



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 16, 2018

CASE NUMBER: 2017OPA-1157

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)
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 2. Employees Will Assist Any Person Who Wishes to File a Complaint	Not Sustained (Lawful and Proper)

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 was unprofessional when he responded to the Complainant’s 911 call.

ADMINISTRATIVE NOTE:

This matter involves an investigation into possible misconduct committed by a civilian SPD employee. Given the employee’s status, there are no contractual disciplinary deadlines that apply to this matter, including no 180-day period. As such, and for administrative purposes, OPA has set the date of this DCM, August 16, 2018, as the 180-day deadline.

STATEMENT OF FACTS:

The Complainant alleged that Named Employee #1 (NE#1) was unprofessional towards him when he responded to the Complainant’s 911 call. The 911 call in question concerned the Complainant’s report that a male suspect had shoplifted and was prowling cars. NE#1 asked if the subject got into a car. The Complainant equivocated and stated that he saw the subject walking by cars and pulling some of the handles. NE#1 continued to press the Complainant as to whether he saw the subject get into a vehicle and the Complainant said no. The Complainant then raised the shoplift. NE#1 asked what the goods were (deli food) and what the amount in question was (\$15 to \$20). NE#1 asked the Complainant whether he was going to “actually report that.” When the Complainant did not answer him immediately, NE#1 then asked repeatedly whether the Complainant was going to file a report

NE#1 asked about the race, age, clothing color of the subject. At one point, the Complainant appeared to begin having trouble hearing NE#1. NE#1 stated to him: “Get somewhere where you can hear me, you’re the one on the cellphone.” The Complainant asked if NE#1 was going to create a report for him and NE#1 stated that the Complainant could relay that information to the officer that responded to the scene. The Complainant then asserted that NE#1 was being



belligerent, which NE#1 denied. They continued to go back and forth until the Complainant asked for a supervisor. NE#1 did not directly respond to that request. The Complainant then began to state that he wanted to file a complaint. However, NE#1 appeared to cut the call off before the Complainant was able to complete his sentence.

NE#1 stated that, after getting off the line with the Complainant, he generated a document memorializing the complaint. He stated that he provided this document to a supervisor, thus providing notification of the complaint. NE#1 acknowledged during his OPA interview that he could have “absolutely clarified” with the Complainant that his complaint would be passed on to a supervisor.

NE#1 did not raise his voice during the call and never used insulting or pejorative language. However, from the curtness, repetitive nature, and substance of his responses, he clearly had some issue with the Complainant or what the Complainant was reporting. Moreover, he continually interrupted the Complainant while he was talking, often without any apparent purpose for doing so.

OPA interviewed the Complainant who stated that he had had approximately 24 interactions with NE#1 while calling 911. He contended that approximately half of those interactions were negative. The Complainant reported that he notified NE#1’s supervisor of these ongoing issues and was told that NE#1 would be coached and monitored. However, after NE#1’s behavior during this call, he decided to report this matter to OPA.

Notably, while this is the first full OPA investigation into NE#1’s alleged unprofessional behavior, he has been the subject of at least four other OPA complaints alleging a lack of professionalism that were classified as Supervisor Actions and handled by NE#1’s chain of command.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

SPD Policy 5.001-POL-9 (since renumbered) 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.” (SPD Policy 5.001-POL-9.) Officers “will avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (*Id.*)

Based on my review of the evidence, including the audio recording of NE#1’s conversation with the Complainant, I find the question of whether NE#1 was unprofessional to be a close one. While he did not yell at the Complainant, use any pejorative terms or profanity towards him, and was not derogatory or contemptuous, his overall tone and approach to the call was problematic. As discussed above, the Complainant was curt and interrupted NE#1. He repeatedly asked the Complainant whether he was going to file a report regarding this matter, suggesting to OPA that, based on his prior experiences with the Complainant, NE#1 was frustrated by the lack of formal reports being made by him. Lastly, while NE#1 asserted that it was not intentional, hanging up on the Complainant at the end of the call while the Complainant was in the process of requesting a supervisor was inappropriate.

As discussed above, while there was no single statement made by NE#1 that was unprofessional or undermined trust in the Department, I do not believe that his overall response to the Complainant’s call and his treatment of the



Complainant during that call was in line with the Department's expectations for its dispatchers. That being said, and while I have serious issues with NE#1's conduct in this case, I cannot definitively say that it violated the Department's professionalism policy.

However, I note that, since 2014, NE#1 has been the subject of nine complaints arising out of his dispatching duties. Of those, the majority were related to his dismissive and/or unprofessional conduct. While I decide this case on its individual merits, I have significant concerns about what appears to be pattern of conduct on the part of NE#1. He should be aware that his actions, and particularly those concerning his professionalism, will be closely scrutinized by OPA moving forward. Behavior similar to that which occurred here will, without a valid explanation, likely result in a recommended Sustained finding in the future.

For the above reasons, I recommend that NE#1 receive a Training Referral.

- **Training Referral:** NE#1 should receive additional training concerning the Department's professionalism policy and concerning the Department's expectations for his interactions with community members. NE#1's chain of command should discuss the 911 call in this case and OPA's findings with him. They should further counsel him to ensure that he takes steps to treat community members with patience, respect, and professionalism. Lastly, NE#1's chain of command should inform him that OPA will be closely scrutinizing his actions moving forward for any indications of unprofessional behavior. This retraining and associated counseling should be documented and this documentation should be maintained in an appropriate database.

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

Named Employee #1 - Allegation #2

5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 2. Employees Will Assist Any Person Who Wishes to File a Complaint

SPD Policy 5.002-POL-2 states that Department employees will assist any person who wishes to file a complaint. The policy requires that "employees will assist the complainant by taking the complaint and passing it on to a supervisor or OPA."

Here, NE#1 did, in fact, pass the Complainant's allegation to a supervisor. That supervisor, in turn, called the Complainant concerning the complaint and then passed it on to OPA. As such, he complied with the technical requirements of the policy.

That being said, as discussed above, he did end the call as the Complainant was beginning to articulate that he wanted to make a complaint. By doing so, he did not learn from the Complainant what the specific nature of the complaint was or whether the Complainant wanted the complaint to be sent directly to OPA. I find this concerning; however, this conduct is more appropriately addressed in the discussion on professionalism above.

Given that NE#1 did notify a supervisor of the fact that the Complainant had a complaint concerning N#1's conduct, I recommend that this allegation be Not Sustained – Lawful and Proper.



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CLOSE CASE SUMMARY

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Recommended Finding: **Not Sustained (Lawful and Proper)**