



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 4, 2020

CASE NUMBER: 2019OPA-0663

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)
# 2	15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a Report	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 Complainant alleged that the Named Employee was unprofessional towards her during his investigation of a hit and run. The Complainant further alleged that the Named Employee's report for the hit and run contained inaccuracies.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the review and approval of the Office of Inspector General for Public Safety, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

SUMMARY OF INVESTIGATION:

The Complainant initiated this complaint with OPA concerning her dissatisfaction with how Named Employee #1 (NE#1) investigated a hit and run accident. She asserted that NE#1 incorrectly documented what she told him. Specifically, she stated that he reported that her car was in the curb lane when, in fact, it was in the left lane. She told OPA that the vehicle that struck her was in a bus only lane to the left of her that turned into a left turn only lane. The Complainant further alleged that NE#1 was unprofessional towards her because he demonstrated very little interest in the investigation and what she described as a "couldn't care less" attitude. The Complainant lastly expressed to OPA her frustration with the report being generated on July 30, 2109 but not being entered into the system into September 4, 2019, as well as with NE#1's failure to contact her even after she left him several messages. This investigation ensued.

OPA reviewed the Body Worn Video that was recorded by NE#1. This video captured his investigation of this incident, including his conversation with the Complainant and his demeanor towards her. The video further documented the Complainant's description as to what occurred during the hit and run.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

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 BWV, there is no indication that NE#1 was unprofessional during this incident. Contrary to the Complainant’s allegations, he seemed engaged and appeared to take the investigation seriously. He further treated the Complainant politely and kindly during the investigation, several times wishing her happy birthday after seeing her date of birth on her driver’s license. Notably, at the conclusion of their interaction, the Complainant did not seem to be unsatisfied and she laughed and shook NE#1’s hand. This appears to be inconsistent with her depiction of the interaction and NE#1’s approach towards her and this incident.

Moreover, even if true, NE#1’s failure to respond to the Complainant’s calls would not have constituted a violation of the Department’s professionalism policy. This is the case even though returning the calls would have been optimal.

Lastly, that the report was not uploaded into the system until September 4 was likely attributable to backlogs due to the Department’s transition between data systems. Indeed, NE#1 cannot be blamed for this as he timely completed his report concerning this incident.

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

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

Named Employee #1 - Allegation #2

15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a Report

After responding to the scene, NE#1 interviewed the Complainant regarding what occurred. As part of that interview, they discussed where the Complainant’s car and the suspect’s car were positioned at the time of the collision. The Complainant began to describe where her car was located but she equivocated and did not provide an exact account. She first mentioned being in the right lane and then opined that she could have been in the left lane. She ultimately recalled that the suspect’s vehicle was to her left and hit her when it moved over to the right. During this time, NE#1 listed to the description provided by the Complainant and took notes.

NE#1 later documented in his report that the Complainant was driving in the “curb” lane and the suspect was in the lane to her left when the suspect moved over and struck the Complainant’s car.



The Complainant asserted that this was inaccurate as she was in the left lane at the time, not the curb lane, and the suspect was in a bus only/left turn lane. She complained to the Traffic Unit Captain who sent another officer to take a supplemental report. At that time, which was nearly two months after the incident, the Complainant clarified where she was located at the time of the collision and this was documented by the other officer. In this supplemental report, the other officer appeared to incorrectly refer to the date of the accident as August 5, 2019. The report was otherwise thorough and accurate.

SPD Policy 15.180-POL-5 instructs officers to document all primary investigations on a report. Such reports must be "complete, thorough and accurate." (SPD Policy 15.180-POL-5.)

With regard to NE#1's report, while he did not accurately state the location of the Complainant and the suspect at the time of the collision, this was not necessarily his fault. OPA perceived that the Complainant's description of what happened lacked clarity and, as such, OPA concludes that it was understandable for NE#1 to have documented her statements as he did. In addition, similar to the other officer's error concerning the date of the incident, while accuracy is always the goal, the exact location of the cars was, in some respects, irrelevant. Ultimately, the report's conclusion was that the suspect committed a hit and run, and the Complainant was not at fault. This did not change based on where the cars were positioned or based on the date of the accident.

As such, OPA declines to find that NE#1 violated policy and recommends that this allegation be Not Sustained – Unfounded.

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