



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 9, 2019

CASE NUMBER: 2019OPA-0267

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	15.250 - Interpreters/Translators II. Contact with Deaf Persons	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 failed to call promptly for an ASL interpreter, causing communications difficulties.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the OPA Auditor’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employee. As such, the Named Employee was not interviewed as part of this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

15.250 – Interpreters/Translators II. Contact with Deaf Persons

On September 7, 2018, Named Employee #1 (NE#1) responded to a call at Hazel Wolf K-8 ESTEM School concerning an individual – the Complainant in this case – who was allegedly trespassing on school grounds. School security stated that the Complainant was sleeping with her children in a parked car.

The Complainant, who is deaf, said that NE#1 failed to inform her that he had called for an American Sign Language (ASL) interpreter. She stated that, because she was not promptly informed that NE#1 had requested an ASL interpreter, she had difficulty communicating during this incident. The Complainant further asserted that NE#1’s use of his patrol vehicle’s headlights and spotlight to illuminate the scene, which she alleged that he did for several hours, caused her additional difficulty in communicating with him. The Complainant also asserted that NE#1 tried to communicate with her using ASL even though he lacked fluency, which caused further miscommunication. Lastly, the Complainant alleged that NE#1’s overall conduct towards her was unprofessional.



The Complainant's allegations concerning NE#1's professionalism was handled via a Supervisor Action. As such, this specific allegation was not part of this investigation.

NE#1's Body Worn Video (BWV) captured his interactions with the Complainant. When NE#1 arrived at the school, he observed the Complainant's parked car. NE#1 spoke to a school security guard who said that, while the Complainant was trespassing, the Complainant and her children could spend the night in the school parking lot. However, the security guard said that they would need to leave school property in the morning. NE#1 approached the driver's side window of the Complainant's car. NE#1 and the Complainant conversed using notes on his notepad and on her phone. BWV did not capture all the notes written by NE#1 but showed that he advised the Complainant that she was trespassing. NE#1 further contacted the Crisis Clinic in order to find emergency housing for the Complainant and her children.

While NE#1 was contacting the Crisis Clinic, he turned off his patrol vehicle's overhead flashing lights (12 minutes after contact) and the spotlight (20 minutes after contact). He left the headlights on to illuminate the scene as it was dark outside. While conversing with the Complainant, NE#1 used his flashlight to make his notepad viewable but he did not appear to shine the light in the Complainant's face. Moreover, OPA found no evidence from its review of the BWV that NE#1 attempted to use ASL with the Complainant. Approximately 30 minutes after first contacting the Complainant, NE#1 called to request an ASL interpreter. BWV did not record NE#1 telling the Complainant that he had requested an interpreter, although not all of the written notes between them were captured. The ASL interpreter arrived approximately 40 minutes after NE#1 called in his request. Through the interpreter, NE#1 obtained names and a mailing address for the Complainant and her children to facilitate emergency shelter. NE#1 explained to the Complainant that she and her family could stay overnight but would need to leave before school began. When the Complainant expressed concerns about finding shelter, NE#1 also offered to connect her with the City's Navigation Team, a specially trained team comprised of outreach workers paired with SPD personnel that work to connect unsheltered people with housing and critical resources.

SPD Policy 15.250 requires that "[i]nterpreters will be used: [w]hen interviewing a deaf person as a witness, victim, or suspect concerning a criminal investigation, or [w]hen conducting a criminal investigation involving a minor child" when the "parent(s), guardian, or custodian is deaf." (SPD Policy 15.250(II(A))).

OPA's investigation indicated that NE#1 took the appropriate, necessary, and required steps in calling for and securing an interpreter. While waiting for the interpreter to arrive, NE#1 took additional steps to connect the Complainant and her children with emergency shelter and other safe housing options. OPA finds no indication in the record that NE#1 intentionally delayed or otherwise failed to call for an interpreter. While OPA recognizes that the Complainant may have been frustrated by the length of time it took to secure an interpreter and that she was not apprised of what was taking place, the policy has no time requirement for when the interpreter must be called to the scene or direction that an officer must provide a timely update concerning the status of the interpreter. Moreover, OPA found no evidence to suggest that NE#1 deliberately withheld this information from the Complainant or intentionally delayed the call for an interpreter.

Given OPA's investigation and when applying a preponderance of the evidence standard, I recommend that this allegation be Not Sustained – Lawful and Proper.

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