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Independent Police Auditor Report

Complaint that DPD Inappropriately Handled Call for Service

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IPA was advised by the Davis Police Department that it had received a complaint about the way that officers had responded to a call for service. The incident stemmed from an encounter between a Davis apartment resident who observed an individual walking around the parking lot of her residence. According to the resident, because the individual had his cell phone out and was holding it up, she suspected he was filming vehicles and apartments in the complex.

Two DPD police officers responded and contacted the individual in the parking lot of the complex. One of the officers then went and spoke to the reporting party. The officers determined that no criminal activity had occurred and cleared the scene.

The individual who was contacted was upset over the contact and filed a formal complaint with DPD. The individual believed that he was profiled because he is an Asian male and believed the resident reported the incident as a result of that bias.

A review of the call indicates that the resident never mentioned the complainant's ethnicity until he was prompted by the dispatcher to give a physical description.. DPD concluded that there was no reasonable basis to believe that the residents were somehow complicit in a "false" 911 call. Furthermore, DPD noted that, after filing his complaint, the complainant sent an email to the Department stating he was not interested in seeing the residents criminally investigated.

With regard to the officers' handling of the call for service, DPD reviewed the radio traffic and located no evidence that the officers were looking for a reason to detain or arrest the complainant. A review of the information revealed that the responding officers did not run any license plates or conduct any warrant checks on the complainant. At the conclusion of the call, one of the responding officers stated that the complainant had identified himself and that he was, in fact, staying at the apartment complex with his parents.

The responding officers provided different, but legitimate, reasons as to why they felt responding to this call was appropriate. Officer A felt the call sounded like a dispute between neighbors involving some degree of "harassment," which the officer felt could be mediated. Officer B considered the response to a call of a suspicious person as a cover unit for Officer A. DPD noted that it is common for officers to respond to either suspicious circumstances or calls involving neighborhood disputes as a peacekeeping role.

The responding officers recorded the entire call on their body-worn cameras. The officers contacted the complainant while he was standing in the parking lot. As the officers approached, the complainant stood in the middle of the parking lot with his arms crossed and immediately engaged the officers in a conversation. Officer A asked the complainant multiple questions (primarily in response to the complainant's comments), but never directed him to stay. Neither officer gave the complainant any direct orders such as ordering him to show his hands, turn around, or sit on the curb. The complainant was never restrained at any point.

Toward the end of the contact, Officer A did direct the complainant to not go over to the reporting party's apartment. DPD concluded that this appeared to be a consensual encounter as opposed to a detention. No enforcement action was taken during or at the conclusion of this call. The contact between the complainant and the officers appeared to be civil. No evidence of discourtesy or improper use of language was observed during the contact.

DPD found that while the responding officers committed no violations of policy, a review of the incident provided a valuable learning opportunity which could be used to improve future encounters and communications with the public. DPD identified the following areas of improvement:

Upon initial contact it was clear the complainant was visibly upset. A commonly used de-escalation and negotiation tactic is to allow upset people more time to talk (otherwise referred to as "venting") and thus expel their frustration. Oftentimes this needs to occur before meaningful two-way communication can occur. DPD found that Officer A could have devoted more time to active listening before engaging in problem-solving, especially since the complainant appeared to want to talk and vent. This would have also allowed the complainant to more clearly articulate why he believed there was bias involved. DPD also noted that this is also a fundamental part of Procedural Justice (Principled Policing) – Opportunities for Voice and Fairness in the Process.

An important part of conflict resolution, especially when a person is faced with a police encounter where no actual crime was committed, is to acknowledge any harm, as perceived by the person contacted, and potentially apologize for the harm caused. This can take many different forms, but it is a common way to de-escalate, explain and provide a resolution at the end of the conflict rather than having it fester. DPD noted that this strategy could have been potentially deployed by the responding officers.

DPD noted that Officer A attempted to use humor to de-escalate the tense tone of the contact. While humor can be an effective tool in some circumstances, it must be used

very carefully and sparingly. Clearly, the complainant interpreted Officer A's humor as sarcasm (stated in his complaint). DPD concluded that, in the context of this contact, humor should have been avoided; and that a more sympathetic tone may have been more effective.

Officer A gave the appearance, both with words and actions, that she lacked patience with the complainant. DPD opined that a resemblance of understanding, sympathy and acknowledgement of harm and feelings could have potentially gone a long way to better resolve the dispute.

DPD concluded that it was clear that the complainant took Officer A's statement - "So, I suggest you don't go over there, because if we have to come back out, it's not gonna'..." as a threat. DPD noted that requests are better than orders and that the officer's expression came across as an order with consequences. DPD concluded that Officer A should have framed the statement as a request.

While the officers were not found to have violated policy, DPD determined that they would receive training and guidance consistent with the performance improvement suggestions identified and noted above.

DPD also noted that prior to the event, it had been working on creating curricula to better train on the issues of bias-by-proxy.

IPA Analysis

IPA reviewed the investigative, body-worn cameras, and supporting materials and found that DPD conducted a thorough and objective investigation into the allegations.

IPA concurs with DPD's conclusion that there was insufficient evidence to support a criminal investigation into the residents' contacting the police about the complainant. Further IPA concurs with DPD's conclusion that the responding officers did not violate policy when dealing with the complainant. However, to DPD's credit, the Department did conduct a thoughtful analysis regarding the responding officers' approach to the call and appropriately opined about ways in which that response could have been better. As importantly, DPD determined that training for the responding officers and DPD as a whole on bias-by-proxy issues was an important remedial measure.

The complainant was offered an opportunity to participate in the City's Restorative Justice program but indicated that he did not believe it was necessary in light of the police response.

IPA has no systemic recommendations with regard to this matter.