



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 30, 2018

CASE NUMBER: 2017OPA-1031

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	13.080 - Use of Department Vehicles 11. Prohibited Activities During Use of Department Vehicles	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 he observed Named Employee #1 drive aggressively and discourteously towards him and that this conduct was dangerous and unprofessional.

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 and his girlfriend alleged that Named Employee #1 (NE#1) was driving in a discourteous and aggressive manner on the date in question, and that NE#1’s conduct was unprofessional. Specifically, the Complainant alleged that NE#1 “suddenly and aggressively” cut behind him and accelerated within a foot of his rear bumper before NE#1 “dramatically accelerated,” changed lanes, and “sped up to get alongside the driver side” of the Complainant’s vehicle. The Complainant contended that, at that time, NE#1 stared him down and then “suddenly accelerated,” changed lanes, and continued driving southbound. The Complainant’s girlfriend told OPA that she recalled generalities concerning the incident, but not specifics as it had occurred some time ago. She stated that she observed a marked police SUV driving faster than normal and recounted that she was surprised that it did not have its lights and sirens on given its speed. She stated that the driver acted in a manner consistent with what the Complainant described. She indicated that her view was somewhat blocked by the Complainant.

Based on the time, date, and location of the incident, OPA was able to determine that the driver of the marked SUV in question was NE#1. GPS records indicated that he traveled at speeds between 54 miles per hour and 62 miles per hour while in the general location identified by the Complainant. I note that the latter speed was above the posted speed limit.

When interviewed by OPA, NE#1 did not remember this interaction with the Complainant, even though he admitted driving in that location on the date in question based on the GPS records. In explaining why he did not remember this interaction, he stated that it was “a long time ago.” NE#1 explained to OPA that the Complainant’s allegations



“did not sound like” his driving. He said that he had no recollection of pulling next to a motorist and staring that person down. He remarked that it did not “sound safe.” When asked whether he operated his vehicle on that date in a discourteous or aggressive manner, he stated: “No, not to my knowledge.” With regard to his driving, generally, he told OPA the following: “I am typically very cautious, and compared to my peers, a slow driver.” While he had no recollection of the incident, he said that it was “inconsistent” with his driving. He lastly opined that the Complainant could have thought NE#1 was staring him down when NE#1 was checking a blind spot, and stated that it was possible that this situation was “misinterpreted” by the Complainant.

There was no third party video of this incident, and neither the Complainant nor his girlfriend recorded NE#1’s driving and behavior. Moreover, NE#1 did not have his In-Car Video system activated at that time and, as such, there was no Department video that recorded what occurred.

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.) If NE#1 behaved as alleged by the Complainant and the Complainant’s girlfriend, his behavior would have been unprofessional and in violation of SPD policy. The expectation of the Department is that it’s officers will drive courteously and without aggressive interacting with other motorists. The failure to do so undermines the community’s trust and confidence in police officers and in the Department as a whole.

Here, NE#1’s recounting of these events and his contention that he does not remember engaging in this conduct are extremely unconvincing. Notably, he was careful not to deny that he engaged in this conduct, he merely stated that he could not recall whether he did so and that it was inconsistent with his normal behavior. NE#1’s lack of any memory of this incident, combined with the Complainant’s and his girlfriend’s consistent accounts, the lack of any discernable motive on their part to make this incident up, and the conclusive evidence placing NE#1 at the scene, suggests that this incident occurred as alleged by the Complainant. However, given the lack of definitive evidence in this regard – specifically a contemporaneous video recording or other evidence conclusively establishing NE#1’s behavior, I find that a Sustained finding is unsupported by the evidence. This should not be interpreted to mean, however, that I think that NE#1 did not engage in this conduct or that I am condoning his behavior. Indeed, I am inclined to believe the opposite. Ultimately, however, I recommend that NE#1 receive a Training Referral.

- **Training Referral:** NE#1 should receive additional training from his chain of command concerning the appropriate operation of his patrol vehicle. NE#1 should be informed that discourteous and aggressive driving unrelated to a Department necessity is contrary to policy and further constitutes unprofessional behavior. This type of conduct reduces the public’s trust and confidence in police officers and in the Department as a whole. This re-training and counseling should be memorialized in a PAS entry.

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

Named Employee #1 - Allegation #2

13.080 - Use of Department Vehicles 11. Prohibited Activities During Use of Department Vehicles

SPD Policy 13.080-POL-11 prohibits SPD employees from “driving in a manner that is discourteous or aggressive, unless necessary to effect a recognized law enforcement purpose.”



Similar to Allegation #1, if NE#1 engaged in the behavior alleged by the Complainant and his girlfriend, it would constitute discourteous and aggressive driving in violation of policy. For the same reasons as stated above, however, I feel that a Sustained finding is unsupported by the evidence. Instead, I recommend that NE#1 receive the above Training Referral.

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