



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 1, 2018

CASE NUMBER: 2017OPA-0940

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Training Referral)
# 2	5.001 - Standards and Duties 10. Employees Shall Be Truthful and Complete In All Communication	Not Sustained (Inconclusive)
# 3	5.120 - Secondary Employment IV. Secondary Employment Permit (form 1.30)	Not Sustained (Lawful and Proper)

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 mocked him and made fun of his accent. He also alleged that the Named Employee was not truthful when she said that she did not have a supervisor. OPA also discovered during intake that the Named Employee potentially did not have a Secondary Work Permit.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged that, during this incident, Named Employee #1 (NE#1) engaged in unprofessional behavior. He specifically stated that he was walking around a barrier when he engaged in an interaction with NE#1. He did not recall what they initially said to each other but remembered that, after those statements, he believed that NE#1 was making fun of his accent. He asked NE#1 to get a supervisor and stated that NE#1 told him that she could not get a supervisor because she did not have one. He stated that he asked NE#1 several times to call a supervisor and she refused. The Complainant ultimately called 911 to request a supervisor and one arrived on the scene.

During her OPA interview, NE#1 denied making fun of the Complainant’s accent. She stated that she observed the Complainant try to walk around a sign that said that the sidewalk was closed and she told him multiple times to “please go back.” She said that the Complainant told her that he would just walk around, and she told him that he could not and he needed to go back. NE#1 relayed that, at this point, the Complainant stated: “Well I am not from here.” She reported responding, “I’m not from here either” and continued to tell him to go back. NE#1 told OPA that the Complainant then asked if she was mocking him. NE#1 stated that the Complainant asked her if she had a supervisor there and she said that she did not. She reported that the Complainant never asked her to call a



supervisor. NE#1 recalled that the Complainant told her that he was going to call 911 and she responded that it was his right to do so. She stated that their interaction ended at that point.

OPA also interviewed the foreman from the construction company. He stated that NE#1 was tasked with keeping individuals out of an intersection and several of those individuals ignored NE#1. This witness said that he did not witness the interaction between NE#1 and the man, but that he did recall a Department supervisor come out to the scene. The witness stated that he spoke to the supervisor and indicated that he had not observed NE#1 engage in any unprofessional conduct.

OPA reviewed the 911 recording of the Complainant calling to request a supervisor. On the recording, the Complainant reported to the dispatcher that NE#1 told him that she did not have a supervisor. On the recording, NE#1 could also be heard telling the Complainant that she was trying to respect him.

OPA further reviewed the In-Car Video of the Department supervisor that responded to the scene. The supervisor spoke with the Complainant. The Complainant told the supervisor that he was walking on the road when NE#1 told him that he could not do so. The Complainant reported telling NE#1 that he was not from around here (meaning Seattle) and where he was from he could walk in the road. The Complainant told the supervisor that NE#1 then repeated what he said in a voice that he believed was mocking his accent. The Complainant stated to the supervisor that he asked NE#1 to get a supervisor and she said that she could not. The supervisor also spoke with NE#1 who told a different story. She stated that the Complainant was jay-walking. She reported that when the Complainant told her that he was not from around there, she responded, "I'm not from here as well." She stated that the Complainant continued repeating himself and accused her of mocking him, but that she reported that she had not mocked him. NE#1 stated that she then went back to working in the intersection. Later in her interaction with the supervisor, NE#1 told him that, when the Complainant asked her to call a supervisor, she replied: "I don't have a supervisor I can call for you sir."

SPD Policy 5.001-POL-9 instructs that SPD employees shall strive to be professional at all times. It further states the following: "Regardless of duty status, employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers." Officers "will avoid unnecessary escalation of events even if those events do not end in reportable uses of force."

The Complainant alleged that NE#1 was unprofessional and NE#1 denied those allegations. There is no video of their initial interaction and thus no evidence to conclusively prove whether or not NE#1 was mocking the Complainant. While I note that NE#1 admitted that the Complainant stated that he was not from around Seattle and she responded that she was not either, she claimed that she was not mocking the Complainant. While I cannot see any purpose in NE#1's response to the Complainant except to negatively impact their interaction, I cannot conclusively establish that she was mocking him.

I further note that NE#1 admitted that she told the Complainant that she did not have a supervisor that she could call for him. On its face, that appeared to have been a deliberate falsehood – NE#1 had a number of Department supervisors that she could have notified. As explained below, NE#1 told OPA that, when she said that, she thought the Complainant was asking for a supervisor from the construction site, which she did not have. Even if I found this explanation to be borderline absurd, which I do in this case, I cannot disprove it.



Regardless, NE#1 should have intimated from the Complainant's statements that he wanted her to summon a Department supervisor to the scene. Frankly, any reasonable officer would have interpreted those statements as such. At her OPA interview, NE#1 acknowledged that she should have just called a supervisor. I agree and I cannot fathom any rational reason why she did not do so at that time.

This is not the first time that NE#1 has been before OPA on allegations of unprofessionalism. There have been repeated allegations against her in this regard, many of them sustained. The record in this case is littered with NE#1's excuses, many of them teetering on implausibility. This is particularly the case given that she has been in this exact situation on so many other occasions, where she has made similar unnecessary and gratuitous comments to individuals that were deemed unprofessional.

NE#1 has conveyed to OPA that she is attempting to correct her conduct. I hope that this is the case; however, I am skeptical given that I keep seeing her before me as a Named Employee. In this specific case, there is insufficient evidence that she made mocking statements towards the Complainant. That being said, I could find the refusal to call a supervisor, in and of itself, to have been unprofessional conduct; however, here, I will give the NE#1 the benefit of the doubt that she was confused as to what the Complainant was asking for and credit her acknowledgment that she made a mistake by not calling a supervisor. For these reasons, I recommend that this allegation be Not Sustained – Training Referral rather than Sustained.

- **Training Referral:** NE#1 should receive additional training concerning the elements of the Department's professionalism policy and how the Department expects that she will treat those individuals that she interacts with. She should be further instructed that when an individual asks her whether she has a supervisor, she should say that she does and call the supervisor herself. She should not require that individual to call 911 to summon a supervisor to the scene. Lastly, given NE#1's repeated difficulty maintaining herself professionally, her chain of command should strongly consider placing a temporary restriction on her working off-duty until she demonstrates that she can consistently conduct herself consistent with the very reasonable expectations of both the Department and the public.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 10. Employees Shall Be Truthful and Complete In All Communication

Here, the Complainant alleged that when he asked NE#1 to get a supervisor, she refused and repeatedly told him that she did not have a supervisor. He alleged that when she said this she was lying because she knew she had engaged in misconduct and did not want a supervisor to come to the scene. The Complainant reiterated these allegations when he was interviewed by OPA.

At her OPA interview, NE#1 stated that the Complainant asked her if she had a supervisor at the scene. NE#1 explained that she construed the Complainant to be asking whether she had a supervisor who worked for the construction company, not a Department supervisor. NE#1 claimed to OPA that the Complainant did not ask her to call for a supervisor.



SPD Policy 5.001-POL-10 requires that officers be truthful and complete in all communications. If it could be proven that NE#1 understood the Complainant to be asking for a Department supervisor and that she told him that she did not have one that statement would have been untrue. She did have a Department supervisor and could have called that individual. However, NE#1 claimed that when she said she did not have a supervisor, she was referring to a construction site supervisor, which could have been technically true.

While I find that NE#1's responses to the Complainant were eminently unhelpful and her explanations to OPA were unconvincing to say the least, I cannot conclusively establish that she was dishonest based on the lack of definitive video evidence. As such, I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #1 - Allegation #3

5.120 - Secondary Employment IV. Secondary Employment Permit (form 1.30)

SPD Policy 5.120(IV) requires all SPD employees who work secondary employment to have a valid Secondary Employment Form that has been approved by a supervisor.

Here, the allegations against NE#1 concerned her behavior while working secondary employment. Accordingly, OPA inquired with SPD Human Resources as to whether NE#1 had a valid, approved Secondary Employment Form. No form was found on record so this allegation was classified against her and investigated.

During its investigation, NE#1 informed OPA that she did, in fact, have a valid Secondary Employment Form. That form, which was valid, was provided to OPA. OPA was further informed by SPEOG, the Parking Enforcement Officers' union, that Parking Enforcement Officers do not file their secondary employment permits with SPD Human Resources. OPA is unsure why this is the case and no explanation was provided by SPEOG. Regardless, NE#1 had a valid permit to work secondary employment on this date and, as such, I recommend that this allegation be Not Sustained - Unfounded as against her.

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