



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 16, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0385

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Sustained
Imposed Discipline		
Written Reprimand		

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:

It was alleged that the Named Employees engaged in unprofessional conduct.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

A woman called 911 to report an argument she was having with an individual, who was an off-duty Seattle Police Officer. The 911 caller reported that she had gone on a date with this individual – whom she identified as Named Employee #1 (NE#1). She stated that he was intoxicated and that she was trying to get him to leave her property. Edmonds Police Department (EPD) offices were dispatched to the scene. They spoke with the 911 caller, who reported that NE#1 was intoxicated and had yelled at her. She tried unsuccessfully to return NE#1 to her car. She confirmed that NE#1 did not strike or threaten her.

The EPD officers – who were not equipped with Body Worn Video or In-Car Video – reported that they spoke with NE#1 and offered to drive him to his vehicle. After observing NE#1, the officers believed that he was too intoxicated to drive and told him this. The officers reported that, as a result, NE#1 began to argue with them. The officers documented that NE#1 made statements towards them that they considered insulting and verbally abusive, including using profanity. NE#1 called the 911 caller, who came to pick him up. She drove him away from the scene.

OPA was later notified of this incident by EPD and initiated an investigation. OPA reviewed the documentation generated by EPD. OPA further interviewed NE#1. He acknowledged being intoxicated and that, as a result, he did not recall certain portions of the evening. He denied that he ever intended to drive home, and he questioned EPD’s decision to drive him from the 911 caller’s house to his vehicle. He considered this to potentially be entrapment. NE#1 recognized that his overall conduct that evening, including his interaction with the EPD officers, was



unprofessional and was not consistent with his usual standard of conduct. He asserted, however, that the EPD officers also made statements towards him that he felt to be inappropriate and that escalated the situation.

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.*)

As NE#1 indicated, his conduct violated the Department’s professionalism policy. This finding is consistent with other cases that have involved similar off-duty conduct. In reaching this finding, OPA recognizes the immense stress that NE#1 was under at the time, both personally and professionally. OPA also understands that NE#1 is human and will make mistakes in judgment. Lastly, OPA agrees with NE#1 that this incident was significantly out of character for him. In OPA’s experience over the last three years, NE#1 has carried out his duties with professionalism, maturity, integrity, and a demonstrated commitment to the Department and the City. Ultimately, the reality is that, given the unique role of a police officer, NE#1 is always a representative of SPD and is always in the public eye. As a result, he cannot make the mistakes that an ordinary community member could and is held to a higher standard. This mandates OPA’s recommended determination.

For the above reasons, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**