



## ***CLOSED CASE SUMMARY***

ISSUED DATE:      APRIL 9, 2020

CASE NUMBER:      2019OPA-0748

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Training Referral)
# 2	16.230 - Issuing Tickets and Traffic Contact Reports 3. Officers Document All Traffic Stops	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:**

It was alleged that the Named Employee engaged in unprofessional conduct during a traffic stop and that she failed to document the stop.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 - Allegation #1**

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

The Complainant initiated a complaint with OPA in which she alleged that Named Employee #1 (NE#1) took unreasonably long to conduct a traffic stop. The Complainant asserted that this was particularly frustrating for her because she told NE#1 that she was late to work.

After receiving this complaint, OPA conducted its intake investigation, which included reviewing the In-Car Video (ICV) and Body Worn Video (BWV) for this incident and searching for documentation of the stop. From a review of the BWV, OPA determined that NE#1 did not issue the Complainant a citation. OPA further identified that NE#1 did not document the stop using a Traffic Contact Report (TCR).

NE#1's ICV indicated that she stopped her patrol vehicle to allow an individual to cross the street. The individual was not crossing at a marked intersection. The ICV further showed the Complainant's vehicle speed by NE#1's right side and up the street. At this point the individual was still in the process of crossing and the Complainant's vehicle made a small swerve to the right when it passed him. NE#1 then effectuated a traffic stop of the Complainant's vehicle.

NE#1's BWV showed the traffic stop and reflected that, when NE#1 approached the vehicle, the Complainant already had her driver's door open. The Complainant virtually immediately referenced being late for work. NE#1 responded: "Okay, is that worth almost hitting that dude, even after I stopped and honked and then warned you that someone was crossing?" NE#1 then noted that the Complainant was "flying up the freaking road." The Complainant twice argumentatively stated that the individual was not in the crosswalk. NE#1 responded by asking what the Complainant would have done had she hit the individual. When the Complainant again referenced the



individual not being in the crosswalk, NE#1 stated: "Ma'am, that doesn't mean you can still drive at least 20 miles over the freaking speed limit and hurt people." After a further back and forth, NE#1 returned to her patrol vehicle. NE#1 began running the Complainant's information through her patrol vehicle's MDT system and, at that time, NE#1 said to herself, referencing the Complainant: "A peach. A motherfucking peach."

NE#1 walked back to the Complainant's vehicle, returned her license and registration, and advised her: "I get that you're running late to work. But also, a bit of advice is, don't be a dick the minute somebody pulls you over, because another cop would've given you a ticket." NE#1 then ended the traffic stop and walked away.

During its intake investigation, OPA identified that NE#1's statements during the traffic stop may have violated the professionalism policy, as well as that she did not document the stop. These matters were addressed in this investigation. OPA further determined that NE#1 did not identify herself at the inception of the stop or inform the Complainant that she was audio and video recording. These issues were returned to the chain of command for handling via a Supervisor Action and are not addressed herein. OPA notes that the Complainant's initial allegation, that the stop took too long, is without merit and was not investigated as a result of this case.

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.)

At her OPA interview, NE#1 acknowledged that her tone and statements during the stop fell short of the Department's expectations. She stated that she was trying to be honest and to build rapport with the Complainant but noted that it did not work as she expected and was an inadvisable tactic. She told OPA that, if she were to repeat this incident over, she would have used a much nicer and calmer approach to the Complainant, regardless of the Complainant's negative demeanor towards her.

OPA agrees with NE#1 that the statements and tone she used towards the Complainant were not consistent with the Department's professionalism policy. However, OPA concludes that a Training Referral, rather than a Sustained finding, is the appropriate result. This decision is based, in large part, on NE#1's clear recognition of the mistakes she made and her commitment to not repeat this conduct. It is also based on the fact that NE#1 has not had any prior Sustained findings or Training Referrals for professionalism (or any other allegation).

Accordingly, OPA recommends that this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1's chain of command should counsel NE#1 concerning this incident and should make clear that she understands the Department's expectations of her ongoing professionalism. The chain of command should further provide any retraining that it deems appropriate. 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)**



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**Named Employee #1 - Allegation #2**

***16.230 - Issuing Tickets and Traffic Contact Reports 3. Officers Document All Traffic Stops***

SPD Policy 16.230-POL-3 requires that traffic stops that do not result in a citation be documented in a TCR. A copy of the TCR must be provided to the driver.

As discussed above, NE#1 did not cite the Complainant or complete a TCR. At her OPA interview, she was accountable for this mistake and said that she simply forgot to complete the TCR.

Similar to Allegation #1 above, OPA recognizes that NE#1 took responsibility for not properly documenting the stop and has not acted contrary to this policy in the past. As such, OPA concludes that training is the appropriate result and recommends that this allegation be Not Sustained Training Referral.

- **Training Referral:** NE#1 should be reminded of the expectation that she complete TCR when appropriate and counseled concerning her failure to do so here. 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)**