



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 17, 2020

CASE NUMBER: 2019OPA-0554

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 (Training Referral)

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 engaged in unprofessional behavior.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

The Complainant alleged that, while driving, he had to stop short for a pedestrian. He told OPA that he could not see the pedestrian because the scooter operated by Named Employee #1 (NE#1) – a Parking Enforcement Officer (PEO) – was obstructing his view. He claimed that, at that time, NE#1 called him a “fucking idiot.” The Complainant also alleged to OPA that, on an earlier occasion, he had a negative interaction with NE#1. He said that she told him that he needed to move his vehicle – which was parked in a restricted area at the time – and that she used a tone that “wasn’t very nice.” While there were no other witnesses to the earlier incident, the Complainant stated that his friend was in the car when NE#1 used profanity towards him.

As part of its investigation, OPA interviewed NE#1. She did not recall the earlier interaction with the Complainant. She did, however, recall their second interaction. She stated that she was stopped for a pedestrian when she observed the Complainant’s car quickly approaching. She told OPA that she opened her door, put her hand out of her window, and yelled stop. She said that, after the Complainant stopped, she exhaled and said “idiot” under her breath. She did not deny that the Complainant could have heard what she said. However, she did deny using profanity towards the Complainant explaining that she did not “cuss.” That NE#1 did not have a practice of using swear words was confirmed by her Guild representative. NE#1 stated that, at the time she called the Complainant an idiot, her adrenalin was high as she was convinced that the Complainant was going to hit the pedestrian. The Complainant told OPA that, were she to do this situation over, she would not have called the Complainant an idiot regardless of the circumstances. The Complainant recalled that, after she called the Complainant an idiot, he drove up next to her. She said that he yelled at her and called her a “fucking idiot.” After doing so he drove away.

OPA also interviewed the Complainant’s friend, who recalled that they had to stop their car quickly for a pedestrian. He confirmed that NE#1 called him and the Complainant a “fucking idiot.” OPA asked the friend whether he and the Complainant later called NE#1 a “fucking idiot.”



He denied that they did so but acknowledged that they had a short back and forth. He could not remember what was said during that subsequent conversation. The friend further told OPA that, as NE#1 drove away, she blew them a kiss.

Lastly, OPA re-interviewed the Complainant regarding the interaction with NE#1 after she allegedly called him a “fucking idiot.” The Complainant did not mention this subsequent interaction during his initial OPA interview. The Complainant said that there was not a verbal back and forth between himself, the friend, and NE#1, only “eye contact.” The Complainant denied calling NE#1 a “fucking idiot.” The Complainant, like the friend, alleged that NE#1 blew a kiss at them when she drove away.

PEOs are not equipped with In-Car Video or Body Worn Video. As such, there was no Department video of this incident. OPA further was unable to locate any third-party video that captured what occurred.

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.*)

If it was established that NE#1 used the term “fucking idiot” towards the Complainant and the friend, this would constitute a violation of the Department’s professionalism policy. The Complainant and the friend stated that this occurred and NE#1 denied it. Given this dispute of fact and due to the absence of video/audio evidence, whether NE#1 used profanity in an insulting manner towards the Complainant is inconclusive. However, NE#1 admits that she called the Complainant an idiot. She explained that, when she did so, her adrenalin was high, and she believed that the Complainant was going to strike a pedestrian with his car. While OPA understands her explanation, as NE#1 recognized, it was not appropriate to use an insulting term towards the Complainant. That being said, under the circumstances of this case and given NE#1’s acceptance of responsibility, OPA recommends that this allegation be Not Sustained and that NE#1 receive a Training Referral rather than a Sustained finding.

- **Training Referral:** NE#1 should be reminded not to use insulting words towards community members, even where those community members may engage in unsafe conduct. This counseling and any associated retraining should be documented, and this documentation should be maintained in an appropriate database.

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