, but she refused to do so. She got into the driver’s seat and started the vehicle. The officers positioned their cars to prevent her from driving away unless she drove through the patrol vehicles. The Complainant refused to get out of the vehicle and NE#1 broke the driver’s side window. The officers again ordered her multiple times to order the vehicle and she continued to refuse.

The officers were eventually able to pull her out of the vehicle and she slid to the ground where her legs suffered minor cuts from broken glass. Named Employee #2 (NE#2) placed the Complainant into handcuffs and escorted her to a patrol vehicle. At that time, she alleged that NE#2 was breaking her arm and that he broke her hand.

SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary and proportional. Whether force is reasonable depends “on the totality of the circumstances” known to the officers at the time of the force and must be balanced against “the rights of the subject, in light of the circumstances surrounding the event.” (SPD Policy 8.200(1).) The policy lists a number of factors that should be weighed when evaluating reasonableness. (*See id.*) Force is necessary where “no reasonably effective alternative appears to exist, and only then to the degree which is reasonable to effect a lawful purpose.” (*Id.*) Lastly, the force used must be proportional to the threat posed to the officer. (*Id.*)

I find that both NE#1 and NE#2 used de minimis force to remove the Complainant from the vehicle and then to place her into handcuffs. At the time this force was used, the officers had the legal authority to take the Complainant into custody and, when she was non-compliant, they had the right to use lawful force to effectuate their objectives. I find that this force was reasonable, necessary, and proportional under the circumstances and, thus, that it was consistent with policy. As such, I recommend that this allegation be Not Sustained – Lawful and Proper as against both Named Employees.

Recommended Finding: **Not Sustained (Lawful and Proper)**



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**Named Employee #1 - Allegation #3**

***5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy***

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

The Complainant alleged that NE#1 stole her necklaces and tried to “rape” her. As discussed above, this incident was fully recorded on BWV. The BWV conclusively establishes that NE#1 engaged in no criminal activity and that these allegations are both frivolous and meritless.

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 #2 - Allegation #2**

***8.200 - Using Force 1. Use of Force: When Authorized***

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**