



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 8, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0446

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	13.080 - Use of Department Vehicles 11. Prohibited Activities During Use of Department Vehicles	Not Sustained (Unfounded)
# 2	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 reported witnessing the Named Employee take photos of a car that was parked in a parking lot. The Complainant asserted that, after doing so, the Named Employee parked his own vehicle in the lot. The Complainant added that shortly after seeing this, a person believed to be a prostitute walked up to the police car and proceeded to get into the front seat.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

13.080 - Use of Department Vehicles 11. Prohibited Activities During Use of Department Vehicles

On May 15, 2020, at approximately 7:40 PM, Named Employee #1 (NE#1) arrived the parking lot of a Home Depot at 11616 Aurora Avenue North. While at this location, NE#1 issued a parking citation to a vehicle parked in the Home Depot lot, indicating that the vehicle was illegally parked in a handicapped stall. In support of this citation, NE#1 took pictures of the vehicle parked in the handicapped stall, as well as the vehicle's expired handicapped placard. On June 13, 2020, the Complainant filed a web-based complaint, in which the Complainant reporting seeing NE#1 take these photographs. The Complainant went on to state that after NE#1 took these photographs, NE#1 drove his vehicle north in the Home Depot lot. The Complainant alleged that, at that time, an "Aurora prostitute" got into the front seat of NE#1's vehicle.

In order to ascertain the veracity of this allegation, OPA reached out to the Loss Prevention Unit (LPU) of Home Depot to obtain any relevant video footage. An LPU employee verified via telephone that she found footage depicting NE#1 in the Home Depot parking lot. The LPU employee stated that NE#1 could be seen approaching the illegally parked vehicle, at which point NE#1 took photos of the vehicle. According to the LPU employee, a Home Depot associate could be seen approaching NE#1 as he took photos, but no other contact was seen between N#1



and other individuals. NE#1 was then observed getting in his vehicle, driving southbound out of the lot, and heading in the direction of Stone Ave North. Importantly, no one was seen entering NE#1's vehicle.

SPD Policy 13.080-POL-11 prohibits SPD employees from "[a]llowing passenger(s) in [an SPD] vehicle, except: When necessary for city business as authorized by a supervisor, or When the employee is on stand-by or on-call as a first-responder while off duty and expected to respond quickly if summoned." Upon review of the evidence gathered during this investigation, OPA found nothing to support the Complainant's contention that NE#1 allowed someone into his vehicle. Indeed, this was confirmed by the LPU employee. Given the utter lack of evidence supporting the Complainant's allegation, OPA deems it to be meritless and, frankly, frivolous.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding **Not Sustained (Unfounded)**

Named Employee #1 - Allegation #2

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

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 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.*)

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

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