



## ***CLOSED CASE SUMMARY***

ISSUED DATE: JANUARY 23, 2020

CASE NUMBER: 2019OPA-0579

### **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 was unprofessional towards her.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 - Allegations #1**

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

Named Employee #1 (NE#1) and another officer were dispatched to a call at an apartment building. The building manager – the Complainant – called concerning the violation of an order of protection, The Complainant, who was the protected party, asserted that the subject of the order was within 15 feet of her and was watching her, both of which violated the order.

After arriving at the building, the officers contacted the Complainant. She showed them a copy of the order. The officers determined that the computer room, where the subject had allegedly been situated, was 13 feet from the Complainant. When NE#1 asked whether the subject could just be evicted from the building for engaging in repeated harassing behavior, the Complainant said no and told NE#1 that this was why she wanted the order enforced. NE#1 asked: "What started the whole thing between him and you?" The Complainant responded: "He threatened me. He said he was going to take me out." NE#1 then joked: "Maybe he wanted to take you on a date." They spoke about other things and then the Complainant said that she would "rather become a lesbian," referring back to NE#1's earlier comment about the date. NE#1 and the Complainant both laughed. They continued to discuss the incident for a period of time. The officers then went to speak with the subject. They did not arrest the subject, but they discussed him being in the computer room when the Complainant was in the near vicinity. The subject acknowledged using the computer but denied looking at the Complainant. The officers concluded their interaction with the subject and left the building.

The Complainant later initiated this complaint with OPA. She asserted that NE#1's joke about the subject wanting to take her on the date was rude and unprofessional. She said that she was "dumfounded" by the statement and that it made her feel like an "idiot." She further said that it made her feel as if she was wasting the officers' time and that she was not taken seriously. This investigation ensued.



As part of its investigation, OPA interviewed NE#1. NE#1 said that, prior to that incident, he had interacted with the Complainant before. He told OPA that his statement was a joke that was meant to “lighten the mood a little bit.” He stated that he did this often on calls and that it usually worked. NE#1 acknowledged that it was “kind of a poor joke.” He told OPA that he did not intend to insult the Complainant and that he did not perceive her to be offended at the time. NE#1 stated that he did take the Complainant’s allegations seriously and he did not minimize what she was telling him. He said that he had dealt with her subsequently and that their interactions had been professional.

OPA also interviewed the other officer on scene during this incident. That officer believed that NE#1 was making a joke and said that NE#1 would often make jokes while working in order to put people at ease and lessen tension. The officer did not believe that the Complainant seemed offended at the time as he recalled her laughing with NE#1.

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.*)

Based on OPA’s review of the video, OPA understands why the Complainant was upset at NE#1’s comment. At the time, she was expressing her concern regarding the subject wanting to take her out, as in use violence towards her. OPA believes that it was not unreasonable for the Complainant to have found it insulting that NE#1 responded by making a joke that the subject might have just wanted to take her on a date. That being said, OPA also recognizes that NE#1 was not being malicious and that he was trying to bring some levity to the situation. However, as NE#1 realized, it was a “poor joke.” Moreover, this is the case even if the Complainant did not appear to be insulted at the time and made a joke in response. The Complainant may very well have felt uncomfortable with an officer making such a statement and may have reacted as she did because she did not know what else to do. Indeed, this is what the Complainant described at her OPA interview.

Ultimately, OPA finds that NE#1 did not act with ill intent. As such, OPA does not believe that a Sustained finding is warranted. Instead, OPA recommends that NE#1 receive the below Training Referral.

- **Training Referral:** NE#1’s chain of command should discuss this incident with him. His chain of command should remind him that, even if well intentioned, community members reporting crimes may react poorly to jokes being made by officers. While there may be times that making light of situations will have a positive result, NE#1 should carefully choose when uses humor. 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)**