



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 2, 2018

CASE NUMBER: 2017OPA-1254

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)

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 NE#1 engaged in unprofessional behavior during an interaction they had when the Complainant was parked in front of her child’s school in a load/unload zone.

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 stated that she was double parked in a loading zone in front of her child’s school when she was initially approached by Named Employee #1 (NE#1). The Complainant recounted that NE#1 knocked on her window and she ended up moving her car. When a spot opened up in the load/unload zone in front of the school, she parked there. She told OPA that she was sitting in the car for around five minutes and was sending an email when NE#1 pounded on her car window. The Complainant stated that NE#1 knocked on the window so hard that she was afraid it would break. The Complainant opened her car door to ask NE#1 to not knock so aggressively and NE#1 yelled at her to get out of the loading zone. When the Complainant asked NE#1 to stop speaking that way to her, NE#1 told the Complainant that this was how she talked. NE#1 continued to yell at the Complainant. When the Complainant told NE#1 that she was parked there so that she could go pick up her son, NE#1 told the Complainant that she would be issuing her a citation. The Complainant then went to get her son and left the scene. The Complainant asserted that NE#1 was unprofessional and that her behavior constituted “vindictive policing and harassment.”

NE#1 stated that she was conducting parking enforcement at the location of the incident based on a request for service. The requester noted that vehicles were remaining in the load/unload spots in front of a school for longer than the posted 30-minute limit. It asked that SPD enforce the zone and require vehicles to either be actively loading and unloading or moving along. NE#1 explained to OPA that a load/unload zone permits a vehicle to park there so long as it is actively loading or unloading. NE#1 stated that she made contact with a number of vehicles on that date whose occupants were simply sitting inside and instructed them of the requirements of the parking zone.

NE#1 stated that she noticed that the Complainant’s vehicle was parked in the zone and the Complainant was sitting inside. NE#1 stated that she observed the Complainant sitting in the vehicle for approximately 10 minutes before



NE#1 made contact with her. NE#1 told OPA that she politely knocked on the window and told the Complainant that she could not be sitting in the car. NE#1 described the Complainant as immediately aggressive. The Complainant stated that she was there to pick up her child and NE#1 told her that there were approximately 200 children that needed to be picked up. NE#1 stated that the Complainant kept getting angrier and would not let her finish a sentence. She told NE#1 that she was going to go inside and get her child and that NE#1 better not write her a ticket. NE#1 told the Complainant that she was not going to issue her a citation. The Complainant then got her child, returned to her vehicle and drove off.

NE#1 explained to OPA that it would have been fine if the Complainant was waiting for her child to walk out of the school because this would constitute active loading. Here, however, the Complainant had to go inside to get her child, but was simply sitting in her vehicle. This, in NE#1's opinion, violated the requirements of the parking zone.

NE#1 told OPA that she was not disrespectful or unprofessional towards the Complainant. She further stated that her tone and demeanor did not escalate this incident in any way. NE#1 was asked about the allegations of unprofessionalism made against her in prior OPA cases and stated that she believed that she received such complaints, in part, because she tried to offer "information" to the civilians she interacted with. She stated that sometimes the civilians did not like the information and, thus, errantly believed that NE#1 was being unprofessional.

During its investigation, OPA interviewed an employee of the school who indicated that she did not understand why NE#1 was making people leave the parking zone. She stated that zone was purposed for child pickups.

OPA further reviewed video of the incident. This video, which had no audio and did not capture the conversation between NE#1 and the Complainant, showed NE#1 approaching the Complainant's vehicle and knocking on the window. From my review of the video, it appeared that NE#1 knocked twice at most and the Complainant opened her door. The knocking did not appear to be aggressive, or, for that matter, knocking that seemed likely to break the car window as the Complainant had described. The video showed NE#1 standing at the open car door for a period of time until the Complainant got out. They both then stood next to the open door, apparently speaking. The video does not show their faces, so I cannot determine whether the conversation was animated and whether either or both of them were yelling. The Complainant then took a bag out of her car, closed the door, and walked past NE #1 towards the school. Something then caused the Complainant to abruptly turn around and walk back towards the front of her car, apparently following NE#1. Both disappeared from view of the camera at that time. The video showed a woman with a child and dog who stopped in the middle of the sidewalk and looked in their direction. After a period of time, the Complainant walked towards the school looking back over her shoulder. There was no further interaction between NE#1 and the Complainant captured by the video.

Lastly, OPA verified that the Complainant was not issued a ticket by NE#1 on the date in question and also determined that the Complainant had received twenty-six parking citations since May 2015.

SPD Policy 5.001-POL-9 instructs that SPD employees shall strive to be professional at all times. It further states the following: "Regardless of duty status, employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers." Officers "will avoid unnecessary escalation of events even if those events do not end in reportable uses of force."



Here, there is a dispute of fact as to what occurred. The Complainant alleged that NE#1 was unprofessional; however, NE#1 denied engaging in such behavior. The video of the incident depicted an interaction between the two, but because of the absence of audio, I cannot determine conclusively what occurred. Accordingly, when applying a preponderance of the evidence standard, I am unable to recommend that this allegation be Sustained as against NE#1.

That being said, I note that, over the last two years, NE#1 has had thirteen OPA complaints initiated against her involving professionalism allegations. While six of those cases were investigated, only one of those cases resulted in a sustained finding. Virtually all of the others were deemed inconclusive, which does not mean that the misconduct did not occur but only that OPA could not prove it when applying the required burden of proof. However, in two of those cases, OPA made recommendations that NE#1's chain of command take steps to address her ongoing concerning behavior. Moreover, in six other cases, OPA classified the professionalism allegations as Supervisor Actions and directed NE#1's chain of command to discuss these matters with her and counsel her on her behavior.

The two OPA investigations that resulted in recommendations to NE#1's chain of command are worth outlining here. In 2017OPA-0940, OPA issued NE#1 a Training Referral that instructed that her chain of command retrain her as to the elements of the Department's professionalism policy and to consider placing a temporary restriction on her working off-duty until she demonstrated that she could conduct herself consistent with the very reasonable expectations of both the Department and the public. In 2017OPA-0946, OPA wrote:

It cannot be a coincidence that OPA receives professionalism complaints against NE#1 at a rate higher than any Parking Enforcement Officer or, for that matter, any other employee of the Department. I strongly counsel her chain of command to take additional steps – for example, a more stringent performance management plan and/or closer supervisor – to try to remedy NE#1's apparent ongoing inability to treat those that she comes into contact with professionally.

Unfortunately, even after these cases and OPA's requests for supervisory intervention, NE#1 continues to be involved in the same types of cases involving the same conduct, over and over again. At this point, it is unclear what the remedy for this behavior is. For example, NE#1 now works an evening shift, which OPA has been informed is purposed to limit her interactions with civilians. However, this has apparently not resulted in a reduction of complaints against her. Moreover, assigning her to a shift where she will not interact with the community cannot be the answer to the problems exemplified by these cases. Ultimately, it may be necessary for the Department to remove NE#1 from a role in which she has any involvement at all with civilians. Given OPA's concerns about the repeated professionalism issues involving NE#1, I issue the following Training Referral.

- **Training Referral:** NE#1's chain of command should consider what steps need to be taken to ensure that NE#1 no longer becomes involved in interactions with community members that result in professionalism allegations. It may be necessary to assign her to desk duty or to put her in a position where she no longer interacts with the community. At the very least, NE#1's chain of command should consider sending her to remedial training for and counseling her on professionalism, interacting with others, and anger management. If it has not already done so, NE#1's chain of command should also put her on a performance management plan that sets clear expectations for her professionalism and lays out the consequences for her



failure to comply. This training and counseling should be documented and this documentation should be maintained in an appropriate database.

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