



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 28, 2020

CASE NUMBER: 2019OPA-0672

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 Complainant alleged that the Named Employee was unprofessional towards him and acted in a threatening manner towards him.

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 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

The Complainant stated that he parked his car in an area where SDOT was putting up signs. When he went to speak with the SDOT employees, he walked by Named Employee #1 (NE#1) – a Parking Enforcement Officer (PEO) – who was sitting in an idling vehicle. The Complainant stated that NE#1 asked him: “Why don’t you move your car now?” The Complainant said that he responded: “I’ll move it later, I don’t have to move it now, see you later...” The Complainant also disclosed that he asked NE#1: “how is the move to Lynnwood?” The Complainant reported that he heard a vehicle door slam and he saw NE#1 walking towards him in an “aggressive manner.” The Complainant described NE#1 as appearing though he wanted to start a fight. The Complainant said that NE#1 got approximately six inches from him and said: “You think you’re tough? You’re nobody. You just have a bunch of rusty cars. You’re a punk.” The Complainant stated that he feared for his safety and that NE#1 “had his hands up and [was] flailing his arms around.” The Complainant indicated that he then drove away from the scene.

Based on the Complainant’s allegations, OPA initiated this investigation. OPA conducted an in-person interview of the Complainant. The Complainant largely reiterated his written account. The Complainant brought a friend to the interview; however, the friend was not a witness to the events.



OPA reviewed the reporting generated for this incident. The report indicated that NE#1 called for SPD officers to respond to his location based on a threat on the part of the Complainant. NE#1 described to officers that, when he asked the Complainant to move his vehicle, the Complainant responded: “you still live in Lynnwood, right?” NE#1 believed this to be a threat and stated that he previously had a restraining order against the Complainant’s friend. NE#1 expressed his concern that the Complainant or the friend would come to his residence.

OPA also reviewed the Body Worn Video (BWV) for this incident. While there was no video of NE#1’s initial interaction with the Complainant given that PEOs are not equipped with BWV, the later discussion between NE#1 and the responding officer was recorded. The video reflected that NE#1 informed the officer that the Complainant and the friend shared the same address. He said that he felt that the statement by the Complainant was a threat given that the friend had made a similar comment to him and also referenced the fact that NE#1’s wife worked at the West Precinct. NE#1 stated that he obtained an order of protection against the friend based on these statements. NE#1 told the officer that he wanted to make sure that this subsequent incident was documented. 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.*)

Based on OPA’s review of the totality of the evidence and when applying the requisite burden of proof, OPA finds that the account provided by NE#1 is more credible. In reaching this finding, OPA notes that the Complainant admitted asking NE#1 about his living in Lynnwood and OPA concludes that there was no legitimate purpose for doing so other than to antagonize and/or threaten NE#1. This finding is buttressed by the fact that the friend who the Complainant brought to his OPA interview was documented as making a similar statement, which resulted in the granting of an order of protection. Even had NE#1 reacted angrily to this statement, OPA does not believe that this would have constituted unprofessional behavior and, in OPA’s opinion, it would not have been an unreasonable response under the circumstances.

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

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