



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 23, 2018

CASE NUMBER: 2017OPA-1126

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 was biased and used the word "Arab" towards her.

ADMINISTRATIVE NOTE:

In his OPA Auditor Review, the OPA Auditor declined to certify OPA’s investigation as thorough due to the fact that OPA did not interview the Complainant.

The day prior to OPA’s attempt to contact the Complainant, she called 911 three times. She was rude to the dispatchers on all three occasions, including using curse words, telling the dispatchers that they lacked listening comprehension skills, and telling them that they should shut up. Instead of relaying to the dispatchers her location and details concerning the alleged theft of her belongings (the amount in question changed over her phone calls from \$55,000 to \$125,000 to \$155,000), she told them about her status as a “very very well known fashion designer” and “celebrity fashion designer,” that her work had appeared in magazines and had been displayed in New York and Portland, and that she had just returned from fashion week. She told one dispatcher that she was leaving for South Korea the following day.

The OPA investigator assigned to this case called the Complainant. She appeared to still be in Seattle at that time despite her stated travel plans to South Korea. She was terse during her phone call with him and indicated that she was leaving on a trip to London and hung up the phone. The OPA investigator called her back to ensure that they were not disconnected by mistake and the Complainant did not answer her phone. The OPA investigator left a message and asked for a call back concerning this case.

While the Auditor is correct that OPA must make sustained attempts to contact a Complainant, a Complainant also has the obligation to answer the phone, return messages, and pursue a complaint. Moreover, OPA’s investigators are not required to convince the Complainant to engage in interviews, particularly where the Complainant has demonstrated a penchant for rudeness.



As discussed below, regardless of whether the investigator interviewed the Complainant, there was insufficient evidence to support her allegations. Accordingly, I disagree that the lack of an interview in any way affected the thoroughness of OPA's investigation.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

On the date in question, Named Employee #1 (NE#1) was assigned as the clerk at the North Precinct. He recounted that the Complainant walked into the precinct to file a report concerning the theft of high-value items from her car. NE#1 stated that, when the Complainant walked into the precinct, he was already helping another individual. He further stated that, while the Complainant was waiting to speak with him, a second individual came into the precinct and asked a question concerning fingerprinting. Given that this was a question that he could provide a quick response to, he answered this individual's inquiry before turning to the Complainant.

NE#1 stated that the Complainant informed him that she had been the victim of a car prowling and that she was upset because she felt that she had been waiting too long to be helped. She then "demanded" that he investigate her case. NE#1 told her that, given his assignment as the precinct clerk, he could not do so and explained why. He stated that she appeared frustrated by what he told her. NE#1 described that the Complainant was "talkative" and "demanding" during their interaction. NE#1 stated that, at one point, the Complainant alleged that NE#1 was discriminating against her by not taking a report and investigating her case. NE#1 then turned on his Body Worn Video (BWV) to document her allegations.

The BWV recording reflected the Complainant asking NE#1 to repeat what he said to her 20 minutes prior when he refused to investigate her case. I presume that she was referring to the alleged biased comment. She then began speaking to someone on the telephone and walked away, NE#1 then made the decision to get a supervisor. This supervisor came to the front desk, but the Complainant had already left the precinct. The supervisor looked for the Complainant outside of the precinct but could not locate her.

The supervisor was able to find the Complainant's phone number and called her. She stated that she was driving and that he should call her back in 10 minutes. At that time, the Complainant told the supervisor that NE#1 did not take her car prowling report because of racial bias. She stated that she observed him help two white people in front of her. She further stated that he said "mean things" and then referred to her as an "Arab." She said that she was insulted because she was actually Indian. The supervisor tried to have the Complainant explain the context of NE#1's statements and whether she remembered the specific content. He stated that she would not answer. The supervisor reported that "[s]he responded that she knew her rights under Miranda and that she was wasting her time talking to me."

The supervisor further reported that the Complainant asked that a patrol unit be immediately dispatched to her location, which the supervisor explained could not happen. When she was given the option of calling the non-emergency line or waiting for an officer to help her, the Complainant stated that she had already waited too long and was too busy to wait any longer. The supervisor reported that the Complainant threatened to obtain an attorney and go to the media if an officer was not immediately dispatched. The supervisor offered to provide the



Complainant with OPA's telephone number, but she did not want it. The supervisor spoke with NE#1, who relayed his account of what happened. This account was consistent with what NE#1 stated to OPA. NE#1 denied ever uttering the term "Arab" during his conversation with the Complainant. However, consistent with policy, the supervisor referred the complaint to OPA.

As discussed above, OPA attempted to contact the Complainant to interview her regarding this case; however, she did not return OPA's call and an interview was never conducted.

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.*)

Based on my review of the record, I find no evidence supporting the Complainant's allegation that NE#1 subjected her to biased policing and referred to her as an Arab. Moreover, while the Complainant claimed that NE#1 helped white people in front of her, NE#1's explanation for his actions appeared reasonable to me. Further, the Complainant's assertion that NE#1's failure to take a report and investigate her case suggested bias are unsupported by the evidence. NE#1 was assigned as the precinct clerk and, as a function of that assignment, he was not permitted to leave his post to conduct an investigation. As such, it was reasonable for him to refuse the Complainant's demands that he do so.

Lastly, given the tenor and content of the 911 calls that the Complainant made to dispatchers, I give less weight to her recounting of the incident and allegations of misconduct. NE#1's account and description of her behavior and tone appears to me to be more credible and supported by the evidence, as does his assertion that he did not engage in biased policing. As such, I recommend that it be Not Sustained – Unfounded.

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