



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 13, 2018

CASE NUMBER: 2017OPA-0835

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	15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a General Offense Report	Not Sustained (Unfounded)

Named Employee #2

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 (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 Complainants were the victims of a car prowling in the North Precinct and felt that Named Employee #1 did not facilitate a thorough and complete investigation of their reported car prowling and subsequent use of their cards in local businesses after being stolen. The Complainants alleged that they attempted several times to contact Named Employee #2 in writing, since they didn't speak English well, and only received phone calls that they could not understand. The Complainants felt that their immigration status and inability to speak English well may have been the reason that the Named Employees did not do a thorough investigation, take their case seriously, or respond appropriately in a manner that they could understand.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

In January 2017, the Complainants’ car was broken into and items were stolen. The Complainants reported the theft to SPD and officers responded to investigate. As a result of that initial investigation, officers generated a General Offense Report. That General Offense Report was referred to a North Precinct follow-up unit for further investigation. This unit, which was supervised by Named Employee #1 (NE#1), ultimately declined to investigate the case and administratively closed it.



The Complainants both self-identify as immigrants. They are both native Russian speakers and, per their own characterization, neither speaks nor reads English proficiently. They stated that they attempted to contact NE#1 on multiple occasions to determine what action was being taken on their complaint and they received no written response from him. They further alleged that they sent Named Employee #2 (NE#2) several letters containing their complaints; however, all they received were two voicemails from NE#2 that they could not understand.

In their complaint to OPA, the Complainants intimated their belief that their case was not worked on and given the attention it deserved because of their immigration status and lack of English language proficiency.

At his OPA interview, NE#1 explained that he made the decision to close out the case without further investigation. When asked why he did so, NE#1 stated that it was a “numbers game.” NE#1 indicated that his precinct received approximately 16,000 complaints annually, which were split between four detectives. Based on North Precinct resources and based on the fact that the items and money stolen was almost certainly untraceable and below the limit for charging a felony offense, he made the decision to not conduct a further investigation. I note that there is no indication that NE#1 ever informed the Complainants in writing that their case would not be further investigated.

With regard to the Complainants’ allegation of bias, while I understand their frustration at their case not being completely investigated and the theft solved, I do not believe that there was any bias on NE#1’s part. I find that, instead, the lack of an investigation that satisfied the Complainants was caused by a simple lack of resources on the part of SPD coupled with an overwhelming amount of cases. Accordingly, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a General Offense Report

SPD Policy 15.180-POL-5 requires that officers document all primary investigations on a General Offense Report. Here, a General Offense Report was generated by the officers who initially responded to take the Complainants’ complaint. NE#1 indicated, however, that he did not refer the General Offense Report to one of his detectives for further investigation due to the amount in controversy and the fact that he had significant staffing and resource limitations and simply did not have the wherewithal to investigate this case.

I do not read this section of the policy to require that a follow-up unit investigate the facts set forth in a General Offense Report, only that it be generated and that it be thorough and complete, which it was in this case.

While also not a requirement of this section of the policy, I note that NE#1 reported that he did make telephone contact with the Complainants on several occasions. He declined to write the Complainants a letter, per their request, but explained that he did not have the capacity to do so in every case that was not investigated and administratively closed.

For these reasons, I find that there is no indication in the record that NE#1 violated this section of the policy. As such, I recommend that this allegation be Not Sustained – Unfounded.



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

Named Employee #2 - Allegation #1

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

Presumably, this allegation was classified based on the Complainants' displeasure with NE#2's response to their complaint. Specifically, they appeared to be frustrated with NE#2 leaving them voicemails as opposed to sending them a letter.

At his OPA interview, NE#2 explained that his decision to not send a letter had nothing to do with the characteristics of the Complainants, and that he believed the leaving of voicemails was appropriate. He also recalled speaking with NE#1, who indicated that he would "take care" of the situation.

I find that NE#2's conduct in this case was in compliance with policy. That the Complainants preferred a letter from NE#2 rather than voicemails and were unsatisfied with the results of the investigation into their complaint does not cause NE#2's to be deemed to have acted unprofessional. As such, I recommend 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

The Complainants further alleged that they sent NE#2 several letters containing their complaints regarding the lack of investigation into their case; however, all they received from him were two voicemails that they could not understand. Based on what they deemed to be an unsatisfactory response from NE#2, the Complainants intimated that NE#2's actions may have been based on bias.

As with NE#1, I find that NE#2 did not engage in biased policing. At his OPA interview, NE#2 stated that his actions, or lack thereof, were not informed by the Complainants' immigration status or lack of English proficiency. I do not see any evidence in the record to the contrary. Accordingly, I recommend that this allegation be Not Sustained – Unfounded.

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