



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 5, 2020

CASE NUMBER: 2019OPA-0922

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	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:

The Complainant alleged that the Named Employee was unprofessional to him during a traffic stop. OPA further alleged that the Named Employee failed to complete a Traffic Contact Report and to provide that documentation to the Complainant at the conclusion of the stop.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's review and approval, 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

Named Employee #1 (NE#1) effectuated a traffic stop of the Complainant's vehicle. NE#1 made contact with the Complainant and explained that he stopped him because the Complainant was driving with his vehicle's high beams on. NE#1 told the Complainant that his lights were "hella bright" and were "blinding." At one point during the contact, NE#1 asked the Complainant if there was a "problem." The Complainant stated something in response that was unintelligible based on OPA's review of Body Worn Video (BWV) and In-Car Video (ICV). NE#1 replied: "I'm just asking, is there a problem...?" The Complainant stated that he just wanted to know what the basis for the stop was. NE#1 indicated that he had already explained this to the Complainant. The Complainant also referenced the driving of another motorist, which NE#1 discussed with him. NE#1 took the Complainant's driver's license and registration and returned to his patrol vehicle.

After a period of time, NE#1 returned to the Complainant's vehicle and gave him back his license and registration. NE#1 also provided the Complainant with an SPD business card that included NE#1's name, serial number, and the case number for the stop. When the Complainant had no further questions, NE#1 told the Complainant that he was free to leave and to have a good night. The Complainant then drove away.

The Complainant later initiated this complaint with OPA. He alleged that NE#1 stopped him without a valid basis to do so. The Complainant also asserted that NE#1 was rude and unprofessional during the stop. Specifically, the Complainant asserted that the Complainant aggressively asked him if he had a problem, which the Complainant felt was inappropriate.

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.*)

As part of its investigation, OPA reviewed the BWV and ICV. From OPA's review, the video did not support a finding that NE#1 acted aggressively when he asked if the Complainant had a "problem." While perhaps inartful, it appeared that this question was based on the Complainant's demeanor during the stop, which NE#1 perceived negatively. Moreover, NE#1's statement that the high beams were "hella bright" was not the best phrasing but did not constitute an unprofessional comment. For these reasons, OPA ultimately concludes that NE#1 did not engage in behavior inconsistent with the Department's professionalism policy.

Lastly, it appears that the Complainant filing of this case was motivated in large part by his frustration that he was stopped. However, the traffic stop was legally justified under SMC 11.58.380 and 11.82.140.

Based on the above, OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

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

OPA's investigation established that, while NE#1 completed a Traffic Contact Report (TCR), he did not provide a copy of the TCR to the Complainant.

SPD Policy 16.230-POL-3 governs the issuance of TCRs. SPD Policy 16.230-TSK-1(5) specifically requires that, when a TCR is completed, the officer: "Serves the violator with the "Defendant Copy" of the...TCR."

While NE#1's failure to provide a copy of the TCR to the Complainant constituted a technical violation of policy, OPA does not believe that a Sustained finding is warranted for several reasons. First, NE#1 has not previously violated this policy. Second, NE#1 has already received retraining concerning this issue from his chain of command. Third, and last, OPA has seen other officers make similar mistakes and has handled those issues with training rather than discipline.

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

- **Training Referral:** It is OPA's understanding that this matter has already been addressed with NE#1. If this is the case, no further action needs to be taken. If this is not the case, please counsel and retrain NE#1 concerning the requirement that, when he issues a TCR, he timely provides a copy to the driver. Any retraining and/or counseling that is provided should be documented, and that documentation should be maintained in an appropriate database.

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