



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 26, 2020

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0068

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 Named Employee #1 was rude to her during a traffic stop.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged that Named Employee #1 (NE#1) engaged in an unprofessional manner towards her during a traffic stop. Specifically, the Complainant was frustrated by NE#1's refusal to discuss the basis for the ticket with her and his decision to end their contact by just walking away. This investigation ensued.

OPA reviewed NE#1's Body Worn Video (BWV). The video showed the traffic stop. NE#1 dismounted his motorcycle and approached the Complainant. NE#1 informed the Complainant that he was stopping her based on how her vehicle had been situated. In response to his question on what she was doing at that time, the Complainant told NE#1 that she took a turn to drop her wife off at work and, when traffic became backed up, her wife just got out of the car. NE#1 took the Complainant's license and registration and walked to his motorcycle. After a period of time, he returned to the Complainant's vehicle and provided her with a citation. The Complainant asked what she was being cited for and NE#1 told her: "blocking traffic." NE#1 began to return to his motorcycle when the Complainant said that she had not been blocking traffic. She further stated: "Can we have a conversation because you gave me a ticket and I'm trying to understand?"

NE#1 turned around and walked back to the driver's side of the vehicle. He began to discuss the citation with the Complainant; however, they both talked over each other. NE#1 asked the Complainant to let him explain the citation, but the Complainant told him that, since they were having a conversation, he also needed to let her talk. NE#1 ultimately walked away from the vehicle after he and the Complainant continued to interrupt each other.



OPA interviewed both the Complainant and NE#1. The Complainant reiterated her belief that NE#1 acted unprofessionally by failing to engage her in conversation and just walking away. NE#1 denied that he was unprofessional. NE#1 said that he walked away because he did not want to argue with the Complainant. He contended that, to the extent the Complainant wanted to contest the ticket, she should do so in court, not in a discussion with him. NE#1 told OPA that it is his practice to avoid these types of interactions.

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.)

In OPA’s opinion, this is a difficult case. On one hand, the Complainant has the right to ask for an explanation of what occurred and, to this end, is permitted to ask questions of an officer to understand the basis for a citation. On the other hand, OPA does not find NE#1’s position – that it is counter-productive to argue a citation with a driver at the scene and that the court is the proper venue for the challenging of the citation – to necessarily be unreasonable. When reviewing the totality of the evidence, OPA finds that, while it was understandable that NE#1 wanted to avoid a prolonged argument with the Complainant, he should have been more patient in his interaction with her. It is possible that, even had he done so, he may not have satisfied her, and an argument could have followed; however, this was not guaranteed. Notably, while the Complainant was advocating against the ticket, she had a level tone of voice and did not make any antagonizing statements.

Ultimately, police work is a customer service business in many respects. Officers – and particularly traffic officers – are the public face of the Department, and it is important that, where possible, they strive to make every interaction as positive as they can. This is even more the case where, as here, there were no exigent circumstances that required NE#1 to immediately leaving the scene and there was no indication of any safety risks. While OPA does not believe that NE#1’s conduct here necessarily constituted unprofessionalism, OPA concludes, as the Complainant suggested, that retraining would be appropriate. Accordingly, OPA recommends that this allegation be Not Sustained – Training Referral.

- **Training Referral:** OPA requests that the chain of command review this incident with NE#1, including watching the BWV. The chain of command should discuss NE#1’s approach to this incident and his demeanor towards the Complainant. The chain of command should provide guidance as to alternative approaches that could have been used that may have been more consistent with the Department’s expectations of professionalism. 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)**