



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 26, 2018

CASE NUMBER: 2018OPA-0608

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	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)

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)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)

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)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)

Named Employee #4

Allegation(s):		Director’s Findings
# 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)

Named Employee #5

Allegation(s):		Director’s Findings
# 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 (Unfounded)

Named Employee #6

Allegation(s):		Director’s Findings
# 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 (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 excessive force and biased policing.

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 - Allegation #1

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

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) recognized the Complainant as a suspect who was pictured on a wanted bulletin. NE#1 made contact with the Complainant and confirmed his identity. NE#1 and NE#2 attempted to place him under arrest. During and after the arrest, the Complainant asserted that the Named Employees stopped him because of his race. A supervisor was called to the scene to investigate and attempted to ascertain information from the Complainant. The Complainant refused to speak with the supervisor and this incident was referred to OPA for investigation. The Complainant did not return OPA's requests for contact via phone, email or written correspondence.

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 my review of the record, including the Department video, I find no evidence indicating that the officers engaged in biased policing or acted in any type of a discriminatory manner towards the Complainant. Specifically, NE#1 and NE#2 recognized the Complainant from a Wanted Bulletin, in which there was probable cause for his arrest. The other Named Employees simply assisted NE#1 and NE#2 in the Complainant's arrest and transport. All of the Named Employees were professional towards the Complainant and appeared to act within policy at all times during this incident. As such, I recommend that this allegation be Not Sustained – Unfounded as against all of the Named Employees.

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

Named Employee #1 - Allegation #2

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

At the time NE#1 and NE#2 took the Complainant into custody, he stiffened his arms and refused to place his arms behind his back. Named Employee #3 (NE#3) and Named Employee #4 (NE#4) arrived on scene to assist. NE#1,



NE#2, NE#3, and NE#4 used a team tactics approach to place the Complainant on the ground in a controlled manner. During the incident, the Complainant alleged excessive force, but refused to elaborate further or cooperate with the supervisor investigating the incident. The Complainant did not return requests for additional information from OPA and, as such, OPA was unable to discern the specific nature of his excessive force complaint.

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.*)

NE#1 and NE#2 had probable cause to arrest the Complainant for two felony crimes. He resisted arrest and low level force was used by NE#1, NE#2, NE#3, and NE#4 to take the Complainant into custody. I find that this force was reasonable, necessary, and proportional and, thus, consistent with policy. For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper as against NE#1, NE#2, NE#3, and NE#4.

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

Named Employee #2 - Allegation #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)**

Named Employee #3 - Allegation #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 - 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)**

Named Employee #4 - Allegation #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 #4 - 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)**

Named Employee #5 – Allegation #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 #5 – Allegation #2

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

Named Employee #5 (NE#5) and Named Employee #6 (NE#6) did not use force on the Complainant and only maintained scene security. NE#6 further rode in the ambulance with the Complainant to the hospital.

As NE#5 and NE#6 did not use any force against the Complainant, I recommend that this allegation be Not Sustained – Unfounded against them.

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



Named Employee #6 – Allegation #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 #6 – Allegation #2

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

For the same reasons as stated above (see Named Employee #5, Allegation #2), I recommend that this allegation be Not Sustained – Unfounded.

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