



CLOSED CASE SUMMARY

ISSUED DATE: MAY 9, 2018

CASE NUMBER: 2017OPA-1173

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Unfounded)
# 2	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Inconclusive)

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 engaged in unprofessional behavior towards her during an interaction in the Southwest Precinct when she was trying to file a complaint. The Complainant further alleged that Named Employee #1’s treatment of her was potentially inappropriately based on her gender.

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.*)

As discussed more fully below in the context of Allegation #2, the Complainant alleged that Named Employee #1 (NE#1) was “dismissive, rude and condescending” during his interaction with her when she tried to file a complaint. Moreover, and germane to this allegation, the Complainant asserted her belief that she was treated in this manner due to her gender.

Whether or not NE#1 acted professionally and appropriately in this matter, which is discussed more fully below, I find insufficient evidence to determine that his conduct was based on bias due to the Complainant’s gender. The evidence pointed to by the Complainant in support of this fact is her claim that NE#1 called her “little lady.” NE#1 denied this and stated, instead, that he called her young lady when he called her back. This fact is disputed and thus cannot conclusively establish bias. Even if it could be proven that he did say this, such a comment would not, in and of itself, establish biased policing. NE#1 denied engaging in biased policing and, ultimately, the facts in the record do not serve to establish this allegation by a preponderance of the evidence.



Accordingly, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times

The Complainant alleged that NE#1 engaged in unprofessional behavior by being "dismissive, rude and condescending" when he refused to take a report from her. The Complainant explained that she came into the Southwest Precinct to report a car prowler. She told OPA that she believed that this car prowler was connected to other incidents that had been occurring around her home. She further believed that all of these matters were related to past incidences of domestic violence that she had suffered.

The Complainant told OPA that when she tried to report these matters to NE#1, he told her that he did not have time to take her report because he had other reports to file. When he said this, the Complainant felt that NE#1 was telling her that her complaint was not important and was not worth his time to take. She stated that NE#1 made it clear from the beginning of their interaction that he was not going to take the time to help her. She stated that she tried to talk NE#1 through what she had experienced and why she was concerned, but he dismissed what she was saying and tried to explain everything away. She then left the precinct.

The Complainant told OPA that she called the precinct back and was connected with NE#1. She alleged that, during this conversation, he referred to her as a "little lady." The Complainant found this term to be demeaning and belittling. The Complainant asked to speak with a supervisor and told OPA that NE#1 told her that they were all "in the field" or "too busy." She stated that a supervisor called her back approximately 15 minutes after she got off the phone with NE#1. She told OPA that the supervisor took her report seriously and was helpful.

NE#1 denied engaging in the conduct alleged by the Complainant. NE#1 stated that he was working as the desk clerk at the Southwest Precinct when he interacted with the Complainant. He was taking a complaint from another individual and asked the Complainant if he could help her. He reported that she told him that she was there to make a complaint. NE#1 recounted that he had five other reports that he was required to write and that he told the Complainant that, given that he only had two hours remaining on his shift, he might not be able to get to her report that day. NE#1 stated that, after he finished with the person he had been helping, he again interacted with the Complainant. He told OPA that they had an approximate four-minute conversation. During that conversation, the Complainant began to tell NE#1 what had happened and NE#1 asked her questions to clarify areas that confused him. He recalled that she detailed her concerns that a car prowler was related to past incidences of domestic violence. NE#1 stated that, at one point, he opined that her belief that her garbage had been purposefully rooted through could have instead been raccoons. NE#1 told OPA that the Complainant then brought up a prior relationship and NE#1 asked her how that was related to the car prowler. NE#1 recalled that the Complainant then stormed out of the precinct and called him a "fucking jerk."

With regards to their interaction, NE#1 told OPA: "So I don't know if she didn't feel that I was emotionally connected. I was—a very busy day answering the phone and taking a ton of paper. I was probably running at warp speed through everything all day long at that point." NE#1 further told OPA that he never said to the Complainant that her report was not worth his time or that it was not important.



NE#1 recalled that the Complainant later called the precinct and he answered the phone. He recounted that he asked her if she was the “young lady” who had just spoken to him in the precinct and stormed out. She asked if he could connect her with a supervisor. He looked through the system and determined that all of the on-duty supervisors were in the field. He recalled that he told the Complainant this. NE#1 denied telling the Complainant that the supervisors were too busy to speak with her. He asked for her information so that he could have a supervisor call her back. She gave him her information and he followed through with a supervisor who called the Complainant. Lastly, NE#1 stated that, after the fact, the supervisor informed him that a report had been taken from the Complainant and the issue had been resolved. He heard nothing further until this OPA complaint was initiated.

SPD Policy 5.001-POL-9 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-9.)

If the interaction between the Complainant and NE#1 occurred as she described it, I can understand why she would have felt NE#1’s statements and demeanor to have been dismissing, rude, and condescending. In addition, I agree that the term “little lady” could be deemed offensive. If all true, the Complainant’s allegations could very possibly have constituted a violation of the professionalism policy on NE#1’s part. However, NE#1 denied engaging in such conduct. Per his account of the incident, he acted reasonably and as diligently as he could under the circumstances. There was no audio or video recording of the conversation. As such, I have no way to reconcile the differences between the accounts of the parties. Moreover, I have no way to conclusively determine what actually occurred. As a result, I cannot sustain this matter or conclude that it is unfounded. As such, I recommend that this allegation be Not Sustained – Inconclusive.

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