



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 2, 2019

CASE NUMBER: 2019OPA-0390

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 the Named Employee, an administrative clerk employed at SPD headquarters, made him wait for service longer than he otherwise would have on the basis of his race.

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.

SUMMARY OF INVESTIGATION:

On June 7, 2019, the Complainant, a person of color, went to SPD headquarters to get his fingerprints taken. He waited in the lobby for approximately 30 minutes before speaking to the clerk on duty – Named Employee #1 (NE#1). At some point while still at SPD headquarters, the Complainant called OPA to report alleged misconduct. The Complainant spoke to an OPA investigator and provided a contemporaneous account of what he alleged occurred. The Complainant’s initial account, as documented by the OPA investigator, is summarized below. As part of its investigation into this matter, OPA obtained security video from SPD headquarters and again interviewed the Complainant.

The Complainant’s Initial Account to OPA

The Complainant stated that he went to SPD headquarters to be fingerprinted. He took a number at approximately 10:30 a.m. and waited for about 30 minutes for his number to be called by NE#1. He approached NE#1’s window and began the process of paying for the fingerprinting; however, at that time, he realized that he was short of money. He left the building at around 11:00 a.m., withdrew cash from a nearby ATM, and returned at approximately 11:05 a.m. The Complainant said that when he returned, no other people were being served. As such, he re-approached NE#1’s window. He said NE#1 told him he had to take another number because she had already called



the next in line. The Complainant then contacted OPA and alleged that NE#1 declined to serve him based on his race. He elaborated that NE#1 and “90 percent” of the customers being served were White, while he was a person of color. The Complainant also said he believed, but was not certain, that a White person had to leave to get cash like he did but had been served immediately upon returning to SPD headquarters and without having to take another ticket. The Complainant told OPA that he believed that taking another ticket would require him to wait an additional 30 minutes. He lastly confirmed that NE#1 did not reference his race or use any derogatory language.

SPD Lobby Video

The Complainant’s interactions with SPD employees, including NE#1, were captured on security video for the lobby area at SPD headquarters. That video did not include sound. In addition, SPD civilian administrative staff are not equipped with Body Worn Video (BWV), and OPA’s investigation determined that no officers equipped with BWV were present at the time and recorded the incident.

The security video showed that, at approximately 11:08 a.m., the Complainant went to the window to speak to NE#1, who was the only clerk on duty at that time. NE#1 handed the Complainant paperwork. The Complainant stood away from the window to complete the paperwork and returned to the desk at 11:16 a.m. The Complainant took out his wallet, looked inside, and then spoke with NE#1. NE#1 gave him back his paperwork. The Complainant took the paperwork and left the building.

The Complainant returned to SPD headquarters at 11:23 a.m. At that time, NE#1 was assisting a woman at the window. The Complainant waited until the woman stepped away and walked over to the interior doors of SPD headquarters. NE#1 appeared to gesture at the Complainant and they spoke briefly. Immediately after, the video recorded that the uniformed SPD desk officer cleared the woman through the internal doors into SPD headquarters and NE#1 accompanied her off camera. It appeared that NE#1 was assisting the woman with fingerprinting. At that time, there were approximately ten people waiting in the lobby.

The Complainant did not take another ticket. At 11:26 a.m., the Complainant spoke briefly to the desk officer. The desk officer gave him something. At approximately 11:27 a.m., the Complainant made a phone call, which OPA believes was to OPA. He remained on the phone until 11:49 a.m. At that time, he ended his call, took another number, and waited. At 11:55 a.m., a different clerk called the Complainant to the window. When the Complainant was called to the window for the second time, NE#1 was assisting another individual. Notably, the lobby video did not record any other individuals, including a White person as the Complainant alleged, leaving the lobby and then returning and being provided with immediate service.

Complainant’s OPA Interview

OPA conducted an interview with the Complainant on July 1, 2019. The Complainant alleged that he was treated differently because he was the only person of color present in the lobby on the date in question. He said that NE#1 initially skipped his number and he had to ask to be helped. The Complainant also realleged that a White individual also had to leave to get money but was not made to take a new number when that individual returned. He asserted that this was evidence of biased policing.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

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.*)

Based on OPA’s investigation, there is insufficient support for the Complainant’s allegation of biased policing. To the contrary, the video evidence appears to disprove that NE#1 engaged in biased policing. For example, OPA’s review of the video indicated that no White individual left the SPD headquarters lobby when the Complainant was there and then returned to receive preferential service. As another example, the video indicated that, at the time this incident was ongoing, there were numerous people in the lobby. This supports a finding that the Complainant not being immediately provided service once he returned after getting money was based on the needs of other customers and staffing limitations, rather than due to bias. Lastly, while perhaps inconvenient for the Complainant, being required to get another number when he returned does not constitute bias.

For the above reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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