



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 21, 2020

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0264

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 – a 911 call taker – did not dispatch officers to the location of a crash in which she had been involved based on her race.

ADMINISTRATIVE NOTE:

During the investigation of this case, OPA identified that the Complainant made a bias allegation against NE#1 to a supervisor in the communications center as well as to an SPD sergeant who arrived at the scene. The Complainant did not allege that either of them engaged in bias; however, OPA identified that they did not properly complete the Bias Review documentation. This matter was returned to their respective chains of command for handling as Supervisor Actions and is not addressed below.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

On October 10, 2019, the Complainant was involved in a collision with another motorist. At 10:42 a.m., she contacted 911 to report the collision. Named Employee #1 (NE#1) was the call taker who spoke with the Complainant. The Complainant reported that she had been involved in a non-injury collision with another motorist and that neither vehicle was blocking traffic. NE#1 explained to the Complainant that, for collisions of this type (non-injury, non-blocking), officers are not generally dispatched and that she should exchange insurance information with the other motorist. The call concluded.

Shortly thereafter, the other motorist contacted 911 and spoke to a different call taker. As a result of this contact, a CAD report was created. This CAD report included information from the Complainant's call, including the



determination that the motorists should exchange information. The CAD call included no demographic data, which is standard for such calls. Officers responded to the scene after the CAD call was created.

At 10:52 a.m., the Complainant called 911 again; her call was taken by a third call taker. The CAD report noted that she seemed very upset. It noted that the Complainant reporting being told by NE#1 that officers did not respond to non-blocking, non-injury collisions, but that, when the other motorist called, officers responded to the scene. She theorized this was due to her being a Black female and the other motorist being an older White male.

At the time she made this report, three officers were at the scene. This included a sergeant, who agreed to handle the Complainant's complaint. The Complainant's mother also arrived to support her daughter. OPA's examination of BWV reflected that the Complainant was very upset because of the crash and due to her belief she was being treated differently and worse than the other motorist. OPA also observed that the officers kept the parties separated due to high emotions on both sides. Officers wrote up a collision report after taking statements. Based on the totality of the investigation, no finding of fault was made.

The sergeant spoke to the Complainant's mother regarding the way the call developed. He said that, based on his review of the CAD report, NE#1's initial handling of the call was based on a belief or assumption that the Complainant and the other motorist would handle the exchange of insurance information themselves, and that no police intervention was needed. He further explained that the second call indicated that no insurance exchange was likely to occur because the parties were upset, which caused the Communications Center to create a CAD event and for officers to be dispatched to resolve the situation.

OPA determined that, at approximately 11:40 a.m., a dispatch supervisor created a Communications Section complaint form in response to the Complainant's concern about the incident. The supervisor reviewed the first 911 call and noted that NE#1 appeared to handle the call correctly and provided the Complainant with the information she would need to make an online report. The supervisor documented that the Complainant was upset on the call due to the incident but did not necessarily seem frustrated with NE#1. The supervisor did not note any references to race, gender, or age on this call. At 12:08 p.m., the supervisor also created a Bias Review in which he noted the Complainant's concerns regarding the incident that surrounding her race. In the Bias Review he noted that NE#1 was not aware of the other call and did not make the decision to create a CAD call causing officers to respond to the other motorist.

OPA learned of this complaint while reviewing the Bias Review on April 29, 2020. At that time, OPA began its investigation. After conducting its intake investigation, OPA contacted and spoke with the Complainant. She stated that she recalled telling the call taker that she was Black during her communications with 911 call takers. She remained concerned about the incident, which she described as traumatic and demeaning.

OPA interviewed NE#1. He said that, during his call with the Complainant (the first 911 call), he did not recall her stating her race and that his conversation with her focused on determining whether anyone injured and whether the vehicles were not blocking traffic. He stated that, in such situations he was trained to offer the online complaint option and suggest that the parties exchange insurance information, rather than dispatch officers to the scene. He stated that he did not know the Complainant's demographics based on his call with her.

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, gender, or age of the subject. (*See id.*)

Based on the totality of the evidence, OPA finds no indication that NE#1 engaged in biased policing. First, OPA found no suggestion that NE#1 was aware of or took specific actions based on the Complainant’s race or other characteristics. Instead, he appeared to rely on his training, which suggested that, where nobody was injured and no traffic disruption existed, motorists should be encouraged to handle traffic incidents without police involvement if safe and feasible. The decision to dispatch officers was made by the other call taker because the Communications Center had received calls from both upset drivers concerning this incident. There was no basis to conclude that the officers were dispatched instead because the other motorist was an older White male. In reaching this finding, OPA finds it significant that the second call taker’s only knowledge of NE#1’s call with the Complainant was based on the CAD report, which did not reference the Complainant’s race (although it referred to her as “she”). Moreover, the CAD report recorded no demographic data about the other motorist. Taken together, no single employee could have known of the respective genders and races of both parties to the collision when a decision was made to create a CAD event and dispatch officers. As such, no employee could have intentionally treated the parties differently based on their different characteristics. While it is certainly understandable that the Complainant experienced frustration and OPA understands the inference she drew, the evidence indicates that NE#1 did not engaged in the perceived behavior and that neither he nor any other dispatcher engaged in biased policing.

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

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