



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 9, 2018

CASE NUMBER: 2018OPA-0436

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)
# 2	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Sustained

Imposed Discipline

Oral Reprimand

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 unprofessional and engaged in biased policing when she made a statement during a 911 call that presumed that a criminal suspect was Black.

STATEMENT OF FACTS:

The Complainant called 911 to report that an unknown male (referred to herein as the “Subject”) was pounding on a building door and threatening the employees inside. Additional individuals inside the building also called 911 concerning the Subject’s conduct. It was relayed that the Subject was armed with a knife. One of the 911 callers later reported that the Subject was a White male.

When the Complainant spoke to the 911 operator, who is Named Employee #1 (NE#1), NE#1 began requesting information concerning the Subject. From a review of the audio recording of the 911 call, NE#1 appeared to have some difficulty obtaining this information as the Complainant’s attention was split between her conversation with NE#1, yelling at the Subject, and speaking with co-workers.

NE#1 then stated to the Complainant: “Ok, so he’s a Black male?” The Complainant did not initially respond. NE#1 accordingly asked: “Can you tell us if he’s a White male, Black male, or Asian?” The Complainant replied that the Subject was White.

OPA spoke with the Complainant, who stated that NE#1’s initial assertion that the Subject was “Black” offended her. The Complainant explained that she identifies as Pacific Islander and that she believed that NE#1’s statement suggested potential racial bias on her part. OPA also spoke with one of the Complainant’s co-workers who stated her belief that the Complainant was offended by the racial implications of NE#1’s statement. The Complainant’s co-worker articulated her feeling that 911 operators should receive additional training on bias and how the race-related statements they make can be perceived by community members.



NE#1 told OPA that she regretted the way she phrased her request for the Subject's identity. She acknowledged that this was unprofessional. NE#1 asserted that the reason she made the statement was because she believed the Complainant's call was related to another incident, which she characterized as a "crisis," that had occurred several blocks away. The suspect in that case was Black. OPA's investigation determined, however, that this other call was not a crisis call but was, instead, a "threats" call. NE#1 contended that she believed that the two calls were related. NE#1 explained that she did not usually obtain a suspect's identifying information in the manner she did in this case and that her conduct here was inconsistent with her practice and training. NE#1 lastly denied that her statement constituted biased policing.

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.*)

Based on OPA's evaluation of the totality of the record, including OPA's review of the audio of the 911 call and NE#1's OPA interview, OPA does not believe that NE#1 engaged in biased policing in this instance. While, as discussed below, her statement was admittedly unprofessional and inconsistent with her training and practice, this does not cause it to violate this policy. OPA believes that NE#1's statement is better addressed in the context of professionalism, which is discussed more fully below.

As such, OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

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

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.) 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.*) Lastly, the policy instructs Department employees to "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." (*Id.*)

The Complainant contended that NE#1 was unprofessional when she assumed that the Subject was Black. At her OPA interview, NE#1 contended that she did not usually begin her requests for information about a suspect by asking whether the suspect was Black. She recognized how this could have been construed and was, in fact, construed by the Complainant, who was also a person of color. She told OPA that making such statements was not



consistent with how she was trained. NE#1 acknowledged that her statements served to undermine public trust in herself and in the Department.

I agree with NE#1 that her statement to the Complainant concerning the Subject's race was unprofessional as it served to undermine the public's trust in her and the Department. While I do not believe that she intended for her statement to have the impact that it did and while I do not believe that she engaged in biased policing, this serves to mitigate any discipline that is ultimately imposed not to change OPA's finding on this allegation. For the reasons stated herein, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**