



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 14, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0377

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Training Referral
# 2	5.001 - Standards and Duties 5.001-POL 14. Retaliation is prohibited	Allegation Removed

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 Named Employee #1 (NE#1) was unprofessional and engaged in retaliation against her.

ADMINISTRATIVE NOTE:

This is an amended DCM. OPA originally recommended a sustained finding for Named Employee #1, Allegation #1. A discipline meeting was then held with NE#1's chain of command. A robust conversation was held concerning the facts and circumstances underlying this complaint. For the reasons set forth below, OPA agreed that the most appropriate resolution to Allegation #1 would be a training referral.

SUMMARY OF INVESTIGATION:

The Complainant filed an online complaint with OPA alleging that, as she was walking near the East Precinct, and an SPD cruiser "came speeding up and hit the curb as it stopped next to me." The Complainant alleged that NE#1 got out of the vehicle and yelled the Complainant's full name and stated something to the effect of "nice investigative reporting." The Complainant believed this comment was retaliatory based on the Complainant providing information in a different case. OPA commenced this investigation.

During its investigation, OPA searched for relevant Computer Aided Dispatch (CAD) Reports, 911 calls, Incident/Offense Reports, or SPD video. OPA could not find any such documentation. However, GPS records for the car that was logged to NE#1 that day showed that the vehicle was not driven during this incident.

OPA communicated with the Complainant by email because the Complainant refused to be interviewed by OPA. In this email communication, the Complainant stated that NE#1 walked by them on the sidewalk near the East Precinct.



The Complainant alleged that NE#1 said something like “nice investigative reporting” and that that the Complainant ignored him. The Complainant reiterated that she believed this comment was in relation to a prior complaint she filed.

OPA interview NE#1. In his interview, NE#1 stated that he was walking near the East Precinct when the Complainant said, “quit your job SPD.” NE#1 admitted replying “quit your job [Complainant’s full name].” NE#1 said that he then stated, “do you want to have a real conversation for once?” NE#1 said that the Complainant did not respond. NE#1 admitted knowing the Complainant before this incident because he and other officers had numerous interactions with her in the past. NE#1 stated that the Complainant frequently engaged in “harassing behavior” and sought out conflict with the police. NE#1 stated that the Complainant had called police officers “murderers,” “Nazis,” and “fascists.” However, NE#1 denied that his prior interactions with the Complainant affected this interaction. NE#1 also explained that he viewed his interaction as “professional” because he parroted back the Complainant’s language and he genuinely tried to engage her after the fact.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged that NE#1 was unprofessional.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. (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.*)

NE#1’s comment towards the Complainant was plainly disrespectful, escalatory, and unprofessional. OPA appreciates NE#1’s candor during his interview. Given NE#1’s candor, and the Complainant’s demonstrably false allegation about NE#1 speeding towards her in a vehicle and hitting the curb, OPA credits NE#1’s recitation of the facts as true in their entirety. OPA is sympathetic to NE#1’s explanation that he only responded to rudeness in kind, but SPD officers are held to a higher standard than members of the public. Although frustrating, any reasonable officer would have known that the appropriate, professional response to this barb was to say nothing.

For the above reasons, OPA originally recommended that this allegation be Sustained. However, at the disciplinary meeting, NE#1’s candor was noted. Without excusing NE#1’s unprofessional response to the Complainant’s barb, the chain of command and OPA also acknowledged the relatively minor nature of NE#1’s unprofessional comment, as well as the fact that it appeared to be a tit-for-tat response made in the heat of the moment. Considering this, OPA finds that NE#1’s conduct, while possibly outside of policy, was not willful behavior rising to the level of misconduct.

Accordingly, OPA now recommends that this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1’s chain of command should discuss OPA’s findings with NE#1, review SPD Policy 5.001-POL-10 and the prefatory language of 5.001-POL with NE#1, and provide any further retraining and



counseling that it deems appropriate. NE#1's chain of command should emphasize to NE#1 that he is now on notice that future, similar comments to community members are unprofessional. The retraining and counseling conducted should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 5.001-POL 14. Retaliation is prohibited

The Complainant alleged that NE#1 engaged in retaliation.

SPD policy precludes its employees from engaging in retaliation. (SPD Policy 5.001-POL-14.) SPD employees are specifically prohibited from retaliating against a person who engage in activities including, but not limited to, "oppos[ing] any practice that is reasonably believed to be unlawful or in violation of Department policy" or "who otherwise engages in lawful behavior." (*Id.*) Retaliatory acts are defined broadly under SPD's policy and include "discouragement, intimidation, coercion, or adverse action against any person. (*Id.*)

Even broadly defined, OPA does not believe that merely parroting back a verbal barb on the sidewalk constitutes "retaliation" under the policy. The Complainant initiated this rude interaction; NE#1's response was unprofessional. This allegation is subsumed under Named Employee #1, Allegation #1.

Accordingly, OPA is removing this allegation.

Recommended Finding: **Allegation Removed**