

City of Davis

Independent Police Auditor Report:

Complaint Relating to Officer Courtesy in Call for Service

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Independent Police Auditor
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Factual Background

A young woman submitted a written complaint after she called 911 for assistance with the presence of a former boyfriend whom she alleged was outside her home and harassing her in the early evening hours. The underlying incident involved the young man trying to retrieve an article of clothing that belonged to him; however, she alleged he was ringing the doorbell repeatedly and otherwise behaving in an aggressive, threatening manner.

Two officers eventually arrived on scene and mediated the dispute. One officer (who became the focus of the woman's complaint) went to speak with the male, who had remained nearby and was cooperative. He claimed that he just wanted his clothing, and the officer went to retrieve it. He spoke with the woman, got the young man's possessions back, and then urged him to stop in his persistent efforts to re-engage in what the officer took to be an ill-advised effort at reconciliation.

The woman's complaint took exception to the officer's demeanor in his interactions with her. She wrote that he treated her as if the call were a bother and that she was being "overdramatic," and she guessed from the officer's attitude that his interactions with the young man (which had occurred outside of her hearing) had been more sympathetic. She described the experience as leaving her feeling "invalidated" and "devalued".

DPD Investigation

The Department evaluated the primary officer's body-worn camera recording as an initial step in its review process. The handling supervisor determined that the officer's communication with the complainant appeared to be professional, and that the alleged elements of rudeness or dismissiveness were not apparent.

The supervisor's next step was to reach out to the complainant for a further understanding of her perspective. This took the form of three unanswered voicemail messages and then an email, which was sent to the address the complainant had provided. She responded with her own one-line email, writing that she was "no longer interested in talking to someone about the incident." Based on this communication, the complaint was characterized as "Withdrawn" and then closed.

IPA Analysis

We reviewed the written complaint, the Department's memo, and a body-worn camera recording (about four minutes long) from the event. While agreeing that no apparent misconduct had occurred, we differed with the case memo in a couple of ways.

The first was substantive. While we did not interpret the officer's actions in the same way as the complainant, and while they were far from egregious, we could see where she did not find him particularly sympathetic or supportive. Upon his arrival, he betrayed some initial irritation that she had not responded to the phone calls he claimed to have made on the way to her residence, and at times seemed to find the dispute between the parties to be reflective of an immature romantic relationship rather than the threatening experience she described in her complaint.

This was, ironically, even more apparent in his contacts with the male, whom he treated with a mix of skepticism, sarcasm and well-intentioned scolding. Though this was a far cry from the commiseration that the young woman guessed at in her complaint, it appeared to reflect the officer's sense that the incident was a trivial one. He may well have projected this impression in his dealings with the complainant as well.¹

Ideally, the Department would have pursued this dynamic in more detail, even in the form of an informal discussion of the complainant's impressions and the potential justifications for them. A public complaint is, among other things, a form of feedback that can enhance future performance – even when (as here) the relevant conduct does not rise to the level of formal policy violations. The complainant's written statement seemed sincere and, if nothing else, worthy of "mining" for potential lessons learned.

Instead, the Department closed off its review of the case through a disposition of "Withdrawn" when the complainant wrote back that she did not wish to "talk to someone about the incident." This led to our second hesitation over the DPD response, which is procedural in nature.

The ongoing cooperation of a complainant in an agency's review process should not be dispositive – even if it were less equivocal than what happened here. (At the risk of sounding hyper-technical, we note that the woman's email said she did not wish to *talk* to anyone, which is different from saying she recanted or wished to withdraw the complaint itself.) Obviously, in the absence of a follow-up interview that could have elucidated the woman's perspective, the Department was left with only her written complaint and the body-worn camera recording. But, in the same way that a complainant's subjective fervor or persistence should not be (and is not) inherently dispositive, a lack of ongoing participation should not constitute the nullification of a complaint's legitimacy.

To the credit of the handling supervisor, his "outreach" email did express an interest in addressing the complainant's concerns. He mentioned as possibilities his potentially

¹ Notably, the woman made a point of describing the *other* officer who came to the residence as "professional and neutral."

counseling or otherwise intervening with the officer in an effort to "improve and deliver the best service possible," and urged the complainant to be back in touch.

We wish she had taken him up on this commendable offer. That said, we consider the more appropriate disposition to have been "Unfounded," based on the available evidence.

RECOMMENDATION # 1: DPD should use the complaint process as an opportunity to enhance officer performance, even when the conduct at issue does not rise to the level of a formal policy violation.

RECOMMENDATION # 2: DPD should reach a disposition regarding alleged misconduct within a public complaint, even if the complaining party does not wish to cooperate (or even recants).

RECOMMENDATION # 3: DPD should revise its current policy on "withdrawn" complaints with a presumption that it will investigate allegations of misconduct even when the complainant does not want to participate further in the process.

Lastly, we note that one potentially significant aspect of the complainant's interactions with the officer was not reviewed: namely, the phone call that he initially made before his arrival (and that preceded the several attempted calls she apparently missed). She had described that conversation as part of her impression that he was more irritated than concerned by the request for assistance. We accordingly requested a recording of that call, but learned from the Department that one had not been made. Just as importantly for accountability purposes here, we were told it is not required under current policy.

The officer's choice not to record the call is not blameworthy, but it does prompt us to suggest that DPD reconsider this expectation. We have seen examples from several other agencies in which officers record their telephonic interactions with reporting parties, victims, or other related parties as part of their standard handling of a call for service, and have found the resulting evidence to be beneficial. We encourage DPD to promote this practice through an update to training or policy.

RECOMMENDATION # 4: DPD should consider ways to encourage officers to utilize their body-worn cameras in capturing the telephonic interactions they may have in addressing a call for service.