



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 12, 2020

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0294

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	Sustained
Imposed Discipline		
Terminated Prior to Proposed DAR – Discipline		

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 unprofessional and unresponsive to legitimate requests when he issued the Complainant a traffic citation.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

On May 8, 2020, at approximately 1452 hours, Named Employee #1 (NE#1) issued a traffic citation to the Complainant for obstructing traffic. During the issuance of the citation, NE#1 had an interaction with the Complainant, which forms the basis of this complaint. As a Parking Enforcement Officer, NE#1 was not equipped with BWV at the time. Consequently, there is not a recording of this incident. NE#1 declined to participate in this investigation. As a result, OPA's summary of the facts is based on the Complainant's account of this incident.

The Complainant is an Amazon delivery driver. He told OPA that he was delivering a package to the address listed in the complaint. The road is normally a three-lane road, but the leftmost lane was blocked by construction equipment and was largely impassable to traffic. The Complainant stated that he parked along the curb in a portion of the road that was blocked by the equipment. When he returned from delivering the package, he stated that he saw NE#1 writing a citation for his vehicle from approximately 15-20 feet away. He attempted multiple times to gain NE#1's attention by shouting words to the effect of "sir, excuse me, can you hear me?" He stated that he spoke loudly enough that bystanders were looking on.

Eventually he gained NE#1's attention. The Complainant asked NE#1 to explain the problem, but NE#1 allegedly said he would have to read the citation. The Complainant asked why he was being cited for blocking traffic if the lane of



travel was impassable due to construction equipment, but NE#1 allegedly declined to explain further. The Complainant requested to speak to NE#1's supervisor, but NE#1 allegedly stated that his supervisor only responded to special circumstances. The Complainant requested the supervisor's phone number, but NE#1 allegedly told him to "Google it." When the Complainant asked again because he did not know the supervisor's name or what to Google, NE#1 provided the number for the Parking Enforcement office. The Complainant contacted that office, which ultimately resulted in this OPA complaint.

The Complainant told OPA that he is an EMT and that he has had many interactions with law enforcement as a result. He said he had never been treated in a manner as dismissive as he alleged NE#1 treated him, particularly with respect to asking to speak to a supervisor. The Complainant did not take video or know of any third-party video of the incident.

OPA reviewed the citation issued by NE#1. Photographs attached to the citation appeared to show the Complainant's vehicle parked along the curb, consistent with the description above.

Lastly, OPA contacted NE#1, who separated from the Department on July 7, 2020. NE#1 declined to be interviewed for this case.

SPD Policy 5.001-POL-10 requires that SPD employees "strive to be professional." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers" whether on or off duty. (SPD Policy 5.001-POL-10.)

The conduct described violates SPD's professionalism policy. Employees are required to assist and not hinder individuals who may wish to file a complaint, even one against them. (See SPD Policies 5.002-POL-1-3.) In general, employees are also expected to treat members of the public with respect, which at minimum includes explaining their actions when safe and practical to do so.

OPA notes that it finds the Complainant and his account of this incident to be credible. Apart from frustration at being cited with an infraction, OPA is not aware of any reason why the Complainant would fabricate a dispute. Moreover, NE#1 was offered the opportunity to attempt to refute the Complainant's allegations and declined to do so. As such, no evidence was introduced casting doubt on the Complainant's allegations as described above.

OPA's burden of proof is preponderance of the evidence. Given that NE#1 made no attempt to show that he did not engage in unprofessionalism, OPA concludes that its burden is met in this case. As such, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**