



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 21, 2020

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0391

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	13.010 - Collisions Involving Department Vehicles 13.010-TSK-1 Department Employee Involved in a Collision	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 struck him with a patrol vehicle while he was bicycling and failed to check on him after the fact.

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, believed that it could reach and issue recommended findings based solely on its intake investigation.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

13.010 - Collisions Involving Department Vehicles 13.010-TSK-1 Department Employee Involved in a Collision

Named Employee #1 (NE#1) and his partner were driving together in their patrol vehicle within the confines of the East Precinct. NE#1 was driving. As NE#1 traveled through the intersection of 12th Avenue East and East John Street, a bicyclist rode in front of the patrol vehicle. NE#1 struck the bicyclist who fell off of his bicycle. NE#1 stopped his patrol vehicle and he and his partner got out to see what had happened. At that time, the bicyclist – who is the Complainant in this case – alleged that he had the right of way when he was struck by the patrol vehicle. He further accused NE#1 of engaging in misconduct. NE#1 called another officer to the scene to investigate the collision, as well reported what occurred to a supervisor to the scene. The officers also radioed for medics. Both the investigating officer and the supervisor attempted to speak with the Complainant to determine what occurred and to offer him medical attention; however, he largely refused to interact with them. He further yelled at both NE#1 and his partner throughout the incident. The Complainant then left the scene.



The supervisor notified OPA of the incident and the Complainant also filed an OPA complaint. The Complainant alleged that NE#1 improperly struck him with the patrol vehicle causing him to suffer injuries (a broken patella). The Complainant further alleged that NE#1 failed to provide him with any medical attention or to check on him after the collision.

As part of its investigation, OPA reviewed the patrol vehicle's In-Car Video (ICV). The ICV clearly showed that NE#1, not the Complainant, had the right of way. Indeed, at the time of the collision, NE#1 was driving through a green light and within the speed limit. The ICV indicated that the Complainant sped through the intersection, against the light, and drove in front of the patrol vehicle where he was struck. As such, the video conclusively established that NE#1 did not improperly strike the Complainant with the patrol vehicle and that, to the contrary, the Complainant violated traffic laws during the incident. The ICV also conclusively established that NE#1 and his partner did get out of the patrol vehicle in order to check on the Complainant, but that the Complainant yelled and cursed at them. This prevented the officers from engaging with him further. Moreover, the investigating officer and supervisor attempted to check on the Complainant and provide him with medical attention, also unsuccessfully.

Given the above, OPA finds that there is no evidence supporting a finding that NE#1 violated policy during this incident. Indeed, the evidence shows the opposite. As such, OPA recommends that this allegation be Not Sustained – Unfounded.

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