



CLOSED CASE SUMMARY

ISSUED: FEBRUARY 16, 2021

FROM: LISA JUDGE
INSPECTOR GENERAL FOR PUBLIC SAFETY

SUBJECT: 2020OIG-0005

Allegations of Misconduct and the Inspector General's Findings

Named Employee #1

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

EXECUTIVE SUMMARY:

In a complaint submitted to the Office of Police Accountability (OPA) on July 29, 2020, the Complainant alleged that on June 8, 2020, SWAT officers who were using the Seattle World School Parking lot located at East Union and 17th Avenue to stage operations behaved in an unprofessional and sarcastic manner toward the Complainant. This incident occurred when the Complainant told the officers that Seattle Public Schools (SPS) had posted a statement via social media (Twitter) stating they had not given the Seattle Police Department (SPD) permission to use SPS property for staging police operations related to protest response. The encounter between the Complainant and the officers was captured via cellphone video by the Complainant and by Body Worn Video (BWV) of Named Employee #1 (NE#1).

ADMINISTRATIVE NOTE:

Between July 29, 2020 and September 3, 2020, OPA conducted a preliminary investigation into this allegation under Case Number 2020OPA-0486.

On September 5, 2020, OPA sent a Classification Notification to four Named Employees that included multiple classifications. OPA notified two Named Employees that they would receive Supervisor Action Notices. The other two Named Employees were notified that the case would be handled through a full investigation and the specific allegation against NE#1 was referred to the Office of Inspector General (OIG) for handling. OPA summarized the allegation in the classification notice as an extended back and forth with the Complainant, which may have constituted unprofessional behavior on NE#1's part.

On September 8, 2020, OIG received a referral letter via email from the OPA Director indicating that the portion of 2020OPA-0486 relevant to NE#1 presented a conflict of interest for OPA due to NE#1 now being an OPA staff member.



SUMMARY OF INVESTIGATION:

The Complainant alleged that on June 8, 2020, around 10:15 PM, after learning via Twitter that SPS was prohibiting “militarized police” from using their property for staging, he rode his bicycle past the Seattle World School and saw a SWAT team and truck staging on the property. He contacted a small group of officers at that location and recorded the incident. The Complainant stated that during the interaction officers were rude, sarcastic, threatened retaliatory action, and failed to provide required information regarding identity. The Complainant alleged the officers attempted to intimidate him during the interaction by asking him if he had a permit to be at the parking lot and then telling him he needed to turn on the reflectors on his bike. NE#1 is specifically alleged to have made unprofessional remarks and engaged in sarcastic banter. NE#1 was one of two Sergeants in the group that spoke with the Complainant, with the remainder being officers, making him one of the highest-ranking employees present during the incident.

The Complainant was interviewed by OPA on September 3, 2020. In that interview, the Complainant explained that when he asked the officers in the World School parking lot if they were aware the school district had publicly asked that they leave, the response he got was very antagonistic, unprofessional, and included one officer giving him a false name and serial number. The Complainant recalled at the end of the conversation the officers began to make comments about his bicycle, insinuating he was not in compliance because his light was not turned on. One officer then asked the Complainant if he would like the ticket mailed to him. The Complainant decided to leave at that point because the officer appeared to be implying that if the conversation continued, there would be negative repercussions for him. The Complainant explained the delay in filing a complaint was because he only came forward after he saw other examples in the news of SPD officers giving false names or serial numbers, which made him feel this may be more of a systemic issue.

OIG reviewed the OPA intake file, including the interview of the Complainant, and reviewed available BWV footage and the recording of the incident provided by the Complainant. On November 5, 2020, OIG conducted an in-person interview with NE#1, which provides the information referenced below. The interview was audio-recorded and transcribed.

At the time of the incident, NE#1 was working as a Sergeant and assigned to SWAT and had been working extended shifts for seven to ten days prior for the protest response. On June 8, 2020, NE#1 was assigned as the Sergeant for a group operating a “Bearcat” vehicle, with a driver and several other officers. The group and their vehicle and equipment were staged in the Seattle World School parking lot. NE#1 explained he was aware it was a school parking lot and asserted he believed there was no need for SPD to receive permission to have vehicles or resources in that parking lot; however, the interaction with the Complainant involved some negative back and forth banter about whether the parking lot was school property.

NE#1 was asked about his response to the Complainant’s statement that this was clearly school property when he (NE#1) stated, “I have not heard that information.” NE#1 explained it would not make sense for him to respond that way (because he was aware it was a public school) but rather, his response was to an earlier part of the Complainant’s statement that Seattle Public Schools was not allowing SPD on their property. NE#1 asserted he thought the Complainant’s questions about their presence in the lot were ridiculous and absurd, stating he thought



the Complainant was being “a jerk.” NE#1 acknowledged it might have made a difference if he had known about the SPS social media post, but still found it absurd that SPD could not park on City property if there was an operational necessity. At one point NE#1 asked the Complainant to “show him the document,” which the Complainant did not produce. NE#1 also pointed to other cars, challenging the Complainant as to whether other cars in the lot also needed a permit, stating he was trying to make a point that a permit was not necessary.

NE#1’s explanation for why the interaction with the Complainant occurred in a negative manner was that, when a conversation starts, whomever begins the interaction sets the tone. He went on to characterize the Complainant’s tone as “very sarcastic” and “accusatory,” stating the Complainant was “looking to get some sort of reaction out of us.” NE#1 does not believe he was sarcastic back to the Complainant and asserts he did not raise his voice, nor did he speak in a derogatory way, or use profanity. NE#1 also asserted that he attempted to deescalate the conversation with the Complainant by saying he had answered his questions and asking him what it was that he wanted.

NE#1 made a parting remark to the Complainant as he rode away, advising him to make sure to use hand and arm signals. NE#1 characterized this as simply “a good safety tip,” made out of concern for the Complainant’s safety, rather than flipantly as a parting dig.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

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.*)

Based on a review of the BWV, video provided by the Complainant, and interviews of involved persons, OIG finds the NE#1’s actions concerning and in need of correction but not violative of policy as it is plainly understood. There were several instances where NE#1 made light of the Complainant’s concern, and was dismissive and defensive, rather than helpful and respectful, to the Complainant. OIG acknowledges the challenges experienced by officers during this time, including the stress of prolonged shifts in a very difficult and volatile atmosphere. Although it may have been frustrating to be challenged while engaging in conduct NE#1 believed was legitimate, especially given the length of shifts and contentiousness of operations, the Complainant had the right to engage NE#1 and seek accountability. Even if a community member is frustrated or angry, NE#1 is a public servant and has the obligation to speak politely to members of the public and take their concerns seriously.

While not rising to the level of policy violation, the attitude displayed toward the Complainant and the dismissiveness towards the Complaint are deeply concerning to OIG. Several aspects of this encounter deserve to be



specifically discussed to clarify expectations toward members of the community, as well as the obligation of supervisors to model appropriate behavior:

First is the NE#1's assertion that the tone of an interaction with a community member is set by whomever begins the interaction. SPD members have an obligation to engage in a courteous and professional manner with members of the public, and in a way that promotes de-escalation, regardless of the state of mind or agitation level of the community member. This is especially concerning, given that officers are frequently called to scenes with angry or violent persons, persons in crisis, or people who are for various reasons out of control. Responding officers must be the voice of reason and maintain calm and composure in the face of chaos, violence, and trauma. Officers have an obligation to set a tone of professionalism and composure, regardless of the mental or emotional state of community members they interact with. The premise behind de-escalation is that officers have an obligation to use calm language and other tactics to calm a situation and keep it from devolving. Those same principles apply to any interaction with a community member to keep it from becoming a conversation that undermines public confidence in SPD. As a supervisor, NE#1 has an additional obligation to appropriately model this behavior for others, and further, as a SWAT supervisor the NE#1's ability to maintain composure and respond calmly rather than react emotionally seems paramount.

In this situation, NE#1 stated he thought the Complainant was being a "jerk" and characterized the Complainant's tone as "very sarcastic" and "accusatory," and that he was "looking to get some sort of reaction out of us." It is unfortunate that although NE#1 recognized this dynamic and that this was an attempt to provoke a reaction, rather than using that insight to diffuse the situation, NE#1 reacted defensively and stood by while fellow officers engaged in unprofessional conduct. However, as a distinguishing factor from the conduct of other officers in this incident, NE#1 did not engage in open sarcasm, overtly rude banter, or veiled suggestions of retaliatory conduct.

Next, NE#1 believes he attempted to de-escalate the interaction with the Complainant by curtly stating they had answered his questions and challenging him by asking "what are you after, partner?" This did not appear to be a genuine attempt at de-escalation and came off as a brush-off of the Complainant's concerns and a negative reaction to NE#1's authority being challenged by the Complainant.

Finally, NE#1's statement that his parting comments were made out of genuine concern for the Complainant's safety and not in jest is not supported by the evidence. Given the context of the preceding conversation, the idle threats made by another officer about citations for improper lighting, and the NE#1's belief that the Complainant was making ridiculous assertions, it is not convincing that the comments were made out of concern. This comment was unnecessary and only furthered the Complainant's belief that these SPD officers were indifferent to public sentiment. These kinds of immature interactions with the public negatively impact respect, trust, and confidence in SPD.

At a time when public sentiment around policing was at an all-time crisis point, NE#1 could have used this opportunity to listen to the community member, explain what was occurring and that they were unaware of restrictions on use of the parking lot, and offer to clarify the issue and perhaps reassess their actions. This could have been a moment to reassure the Complainant that SPD is responsive to community concerns and is a different and better department than some that had sparked the initial outrage at the beginning of the summer. Instead, this interaction left the



Complainant with the belief that the officers he interacted with “just don’t care.” No department in the country can afford to squander opportunities to rebuild trust with community.

Given that NE#1 stated he does not recall receiving training on professionalism, specifically regarding use of sarcasm with the public, SPD should provide additional clarity in policy and training regarding sarcasm and professionalism in general.

With regard to the specific policy violation alleged here, OIG recommends this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1 should be provided with refresher training on professional communication with the public, especially regarding use of sarcasm and dismissive language and tone. As the supervisor of a specialty unit, NE#1 should receive counseling and training on maintaining professional demeanor and composure, especially when dealing with a challenging member of the public and modeling that behavior for subordinate officers. NE#1 should also receive counseling and training (perhaps via the newly implemented ABLE program) on how to actively intervene when fellow officers are engaging in misconduct, unprofessional behavior, or other conduct that undermines public trust and confidence. This counseling and training should be documented, the documentation should be maintained in an appropriate database, and should be made available to OIG for follow-up.