



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 21, 2022

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0607

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 (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 Complainant alleged the Named Employee operated his vehicle and spoke to demonstrators in an unprofessional manner.

ADMINISTRATIVE NOTE:

After this complaint was received, Named Employee #1 resigned from SPD. For this reason, the 180-day timeline set forth in the collective bargaining agreements was inapplicable to this matter. As such, OPA sets the 180-day deadline as the date of this DCM.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant filed an OPA complaint in which he alleged that Named Employee #1 (NE#1) became “increasingly agitated” while driving a patrol vehicle. The Complainant contended that NE#1 then rapidly accelerated the patrol vehicle towards the Complainant in an attempt to “intimidate, injure or displace” him. After receiving this complaint, OPA attempted to contact the Complainant in order to interview him and learn more about his allegations. However, the Complainant did not respond to OPA.

OPA reviewed Body Worn Video and In-Car Video recorded by NE#1 during this incident. The video showed NE#1 approach the East Precinct in his patrol vehicle. At that time, there were a number of demonstrators standing in front of the entrance to the precinct’s garage. While waiting in his patrol vehicle at a red light, NE#1 had a conversation with a person recording him on video who OPA assumes is the Complainant in this case. NE# asked the person if he was having a “good day.” The Complainant responded that he was not because NE#1 and other police officers were around. NE#1 responded: “Oh. Well, I’m sorry for that, but don’t worry man, cause guess what, I’m leaving, you guys



won. Fucking two months baby, I'm out." The person asked NE#1 if he was resigning and NE#1 responded: "I'm fucking gone, bro." The person asked NE#1 how he felt about that, and NE#1 replied that he felt "great" and "fucking great." The person asked NE#1 if he was leaving because of "police brutality." NE#1 stated that he was leaving because of "you guys."

The light then turned green, and traffic began to move forward. As NE#1 began to drive towards the intersection, three other individuals stepped in front of the path of NE#1's vehicle and blocked him. One individual stood directly in front of NE#1's patrol vehicle with their hands up. NE#1 stopped his vehicle suddenly and used his air horn. He told the individuals to move out of the way. They did not move. Other people began recording NE#1 and asked him for his name and serial number. He provided this information. Ultimately, NE#1 backed his patrol vehicle up and drove away. 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.*)

The Complainant asserted that NE#1 was unprofessional in two respects. First, the Complainant stated that NE#1's comments to him were unprofessional. Second, the Complainant alleged that NE#1's operation of his patrol vehicle was unprofessional.

With regard to NE#1's statements, OPA does not believe that they violated SPD's professionalism policy. While NE#1 used profanity, he did not direct it as an insult towards anyone. Instead, he used it to punctuate his frustration after many months of protests, which clearly contributed to his decision to leave SPD. Though it would have been optimal to not engage in this manner with the Complainant, OPA does not believe that it was contrary to policy.

With regard to NE#1's driving, OPA sees no evidence that he drove his vehicle in an aggressive manner purposed to strike or intimidate the individuals in the street. Notably, these individuals made the choice to step in front of the patrol vehicle (in violation of law) as it proceeded towards a green light. NE#1 stopped his vehicle suddenly and did not again accelerate or attempt to drive through the individuals. Indeed, NE#1 ultimately turned around and drove the other way.

Given the above, OPA finds no evidence supporting the conclusion that NE#1 was unprofessional and recommends that this allegation be Not Sustained – Unfounded.

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