



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 12, 2019

CASE NUMBER: 2019OPA-0330

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties - 10. Employees Shall Strive to be Professional	Not Sustained (Unfounded)
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations - 2. Employees Will Assist Any Person Who Wishes to File a Complaint	Not Sustained (Lawful and Proper)
# 3	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 - 6. Supervisors Conduct Preliminary Inquiry into Bias-Based Policing	Not Sustained (Training Referral)

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 Named Employee #1 (NE#1), a 911 call taker, treated her rudely, did not transfer her to a supervisor, delayed providing OPA’s contact information, and declined to dispatch officers to assist her because of her race. It was further alleged that Named Employee #2 (NE#2), a supervisor, failed to properly handle the Complainant’s allegation of bias towards NE#1.

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.

SUMMARY OF INVESTIGATION:

OPA received a complaint from the Complainant alleging that NE#1, a 911 dispatcher, was rude to her, did not transfer her to his supervisor when asked, and did not assist her in filing an OPA complaint. Included in these was a phone call between the Complainant and NE#2, a supervisor.



This review revealed that, on May 16, 2019, the Complainant called 911 to report that an hour earlier someone stole items from her garbage, and that she believed the same person stole from her mailbox the week prior. Her call was routed to NE#1, who handles nonemergency calls. NE#1 told the complainant that no officers were available to respond to her home but that she could complete a report over the phone. The Complainant was frustrated with this answer and said that she had attempted to file similar reports three times and was told each time that no officers were available. She asked to speak to NE#1's supervisor. NE#1 told her that his supervisor was currently on a call and that he would fill out a citizen complaint form to have his supervisor call her back.

The Complainant, who identified as a person of color, further stated that when her White neighbor called to report someone breaking into her mailbox, officers responded to her neighbor's home. NE#1 explained that breaking into a mailbox was a burglary and not a theft and that different types of crimes carry different reporting options. He offered to connect the Complainant with a police officer who could take her report. The Complainant said that she was not satisfied and wanted to speak to a supervisor. NE#1 said that he could not transfer her but could take her information and have a supervisor call her when available. The Complainant said that in the past supervisors had not called her back.

NE#1 reiterated that he could have a supervisor call the Complainant back or that he could connect her to an officer to take a police report over the phone, but that he could not have officers respond to her home as she wished. He indicated that these were the options policy provided him. The Complainant told NE#1 that he was providing her poorer service than her White neighbors received because they were able to get officers to respond to their homes. NE#1 responded that he did not know anything about the calls made by her neighbors and that he was unable to continue talking to her indefinitely because he had additional 911 calls that he was required to take. He offered to provide OPA's contact information if the Complainant wanted to make a complaint. The Complainant said that she felt he should have offered this information sooner and that the length of the call was due to NE#1's behavior. NE#1 agreed to notify a supervisor and then concluded the call. NE#1 ultimately did relay the Complainant's complaints to a supervisor, NE#2.

NE#2 later called the Complainant. The Complainant explained her complaints related to her earlier call and her experience with NE#1. She indicated that, in her view, there was a systemic discrepancy between the treatment that she received from dispatch compared to that received by her White neighbors. She said she has had to wait for extended periods to get a response from patrol officers when they did not have to so wait. During the conversation NE#2 stated that callers may request in-person responses from patrol officers, but that dispatchers are instructed to "push" the phone reporting option to reduce response times and not tie up patrol resources on non-emergency calls. He promised to clarify the policy with NE#1 and to remind NE#1 that he could request an in-person response from a patrol officer.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional at all Times

SPD Policy 5.001-POL-10 requires that SPD employees "strive to be professional at all times." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers." (SPD Policy 5.001-POL-10.)



Based on OPA’s review of the conversation between NE#1 and the Complainant, OPA concludes that NE#1 was not unprofessional towards her. Notably, NE#1 did not use profanity, direct any insults at the Complainant, or behave in a contemptuous manner. OPA concludes that NE#1 was respectful and remained calm with the Complainant, even though she was extremely frustrated with what he was telling her and his statements that he could not have an officer dispatched to her home and that he could not transfer her to a supervisor. Lastly, while NE#1 told the Complainant several times that he had other calls holding that needed to be answered, this was not unprofessional and was consistent with the expectations of his unit that he promptly processes calls.

OPA is sympathetic to the Complainant’s frustrations regarding the lack of law enforcement response to her residence. Moreover, in this case, the lack of a response was due, at least in part, to NE#1’s misunderstanding of policy and the reality that he could, in fact, dispatch an officer to her home (even though the response likely would have taken hours). While NE#1 clearly made a mistake in this regard, OPA does not believe that it was intentional or based on ill will. Further, NE#1 has received counseling to ensure that he does not repeat this conduct moving forward.

Ultimately, the audio recording of their conversation does not support a finding that NE#1 acted unprofessionally towards the Complainant. As such, OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 2. Employees Will Assist Any Person Who Wishes to File a Complaint

SPD Policy 5.002-POL-2 requires that SPD “employees will assist any person who wishes to file a complaint.” The policy further directs that “employees will assist the complainant by taking the complaint and passing it on to a supervisor and/or OPA.” (SPD Policy 5.002-POL-2.)

During NE#1’s phone conversation with the Complainant, she asked to be transferred to a supervisor. He told her that he could not do that but stated that he would relay her complaint and have the supervisor call her back. Approximately ten minutes into the call, the Complainant asked about filing a formal complaint. At that time, NE#1 informed her of the option of filing an OPA complaint.

The Complainant told NE#1 that she was frustrated with the delay in providing OPA’s contact information; however, there is no policy that states that NE#1 must immediately provide that information during a phone conversation. Moreover, from OPA’s review of the recording, it appears that NE#1 provided this information as soon as he realized that she was seeking to file a complaint and not just to speak with a supervisor. Notably, during the earlier portions of the conversation, NE#1 repeatedly offered the Complainant potential remedies to her complaint and, at no point, tried to withhold information from her. Lastly, NE#1 did, in fact, relay the Complainant’s complaint to NE#2.

For these reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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



Named Employee #1 - Allegation #3

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.*)

The Complainant alleged to both NE#1 and NE#2 that the lack of a law enforcement response to her residence was based on her race. In support of this allegation, the Complainant stated that her White neighbors received prompt responses while she did not. She also contended that the dispatchers to whom she spoke could discern her race while speaking to her and, in her opinion, withheld timely law enforcement services because of their perception of their race.

Again, while OPA recognizes the Complainant’s frustration, there is no evidence in the record indicating that NE#1, or any other dispatcher, engaged in the systemic practice of not providing timely resources to the Complainant because of her perceived race. Instead, it appears that, as NE#2 indicated, the responses or lack thereof were governed by a number of variables, including call volume and nature and officer staffing limitations.

As there is insufficient evidence in the record to establish bias on the part of NE#1 or any other officer, OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #1

5.140 - Bias-Free Policing 6. Supervisors Conduct Preliminary Inquiry into Bias-Based Policing

SPD Policy 5.140-POL-6 requires supervisors to conduct a preliminary inquiry into an allegation of biased policing. Where such an allegation is made, the supervisor is instructed to discuss matter with the subject. (SPD Policy 5.140-POL-6.) The supervisor is required to explain to the subject the option of making an OPA complaint. (*Id.*) If the supervisor does so, the subject does not wish for an OPA complaint to be filed on their behalf, and the supervisor deems that no misconduct occurred, a supervisor will complete a Bias Review. (*Id.*) Otherwise, the supervisor must refer the allegation of bias to OPA. (*Id.*)

OPA’s intake investigation indicated that NE#2 did not complete a Bias Review or, for that matter, make an OPA referral. From OPA’s reading of the policy, it appears that he should have completed a Bias Review or at least explored doing so with the Complainant. That being said, OPA determined that, at the time, there was a lack of clarity as to the responsibility for dispatcher supervisors to complete Bias Reviews. Subsequently, OPA staff provided training to dispatchers in this area and provided guidance on when to complete Bias Review and how to do so. OPA hopes that this confusion has been resolved.

Ultimately, given that the failure to complete a Bias Review seems to be a systemic issue rather than misconduct on the part of NE#2, OPA issues the below Training Referral.



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- **Training Referral:** OPA requests that the chain of command for dispatchers reiterate the expectation that, where appropriate, dispatcher supervisors will complete Bias Review. The chain of command should provide ongoing training in this area.

Recommended Finding: **Not Sustained (Training Referral)**