



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 3, 2019

CASE NUMBER: 2018OPA-1160

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Training Referral)

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 towards the Complainant, including when he called her an “idiot.”

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

The Complainant stated that she was driving her car and had a negative interaction with an officer who was directing traffic. The Complainant was driving with another woman, who was sitting in the front passenger seat. The Complainant told OPA that she was driving towards what she thought was an appropriate lane when the officer stopped her. She stated that he said: “What the hell is she doing? Why are you going there?” The Complainant also contended that the officer told her: “You’re idiots, the cop car means that this lane is blocked. You can’t drive here.” The Complainant relayed to OPA that this made her feel “unsafe and victimized.”

During its investigation, OPA identified that Named Employee #1 (NE#1) was the officer who had the interaction with the Complainant. NE#1 looked for both Body Worn Video (BWV) and In-Car Video (ICV) that may have captured the incident. OPA did not locate any BWV. OPA did find ICV, but it did not capture the interaction at issue.

OPA interviewed NE#1. He told OPA that he recalled interacting with the Complainant and that she was driving towards an invalid lane. NE#1 stated that he yelled at her to stop. He explained that he did so because her driving was potentially putting others in danger. NE#1 did not recall stating “what the hell is she doing.” He further did not recall calling the Complainant or the passenger an idiot. Notably, during his interview, NE#1 did not say that he definitively did not make any of the statements that were alleged to have been unprofessional. This was the case even though he recalled other details of his interaction with the Complainant and the passenger.

OPA lastly interviewed the female passenger. She confirmed that the Complainant drove towards a blocked off lane and that NE#1 stopped the car. She recalled that NE#1 stated: “What do you think you’re doing, can’t you tell this



road is blocked off?" The passenger stated that NE#1 reacted in a manner that suggested that he was shocked and bewildered by the Complainant's driving. The passenger stated that NE#1 appeared "agitated" and "not calm." She described his tone as not professional. The passenger did not recall NE#1 as cursing or using any derogatory language. She stated that NE#1 did not use the word "idiot" during the interaction. She did not recall whether he said "hell" given how long ago the incident occurred.

SPD Policy 5.001-POL-10 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-10.) 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.*)

From a review of the totality of the evidence, it appears that NE#1 did not call the Complainant and the passenger an idiot. This finding is based on the account of the passenger who denied that he used that word. However, even if he did not use the term "idiot," both the Complainant and the passenger contended that his tone, statements, and demeanor towards them were unprofessional. Though NE#1 generally denied being unprofessional, he had no specific recollection of anything he may have said to the Complainant and the passenger other than telling them to "stop." As such and given the lack of video evidence to show otherwise, it is possible that NE#1 said virtually everything they recounted and acted in exactly the way he described.

However, based on my review of the evidence, I find that NE#1's conduct does not warrant a Sustained finding and is more appropriately addressed by a Training Referral. I reach this conclusion for two main reasons. First, it was not proven that NE#1 used profanity or other derogatory statements during this incident. Moreover, his tone and demeanor may have been mitigated, at least in part, by the fact that he was concerned with his safety and that of the vehicle occupants given that they were driving towards a blocked off lane. This being said, NE#1 should be aware that future similar cases may result in a Sustained finding.

- **Training Referral:** NE#1 should be counseled concerning this incident by his chain of command. His chain of command should discuss with him the Department's expectation that he conduct himself professionally during his interactions with community members. This includes acting professionally when he is working off duty. He should be informed that similar incidents that are investigated by OPA may result in a Sustained finding. This counseling and any associated training should be documented and this documentation should be maintained in an appropriate database.

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