



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 18, 2018

CASE NUMBER: 2017OPA-0624

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 (Inconclusive)
# 2	5.001 - Standards and Duties 13. Retaliation is prohibited	Not Sustained (Inconclusive)

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, a Department supervisor, alleged to OPA that he and another supervisor were informed by two officers that Named Employee #1 threatened to punch another officer in the neck. This statement was potentially unprofessional and could have been construed to be retaliatory in nature.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

Two officers who worked with Named Employee #1 (NE#1) reported to two supervisors their belief that NE#1 was under a great deal of stress. The officers conveyed to the supervisors that NE#1 had, approximately one month prior, threatened to punch another officer in the neck. They also reported that NE#1 stated he did not care if he received a 30-day suspension for doing so. NE#1 allegedly made this statement while on the phone with one of the officers. This officer told OPA that he did not perceive this statement to be a threat and was not afraid that NE#1 was going to harm him or anyone else. The other officer was not on the phone at that time and he learned about NE#1’s statement secondhand. The officers reported this statement and their opinion of NE#1’s overall stress levels to their supervisors with the intention of getting NE#1 support. Both employees indicated that they were not trying to initiate an administrative investigation into NE#1’s behavior. One of the officers indicated told OPA that, after the meeting, the supervisors stated that they believed the appropriate remedy was to put NE#1 in contact with Code 4 (a Department program that provides support for officers undergoing stress and trauma), and the officers agreed. Both officers noted that NE#1 continued to appear stressed and grew more isolated and withdrawn. However, they both assumed that Code 4 had been initiated and were not informed otherwise. One of the officers stated that he was worried that their supervisors were going to refer this matter to OPA instead of initiating a Code 4 response, that they were going to “screw” NE#1 over, and that there was not “going to be a good outcome” for NE#1.

At his OPA interview, NE#1 denied stating to anyone that he was going to punch another officer in the neck. NE#1 recalled that he did say “one of you motherfuckers stabbed me in the back and I’ll find out who it is.” He recalled



that the officer he was speaking to asked him if he was going to punch someone in the neck and NE#1 did not respond. NE#1 said that he made the statement because he was frustrated that fellow squad members were anonymously complaining about him.

Based on NE#1's OPA interview, the officer who was on the phone with NE#1 at the time the statement was made was re-interviewed. That officer was adamant that NE#1 said that he was going to punch someone in the neck. Accordingly, NE#1 was also re-interviewed and again denied making the statement that he was going to punch someone in the neck.

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.)

There is a dispute of fact between NE#1 and another officer as to whether he threatened to punch someone in the neck. I find this dispute curious but reach no determination as to whether it stems from a misunderstanding or a mischaracterization. However, it is undisputed that NE#1 told that officer that some "motherfucker" had backstabbed him and he was going to find out who that was. Implicit in that statement was that something would happen – most likely with negative implications – if NE#1 determined the identity of whoever was complaining about him anonymously. I note that none of the officers indicated that they believed NE#1's statement to be a legitimate threat of harm and the officer who the statement was made to indicated that he did not feel afraid. They both told OPA that NE#1's statement suggested more that he needed help than that he was dangerous or was intending to harm them or another officer.

While I find NE#1's statement to have been inappropriate, regardless of whether he threatened to punch someone in the neck, I do not necessarily feel that it rises to the level of a violation of policy. Police officers, like anyone else, are human beings that have interactions with each other that are sometimes positive and sometimes negative. Moreover, they work in a high-stress environment and are consistently faced with situations that can be violent or otherwise traumatizing. That NE#1 was dealing with stress, lost his temper, and made an ill-advised statement suggests more that he is in need of assistance or counseling rather than that he engaged in misconduct that should have been the subject of an OPA investigation. While it was certainly appropriate to refer this matter to OPA if his supervisors were legitimately concerned that NE#1 had purposefully threatened another officer and had the intent to carry through with that threat, both of the officers who initially reported the statement indicated that they represented to their supervisors that they did not think it was a serious threat. Moreover, their sergeant, who was also interviewed by OPA in this case, appeared to assert his belief that Code 4 would have been a better option here than OPA. Lastly, I have some concern that the conversation between the officers and their supervisors, which was believed by the officers to be a confidential discussion purposed to get NE#1 help, resulted in an OPA referral but that there was never a notification of Code 4. It is not in the Department's interests to make officers reluctant to seek help, when necessary, for their colleagues.

Ultimately, given that I cannot determine whether NE#1 was making a legitimate threat to harm another individual or whether he simply made an inappropriate comment, I recommend that this allegation be Not Sustained – Inconclusive.

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



Named Employee #1 - Allegation #2

5.001 - Standards and Duties 13. Retaliation is prohibited

SPD policy precludes its employees from engaging in retaliation. (SPD Policy 5.001-POL-13.) 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.*)

Theoretically, it is possible that if NE#1 threatened to harm officers who had made complaints with their chain of command concerning his conduct and did so to get back at them or to prevent further complaints, this could be retaliatory behavior. However, as indicated above, I cannot determine whether NE#1 made purposeful and serious threats in this matter or whether he simply lost his temper and made an inadvisable statement. As such, I recommend that this allegation be Not Sustained – Inconclusive.

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