



## ***CLOSED CASE SUMMARY***

ISSUED DATE: FEBRUARY 14, 2021

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0472

### **Allegations of Misconduct & Director's Findings**

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.125 - Social Media 1. Employees Shall Not Post Speech That Negatively Impacts the Department's Ability to Serve the Public	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:**

It was alleged that the Named Employee may have "liked" an offensive social media post, thus violating the Department's social media policy.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 - Allegation #1**

#### ***5.125 - Social Media 1. Employees Shall Not Post Speech That Negatively Impacts the Department's Ability to Serve the Public***

An anonymous Complainant alleged that a Facebook account purportedly belonging to Named Employee #1 (NE#1) "liked" an offensive comment made to a social media post.

OPA could not locate the social media post in question or the comment, and they were not attached with the complaint submitted to OPA. Moreover, given that the Complainant was anonymous, OPA could not conduct an interview to learn more information. However, based on the information provided by the Complainant, OPA concurred that the comment in question was offensive and that "liking" the comment would violate the Department's social media policy.

OPA interviewed NE#1. He stated that, at the time of this complaint, he shared a Facebook account with his wife. He confirmed that she "liked" the comment in question. He expressly denied doing so. He stated that, after receiving notice of this complaint, he reviewed the shared Facebook account and located the post, comment, and "like." He deleted all of this content from his page. NE#1 asserted that doing so was consistent with SPD Policy 5.125, which requires officers to "make reasonable efforts to remove content appearing on their social media account that violates this policy upon learning of the offensive content." NE#1 said that, since this incident, he spoke to his wife concerning her actions and removed himself from the shared Facebook account.



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SPD Policy 5.125-POL-2 states that SPD employees shall not post speech that negatively impacts the Department's ability to serve the public. This policy acknowledges that SPD employees may express themselves as private citizens on social media sites as long as employees do not: make, share, or comment in support of any posting that ridicules, maligns, disparages, expresses bias, or disrespect toward any race, religion, sex, gender, sexual orientation, nationality, or any other protected class of individuals. (SPD Policy 5.125-POL-2(1).)

Ultimately, OPA cannot disprove NE#1's assertion that he did not "like" the comment and that this was done by his wife from a then shared Facebook account. As discussed above, aside from the anonymous complaint, OPA was not able to uncover any additional evidence of NE#1's culpability.

As, when applying a preponderance of the evidence standard, it appears that NE#1 did not, himself, "like" the comment in question, there is no basis to find that he violated SPD policy. Notably, this policy governs the actions of officers, not their spouses or family members. Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

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