



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 29, 2019

CASE NUMBER: 2019OPA-0360

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	Not Sustained (Unfounded)

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 Complainants in this case alleged that Named Employee (NE#1) treated them rudely in the course of investigating a traffic collision. The Complainants asserted that NE#1 was unprofessional when he credited the account of the other driver of theirs.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’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 - Allegations #1

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

On May 8, 2019, NE#1 responded to a traffic collision at 51st Avenue South and South Brandon Street. NE#1’s interaction with the involved parties and the law enforcement action he took were captured on Body Worn Video (BWV). The BWV indicated that there was damage to the passenger side of the Complainants’ car consistent with being struck roughly in the middle of the car. There was also damage to the front of the other driver’s car.

NE#1 spoke with Complainant #1, who was operating one of the cars. Complainant #1 described his direction of travel to NE#1. He further disclosed that he did not have a driver’s license on him. NE#1 told Complainant #1 that he was required to yield for oncoming traffic as the other driver did not have a controlled intersection. NE#1 then spoke to the other driver. During this time, Complainant #1 remained in the vicinity and interrupted NE#1. NE#1 further explained the rules of yielding at an uncontrolled intersection to Complainant #1. Complainant #1 argued with NE#1, disagreeing that he was at fault. NE#1 identified that Complainant #1 was not listening to him and, again, explained the yielding rules. Complainant #2 then walked over to them and said that they were not at fault. NE#1 tried to recontact the other driver and Complainant #1 continually asserted that he was not at fault. NE#1 again



admonished Complainant #1 for interrupting him and not letting him respond. NE#1 walked away and entered his patrol vehicle to complete paperwork.

When NE#1 returned to where the involved parties were, he provided Complainant #1 with a citation. Complainant #1 again asked for an explanation for why he was deemed at fault and NE#1 provided the same recounting of the rules yielding at controlled intersections. Complainant #1 argued with NE#1 and, after a period of time, NE#1 said: "Listen, you keep interrupting me. I am trying to explain it to you." He gave Complainant #1 his license back. Prior to leaving the scene, NE#1 asked the Complainants whether they needed anything further from him. Both Complainants stated: "I don't need nothing from you."

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.)

The Complainants later made this complaint with OPA. They alleged that NE#1 was unprofessional in two main respects. First, Complainant #1 contended that, during their interaction, NE#1 stated to him: "shut up." Second, the Complainants said that NE#1 improperly credited the other driver's account over what they told him.

While OPA recognized the Complainants' frustration with receiving a citation for this incident, OPA finds that NE#1 conducted a thorough and objective investigation and, based on its review of the record, cannot conclude that NE#1's determination that Complainant #1 was at fault was unreasonable. In addition, there is no evidence supporting a finding that NE#1 credited the account of the other driver over that provided by the Complainants. To the contrary, he appeared to have focused substantially on the fact that the Complainants were at a controlled intersection and, as such, were required to yield to the other driver. Lastly, the BWV of this incident, which fully captured the Complainants' interactions with NE#1, does not support the Complainant's assertion that NE#1 told him to "shut up." While NE#1 did, at one point, raise the volume of his voice, he did so due to Complainant #1's continued argument and interruptions. OPA does not find that this was unprofessional or that NE#1's communications with the Complainants were otherwise inconsistent with SPD policy.

For the above reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**