



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 20, 2020

CASE NUMBER: 2020OPA-0220

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 during a telephone call, including providing the Complainant with inaccurate information.

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 (OIG), 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.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

OPA was forwarded a complaint by the OIG. The complaint had been submitted to the OIG by the Complainant and concerned a telephone conversation between him and Named Employee #1 (NE#1), a Dispatch Unit supervisor. The Complainant asserted that he was told that his call was required to be recorded. He did not want it to be recorded and he believed that this was inaccurate information. He also contended that NE#1 threatened him with arrest for harassment, which he believed was improper. This investigation ensued.

As part of its investigation, OPA interviewed the Complainant. He reiterated his belief that the call should not have been recorded. He also stated that NE#1 was rude and condescending, as well as that NE#1 hung up on him and refused to provide him with service. The Complainant felt that it was improper for NE#1 tell him that he may be arrested for harassment as he did not threaten NE#1 with bodily harm. Lastly, the Complainant alleged that NE#1's conduct violated a federal conspiracy statute. OPA notes that, while the Complainant's professionalism allegation is addressed below, the violation against law claim is not addressed as it is clearly frivolous on its face.

OPA determined that, contrary to the Complainant's belief, the Dispatch Unit records all phone calls as a matter of practice and policy. OPA further listened to the recorded phone call. The call, which lasted 15 minutes, was



comprised of a prolonged back and forth between the Complainant and NE#1. During the call, NE#1 answered a number of the Complainant's questions; however, the Complainant did not appear satisfied with his responses. For example, the Complainant queried whether OPA's office was open. NE#1 informed him that OPA's office was closed due to the ongoing Covid-19 pandemic. Instead of accepting this response, the Complainant continued to press NE#1 about whether OPA's office was open and questioned whether OPA's employees were "critical employees." Towards the end of the call, and after trying to address the Complainant's concerns, NE#1 indicated that he would be hanging up. The Complainant stated that he would continue to call back. NE#1 told him that, if he did so, he could risk being arrested for harassment. NE#1 then hung up the phone.

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.*)

The recording of the phone call conclusively establishes that the Complainant's allegations against NE#1 are meritless.

First, the recording indicates that NE#1 used an even and measured tone during the call and did not make any rude or condescending statements towards the Complainant. While NE#1 did hang up the phone, this occurred after 15 minutes of trying to address the Complainant's concerns and after giving the Complainant a warning that it would occur. Moreover, this was not rude. It was purposed to preserve Department resources and to ensure that the lines remained open for other community members that might need assistance.

Second, the recording of the call was consistent with Department policy and was entirely appropriate. As such, this does not constitute unprofessionalism.

Third, NE#1's caution to the Complainant that he could be arrested for harassment if he continued to call 911 without a valid reason to do so was not an inaccurate or unprofessional statement. Indeed, SMC 12A.06.100 explicitly criminalizes such conduct.

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

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