



## ***CLOSED CASE SUMMARY***

ISSUED DATE: DECEMBER 18, 2019

CASE NUMBER: 2019OPA-0471

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

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 1. Every Employee is Responsible for Knowing and Complying With This Policy	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, a 911 call taker, was rude and hung up on the Complainant during a 911 call on the basis of the Complainant's 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.

### **ANALYSIS AND CONCLUSIONS:**

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

#### ***5.140 - Bias-Free Policing 1. Every Employee is Responsible for Knowing and Complying With This Policy***

On June 27, 2019, the Complainant made a call to 911. The call was answered by Named Employee #1 (NE#1), a 911 call taker. The Complainant told NE#1 that he "did not have an emergency," but requested that officers respond to his apartment to remove a woman. He provided a physical description of the woman and said that he had previously been in a romantic relationship with her. The Complainant also reported that he and the woman shared a child, and that he had been allowing the woman to stay with him because the child had nowhere else to go. The Complainant also said that the woman had a no contact order against him with herself as the protected party. The Complainant said that the woman had made false reports against him and he told NE#1 that he was concerned that he would be arrested. NE#1 said that was not his decision to make, but that the Complainant could explain the situation to the officers. NE#1 asked any assaults had occurred. The Complainant did not answer and stated that he would speak to the officers when they arrived. NE#1 continued to ask whether an assault had occurred, but the Complainant did not answer. The Complainant then hung up the phone call.

Later, a female 911 call taker called the Complainant to inform him that officers were at the entrance to his building. The call taker asked the Complainant to speak to the officers and to let them inside. The Complainant declined, and instead asked the call taker to have the officers call him on his phone. The call taker explained that not all SPD



officers carried department phones and that the officers would like to speak with him in person. The Complainant said that he believed at least one of the officers was carrying a phone, because he had been called at 11:30 p.m. by officers on prior occasions. The call taker said that she would tell the officers that the Complainant declined to speak with them in person but could not promise that the officers would call the Complainant. The 911 call taker then disconnected the call.

The Complainant again called 911 to request that officers remove the woman. NE#1 answered the call. The Complainant repeated that it was not an emergency, but that he “never received a phone call” from the officers despite multiple calls to 911. NE#1 began to ask questions, and the Complainant recounted facts consistent with his first call to 911. NE#1 asked if the Complainant had seen the woman carry weapons. The Complainant said that he did not know, because anything could be a weapon. NE#1 and the Complainant seemed to grow frustrated with each other over this issue. NE#1 specified that he did not mean a knife to cut vegetables. The Complainant reiterated that this was his second call to police and that nobody had called him. He stated that he did not have to go meet police officers if he did not want to. NE#1 seemed to become more frustrated and told the Complainant to “listen” and not tell him a story. The Complainant stated that NE#1 was being very rude. The Complainant said he was attempting to tell NE#1 “how I want this to be done.” He again stated that nobody had called him. NE#1 advised the Complainant that there was a call which officers logged as cleared because the caller refused to make contact with officers when they arrived. The Complainant said he was not in the at his apartment and argued that he did not need to be at home or make contact with officers to have a person removed from his apartment. NE#1 attempted to explain that officers generally will not enter an apartment without invitation. The Complainant continued to disagree, and the call terminated. No beeping was recorded, which was consistent with NE#1 hanging up the call.

The Complainant called 911 again and spoke to a different female call taker. The Complainant told her that the previous call taker – NE#1 – was “rude” and that NE#1 hung up on him. He discussed past negative interactions with police. The Complainant also stated that he is a Black man, and that people thought they could treat him “any kind of way” because he is Black. The call taker told the Complainant that a supervisor would call him back.

A dispatch supervisor called the Complainant. The Complainant related his experiences with 911 consistent with the information above. The supervisor explained that he had reviewed the relevant calls. He told the Complainant that there are circumstances when call takers are permitted to terminate calls, but that he had provided coaching to NE#1 about when it is appropriate to terminate phone calls. The Complainant stated his allegation that NE#1’s treatment of him was based on the fact that NE#1 “knew [he] was a Black man.” He stated that NE#1 potentially put his life at risk when NE#1 hung up the Complainant’s call, because NE#1 did not know the situation. The supervisor told the Complainant that he would be making a report of the Complainant’s allegations. This OPA investigation ensued.

As part of its investigation, OPA contacted the Complainant. The Complainant stated that “there was no complaint,” and that he preferred not to make a recorded statement. OPA also reviewed the June 27 calls between 911 call takers and the Complainant. OPA notes that no call taker, including NE#1 or any other, asked the Complainant about his race. The Complainant did volunteer to the second female call taker and the dispatch supervisor that he was Black.

SPD Policy 5.140-POL-1 requires every Department employee to be familiar with and comply with the policy on bias-free policing. The policy further states that: “The Chief of Police will reinforce that bias-based policing is unacceptable through specific yearly training, regular updates, and such other means as may be appropriate.” (SPD



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Policy 5.140-POL-1.) Lastly, the policy instructs that: “Supervisors are responsible for ensuring all personnel in their command are operating in compliance with this policy.” (*Id.*) SPD policy further 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 review of the video, OPA finds no evidence that NE#1’s treatment of the Complainant was based on bias. OPA reaches this conclusion for two main reasons.

First, NE#1 did not ask – and the Complainant did not volunteer – that the Complainant is Black, and no evidence in the record suggests that NE#1 took the actions he did because of a perception that he formed about the Complainant’s race.

Second, while it appears that NE#1 did disconnect the second call, there is no evidence in the record to suggest that he did so because of the Complainant’s race. Rather, it appears that NE#1 disconnected the call based on his knowledge that the Complainant had earlier refused to interact directly with officers and on NE#1’s perception that he was still refusing to do so. Contrary to his assertions, the Complainant did not have the “right” to talk to the officers on the phone and did not have the authority to dictate how the call was handled. Without the officers being able to verify in person that the Complainant was who he said he was, OPA struggles to see how they possibly could have formed the legal authority to remove the woman from the Complainant’s apartment. As such, OPA believes that the officers could have properly insisted on in-person contact with the Complainant. Moreover, while the Complainant asserted that NE#1’s hanging up on him could have resulted in his “death,” NE#1 was aware that the Complainant’s situation was not an emergency because the Complainant directly told him it was not on two occasions.

OPA agrees with NE#1’s supervisor that NE#1 could potentially have handled the call better and that hanging up the Complainant without providing any notice that NE#1 was about to do so was not optimal. However, this does not suggest or establish biased policing on NE#1’s part. OPA further notes that NE#1’s supervisor proactively retrained and counseled him concerning this incident.

Given that there is not sufficient evidence to find that NE#1’s actions were based on bias, OPA recommends that this allegation be Not Sustained – Unfounded.

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