



## CLOSED CASE SUMMARY

ISSUED DATE:     APRIL 21, 2018

CASE NUMBER:    2017OPA-1106

### 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	5.100 - Operations Bureau Individual Responsibilities I. Patrol Officers A. Responsibilities	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 Anonymous Complainant alleged that the Named Employee was asleep in his patrol vehicle. She stated that, as a result, she and another vehicle were able to drive through a blocked off street unnoticed and unmonitored.

#### **ANALYSIS AND CONCLUSIONS:**

##### **Named Employee #1 - Allegations #1**

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

An Anonymous Complainant reported to OPA that there had been a crime in her neighborhood earlier that morning, which resulted in streets being closed. She wrote in her complaint that when she attempted to leave for work, she observed another vehicle pass through the “caution tape” that was blocking off the road. She noticed a patrol vehicle that was parked by the road and approached the vehicle to ask whether she could also pass through. At that time, however, she observed that an officer was sleeping in the vehicle. The Anonymous Complainant stated that she verified that NE#1 was sleeping when she “yelled” at him and he did not respond. The Anonymous Complaint reported that she then was able to drive through the road “unnoticed.” OPA interviewed the Anonymous Complainant over the phone and she confirmed the details of her written complaint.

During its investigation into this allegation, OPA was able to determine based on a review of GPS records that Named Employee #1 (NE#1) was parked in the location identified by the Anonymous Complainant.

NE#1 told OPA that he recalled being parked at that location on the date in question. He stated that, on several occasions, community members approached him and asked him for access to their residences. He did not recall vehicles trying to exit from their residences to the street. He noted that the incident had occurred six months prior to the date of his interview and that his recollection was “hazy.” NE#1 stated that he remained at the scene for several hours.



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OPA asked NE#1 whether he spoke with any other officers during the approximate time that he was alleged to be sleeping and he could not recall whether he did so. OPA further verified through SPD Communications that there was no activity generated by NE#1's Mobile Data Terminal during the approximate time that he was alleged to have been sleeping. Lastly, OPA determined that NE#1 recorded no video during that time (which is not surprising, as he was not required to do so pursuant to policy).

When he was presented with the Anonymous Complainant's account of the incident and asked whether he was sleeping in his patrol vehicle on the date in question, NE#1 responded: "I don't remember that" and "I don't recall being asleep."

SPD Policy 5.001-POL-9 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-9.)

Community members have the reasonable expectation that officers will perform their duties during their hours of employment. This is at least in part due to the fact that the salaries of Department employees are paid from public funds. This is also due to the fact that officers are tasked with staying vigilant to safeguard the public. Notably, the Anonymous Complainant contended to OPA that she felt "unsafe" as a result of NE#1's behavior. As such, officers who sleep while being paid to work engage in conduct that is unprofessional and undermines the public's trust both in that officer and in the Department as a whole.

Applying a preponderance of the evidence standard, I conclude that NE#1 was sleeping in his patrol vehicle on the time and date identified by the Anonymous Complainant. In reaching this finding, I placed significant weight on the fact that NE#1 did not deny doing so and, instead, simply stated that he did not recall whether he was sleeping or not. I also placed weight on the fact that NE#1 could not point to any evidence to prove that he was not sleeping and that NE#1 had no activity on his MDT during that time. I further deemed convincing the fact that the Anonymous Complainant simply had no discernable motive to fabricate what she observed on that date.

That being said, I recommend that NE#1 be given the benefit of the doubt in this case. Officers are human and make mistakes. While he should not have slept on the job, there may have been numerous reasons why NE#1 may have been tired and did so. Ultimately, while I find that sleeping on the job is inconsistent with Department policy and violates the community's expectations and trust, I recommend that NE#1 receive a Training Referral rather than a Sustained finding.

- **Training Referral:** NE#1 should be reminded by his chain of command that it is not acceptable to sleep on the job. NE#1 should be counseled to refrain from doing so in the future.

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

### **Named Employee #1 - Allegation #2**

#### ***5.100 - Operations Bureau Individual Responsibilities I. Patrol Officers A. Responsibilities***

SPD Policy 5.100(I)(A) requires that officers' performance meet certain standards. This includes that they: "Monitor and take appropriate action regarding criminal activity in assigned area"; "Maintain close contact with the



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community”; “Display...necessary interpersonal skills...”; “Demonstrate consistent work habits which reflect a high standard of performance and initiative”; and “Remain professional at all times.”

As discussed above, I find, applying a preponderance of the evidence standard, that NE#1 was sleeping in his patrol vehicle for at least a portion of his shift. However, as indicated in the context of Allegation #1, I do not believe that a Sustained finding is warranted. Instead, I recommend that NE#1 receive the above referenced Training Referral.

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