



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 19, 2018

CASE NUMBER: 2017OPA-0983

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 (Unfounded)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Unfounded)

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 the Named Employees rubbed his face in dog excrement, which could have been a possible violation of SPD's professionalism policy.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Named Employees contacted the Complainant based the belief that he was committing a violation of the ordinance proscribing camping in City parks. At the time they contacted the Complainant, he began to gather up his things and made an attempt to get onto his bicycle and ride away. The Named Employees told the Complainant that he was not free to leave. The officers took hold of his bicycle and asked him to sit on the ground. The Complainant then attempted to flee the scene and the Named Employees chased after him. The Named Employees were able to catch up to the Complainant and they used de minimis force to pull him down to the ground on a hillside. The Complainant was placed under arrest and was handcuffed.

A supervisor came to the scene to screen the Complainant’s arrest. During that screening, the Complainant told the supervisor that the Named Employees had rubbed his face in dog excrement. While the supervisor reported that he did not observe any evidence of dog excrement on the Complainant’s face, he did observe excrement that was “barely visible in the tall grass.” The supervisor recounted that: “It did not appear to have been recently deposited. It did appear to have been recently flattened, as if a weight had been placed on top of it.” The supervisor referred the Complainant’s allegation to OPA and this investigation ensued.



OPA interviewed both of the Named Employees. OPA also attempted to contact the Complainant, both by telephone and letter, but received no response. As such, OPA was unable to interview him as part of this investigation. OPA also reviewed In-Car Video (ICV), Body Worn Video (BWV), and the documentation generated concerning this incident. The Named Employees denied both that they purposefully pushed the Complainant into the dog excrement and that they rubbed his face in it. The Named Employees also denied making light of the Complainant's allegations in this presence. However, the BWV did capture them smiling and laughing about this matter after the fact and outside of the Complainant's presence.

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 the Named Employees purposefully pushed the Complainant into dog excrement or rubbed his face into it, that conduct would certainly have been unprofessional. However, based on the available evidence and applying a preponderance of the evidence standard, I do not find that this occurred. At most, it appears that both the officers and the Complainant made contact with dog excrement when they fell to the ground after the Complainant had fled. As such, this contact, while unfortunate and clearly upsetting for the Complainant based on his statement to the sergeant, appears to have been inadvertent, not purposeful. Moreover, I do not find that the fact that the Named Employees made light of this situation after the fact and outside of the presence of the Complainant constituted a violation of SPD professionalism policy.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded as against both Named Employees.

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

Named Employee #2 - Allegation #1

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

For the same reasons as stated above (see Named Employee #2, Allegation #1), I recommend that this allegation be Not Sustained – Unfounded.

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