



CLOSED CASE SUMMARY

ISSUED DATE: JULY 31, 2018

CASE NUMBER: 2017OPA-1137

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	Sustained

Imposed Discipline

Discipline Imposed: 2 days Suspension without Pay
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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 Employee used graphic/explicit language during a conversation that may have violated 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 Complainant alleged that Named Employee #1 (NE#1) engaged in an unprofessional conversation with her in her office. The Complainant initially made her allegations to EEO; however, this matter was referred by the Department to OPA. OPA then initiated this investigation. OPA interviewed both the Complainant and NE#1, as well as reviewed the Complainant’s initial statement to EEO.

The Complainant, who worked in Human Resources, recounted that NE#1 was undergoing a divorce and came into her office intending to remove his ex-wife and her biological children from his benefit plan. During the course of their meeting, which lasted approximately 20 minutes, the Complainant stated that NE#1 began talking about his personal life and specifically his ex-wife. He went into detail concerning affairs that his ex-wife was involved in. He referred to other men “fucking” his wife. As he discussed this matter, he began to grow more agitated and grew more explicit. He told the Complainant that his wife had the “audacity” to ask him to pay for a “boob job.” NE#1 mentioned that his ex-wife was embarrassed when having sex with another man and did not feel confident “fucking and riding a 26-year-old Officer without wearing a bra.” The Complainant stated that she was shocked by the conversation. She stated that NE#1 seemed unaware of her discomfort and he kept talking. She stated that she was so shocked that she did not even have the opportunity to tell him to stop. The Complainant was worried that if he would say these types of things to her as a Human Resources professional, what was he saying to his co-workers and others in the Department. She indicated that she had never had such a conversation with this type of explicit language being used. She summarized the incident as saying that NE#1 had no “professional filter.”



The Complainant reiterated the substance of her EEO statement during her OPA interview. The Complainant further added, in response to OPA's questions, that she was not a current or former member of the Department's Peer Support Team. She further stated that NE#1 did not meet with her for the purpose of trying to access EAP or counseling benefits as she did not provide those services.

During his OPA interview, NE#1 stated that the purpose of his meeting was to remove his wife from his benefit plan. He stated that he was "sure" he did go into graphic and explicit detail concerning his wife's behavior. He told OPA that he did so because he "started getting emotional about it" and was "telling the truth." He indicated that he said something along the lines of his wife "f'ed that guy," but NE#1 did not provide specific details at his OPA interview. NE#1 recounted that, during this conversation, the Complainant repeatedly remarked "oh my god," and asked him what else had happened. NE#1 told OPA that, during his conversation with the Complainant, she was leaning forward in her chair and did not seem uncomfortable.

NE#1 stated that he viewed the Complainant as a friend and this, coupled with the fact that she worked for Human Resources, made him believe that what he was saying was appropriate. However, in response to OPA's questions, NE#1 indicated that, prior to engaging in this discussion, he did not tell the Complainant that he needed help or that he was having personal or emotional difficulties. Lastly, NE#1 expressed to OPA that he felt betrayed by a friend and a fellow SPD employee "that sees that somebody needs assistance and does nothing to help them except" to file a complaint against him. He told OPA that he felt like he had been "attacked twice."

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.)

NE#1 admitted that he met with the Complainant to remove his ex-wife from his benefit plan. He further admitted that he did not meet with her as part of Peer Support or to seek EAP or counseling services. Lastly, NE#1 admitted discussing his ex-wife and her sexual behavior in graphic and explicit detail during their conversation. NE#1 disputes, however, that these statements were inappropriate. In doing so, he pointed to the Complainant's role at the Department and alleged that she elicited these details from him. The Complainant denied doing so and indicated that she was shocked and extremely uncomfortable throughout their entire interaction. She asserted that NE#1's behavior in this regard was unprofessional and I agree.

I find, applying a preponderance of the evidence standard, that NE#1 made comments inappropriate for the workplace that were outside of SPD policy and the expectations of the Department. In doing so, I credit the Complainant's account of the interaction over that provided by NE#1. The primary reason for this is that the Complainant simply has no motive and nothing to gain from fabricating this complaint. I conclude that it is more likely that NE#1 grossly misread the Complainant's demeanor and body language and somehow thought it was appropriate to make these statements in a non-counseling setting. I further find it concerning that NE#1 does not appear to understand that what he did was wrong.

Ultimately, NE#1's conduct in discussing the explicit sexual behavior of his ex-wife with a female colleague was unprofessional and violated policy. As such, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**