



## ***CLOSED CASE SUMMARY***

ISSUED DATE: JANUARY 30, 2020

CASE NUMBER: 2019OPA-0785

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

#### **Named Employee #1**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Unfounded)
# 2	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

#### **Named Employee #2**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Unfounded)
# 2	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 Employees were unprofessional towards her and that they subjected her to biased policing.

### **ADMINISTRATIVE NOTE:**

This case was designated as an Expedited Investigation. This means that OPA, with the review and approval of the Office of Inspector General for Public Safety, 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:**

The Named Employees were dispatched to a call at an apartment building. They contacted the Complainant, who alleged that her neighbor was shutting the door loudly. NE#1 told the Complainant that this was a civil matter not a criminal offense. NE#1 recommended that the Complainant address this matter with building management. NE#1 asked what the Complainant was looking for from the police and she asked that the officers speak with her neighbor. NE#1 offered to do so and they went upstairs. NE#1 knocked on the neighbor's door but the neighbor did not answer. NE#1 returned to the Complainant and again indicated that she should deal with this civilly. NE#1 told the Complainant that she had to resolve this issue with the building and that he could not tell every unit how to close their doors. The Complainant asked for an incident number and NE#1 gave it to her on an SPD business card. He told her that no report would be written because it was not a criminal offense.

She said that, if the door continued to slam, she would again call the police. NE#1 told her that, if she did so, he would be the responding officer.

During this time and while she was actively engaged in a conversation with NE#1, the Complainant repeatedly looked down at her phone and was moving her finger across and tapping the screen. At one point, NE#1 asked her if she was playing a game on her phone. She responded: "well yeah, why?" She appeared to grow flustered and raised her voice and said: "You don't talk to me like this!" She further told NE#1: "just because I'm doing something with my phone doesn't mean that I'm not respecting you, sir." She put down her phone and NE#1 again told her that she was not reporting a crime and that she needed to talk to the building manager.

The Complainant asked for another officer and NE#1 said that a different officer might respond if she called again. The Complainant continued to argue with NE#1 about his statement to her about playing a game on her phone. During this point, the Complainant referenced that NE#1 was smiling and said that she wanted to speak with an Asian officer. NE#1 said that he could not request an Asian officer over the radio, and this was the district in which he worked. NE#1 offered to call a supervisor and the Complainant asked that he do so. NE#1 went over the radio and requested that a supervisor come to the scene. The Complainant said that she had video of the neighbor slamming the door and showed it to NE#1. NE#1 commented that it did not actually show the neighbor slamming the door.

The Complainant also spoke with Named Employee #2 (NE#2) during this time. She showed NE#2 an email between herself and building management regarding the Complainant's noise complaints. After reading the email, NE#2 remarked that the building manager wrote that the Complainant was also slamming her door. In response, NE#1 appeared to chuckle. The Complainant grew upset and told him not to laugh.

The Complainant said that she was going to make a complaint about NE#1, and he offered her OPA's contact information. She did not accept the information, turned away from NE#1, and told him that she did not want to speak with him anymore because he was "unprofessional."

The supervisor arrived and spoke with the Complainant. The supervisor confirmed that the issue that the Complainant was reporting was a civil matter and was not criminal. He offered to pass the Complainant's concerns regarding her building to the West Precinct's Community Policing Team. Notably, while leaving the scene, NE#1 walked past two individuals who were moving out of the building. Those individuals both told NE#1 that they were moving, in part, due to the Complainant. They asserted that the Complainant had yelled at them and members of their family in the past.

The Complainant, who is Asian, later filed this complaint with OPA. She alleged that the Named Employees were unprofessional towards her during the incident. She further alleged that the Named Employees mocked her accent and laughed at emails she showed them, which she also asserted was inappropriate. This investigation ensued.

## **ANALYSIS AND CONCLUSIONS:**

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

#### ***5.001 - Standards and Duties 10. Employees Shall Strive to be Professional***

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.) The policy further states the following: "Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person." (*Id.*)

Based on OPA's review of the evidence – most notably, the BWV, there is no evidence supporting a finding that the Named Employees were unprofessional.

The Complainant first grew upset at NE#1 because he asked her if she was playing a video game on her phone. NE#1 asking her this question was not inappropriate. To the contrary, OPA finds that it was very reasonable. NE#1 was doing his best to provide service to the Complainant, even after he rightly informed her that what she was complaining about was a civil matter. While NE#1 was respectful and responsive, the Complainant was looking down at her phone and rudely playing a video game. The least the Complainant could have done given her monopolization of the officers' time was to pay attention to them.

Moreover, it was not unprofessional for NE#1 to tell the Complainant that: he could not further help her; that if she called 911 again for this issue, he would respond; and that he would not call for an Asian officer. Indeed, he could not further help her given the nature of her complaint and as he had already taken steps to try to contact the neighbor without success. In addition, he was correct to inform her that she was in her sector and, due to staffing levels and in order to keep continuity in the response to calls, he would respond to her location if she again called 911. Further, NE#1 had no obligation to summon an officer of the Complainant's choosing to the scene, even presupposing that there had been an Asian officer working in the West Precinct at that time who was not on another call.

Lastly, the Complainant's allegation that the Named Employees mocked her accident is completely contradicted by the evidence. Similarly, her assertion that the officers were laughing at her in a disparaging manner is without merit. What the Named Employees were laughing at was the fact that the Complainant, who was complaining about doors being slammed, was identified by the building manager as slamming doors herself. OPA believes that the officers were laughing due to how ridiculous the situation was.

When the Complainant asserted that she wanted to file a complaint, NE#1 took her seriously and offered her OPA's contact information. When she stated that she wanted to speak with a supervisor, NE#1 immediately called a supervisor. Both of the Named Employees exercised admirable patience with a person that did not treat them similarly and who was rude and unreasonable. Given all of the above, the Complainant's allegation that they were unprofessional is simply without a basis in fact.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded as against both NE#1 and NE#2.

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

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

### ***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.*)

As with Allegation #1, OPA finds that the video evidence definitively establishes that the Complainant's allegation of bias is frivolous. The officers acted consistent with policy at all times during this incident and attempted to resolve the Complainant's issues as best as they could. There is nothing in the record suggesting that either Named Employee acted with bias at any point.

For the above reasons, OPA recommends that this allegation be Not Sustained – Unfounded as against both NE#1 and NE#2.

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

**Named Employee #2 - Allegations #1**

***5.001 - Standards and Duties 10. Employees Shall Strive to be Professional***

For the same reasons as stated above (see Named Employee #1, Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

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

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

***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 #2), OPA recommends that this allegation be Not Sustained – Unfounded.

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