



CLOSED CASE SUMMARY

ISSUED DATE: MAY 18, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0167

Allegations of Misconduct & Director's Findings

Named Employee #1

| Allegation(s): | | Director's Findings |
|----------------|--|---------------------------|
| # 1 | 5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication | Not Sustained - Unfounded |
| # 2 | 5.001 - Standards and Duties 10. Employees Shall Strive to be Professional | Not Sustained - Unfounded |

Named Employee #2

| Allegation(s): | | Director's Findings |
|----------------|--|---------------------------|
| # 1 | 5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication | Not Sustained - Unfounded |
| # 2 | 5.001 - Standards and Duties 10. Employees Shall Strive to be Professional | Not Sustained - Unfounded |

Named Employee #3

| Allegation(s): | | Director's Findings |
|----------------|--|------------------------------|
| # 1 | 5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication | Allegation Removed |
| # 2 | 5.001 - Standards and Duties 10. Employees Shall Strive to be Professional | Not Sustained - Inconclusive |

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:

During an Equal Employment Opportunity (EEO) intake, the Complainant alleged that Named Employee #1 (NE#1) and Named Employee #2 (NE#2)—two sergeants in his chain of command—failed to correct inaccuracies in the Complainant's Field Training Supervisor (FTS) Reports and Performance Reports. It was also alleged that NE#1 and NE#2 were unprofessional in that NE#2 told an inappropriate joke and NE#2 laughed at the joke.

Other allegations made by the Complainant were investigated by SPD's EEO Office.



SUMMARY OF INVESTIGATION:

At the time of this complaint, the Complainant was in the probationary period of his training as an SPD police officer. The Complainant made allegations to SPD's EEO Office, which conducted an intake interview. During EEO's intake interview, the Complainant alleged that false and/or incorrect information was entered into his FTS Reports and Performance Reports. Specifically, the Complainant alleged that the named employees made or failed to correct inaccurate statements in reports concerning the Complainant removing an ICV transponder in a vehicle, unsafely passing another officer, and having a poor working relationship with other officers. The Complainant alleged that he reported these inaccuracies to NE#1 (his sector sergeant) and NE#2 (his Field Training Supervisor), who failed to correct the information. The Complainant also stated that these reports did not mention his positive performance actions. OPA commenced this investigation.

During its investigation, OPA reviewed the Blue Team complaint, Body Worn Video (BWV), In-Car Video (ICV), Email correspondence, Performance Reviews, as well as the EEO Investigation and interviews. OPA also interviewed the two Named Employees and a witness employee. Following OPA's intake investigation, OPA alleged that NE#1 and NE#2 may have been unprofessional with respect to a joke and statements allegedly made by NE#2.

a. The Complainant

The Complainant was interviewed twice by SPD's EEO Office. OPA reached out to the Complainant to schedule an interview, but the Complainant did not respond to OPA's requests. The Complainant separated from SPD during this investigation. Accordingly, OPA was not able to compel his interview by Order of the Chief.

During his first EEO interview, the Complainant stated that he identifies as a Black, Muslim male. The Complainant stated that during a roll call, NE#2 told a culturally insensitive joke in which he described a Muslim woman sitting on a couch and that her outfit made her look like a "decorated pillow." The Complainant stated that NE#1 was "laughing hysterically" and looking at the Complainant during this joke. The Complainant also referenced several incidents that he alleged were mishandled:

- The Complainant described a January 2021 meeting in which the Complainant met with NE#1 and two witness sergeants. During this meeting, the Complainant alleged that NE#1 spoke to him about the way in which the Complainant was operating motor vehicles. The Complainant said this meeting was reported in his monthly evaluation by NE#2.
- The Complainant described an incident that was placed in his monthly report regarding the removal of the ICV transponder in a vehicle. The Complainant stated that he explained to NE#1 that the transponder was working properly and asked NE#1 to investigate the issue further. The Complainant stated that he did not believe further investigation was done.
- The Complainant alleged that NE#1 wrote him up for professionalism, noting that the Complainant was having issues with other officers. The Complainant stated that NE#1 was unable to provide further details, but stated he had not previously had any issues getting along with other officers.
- The Complainant stated that there was a note of remedial training that he received in a Daily Observation Report (DOR) regarding mishandling evidence. The Complainant stated he thought this issue was handled as a conversation with NE#2, but did not qualify as remedial training that could be classified as a "weakness."
- The Complainant made a series of allegations that, together, alleged that NE#2 wrote extensive negative comments in his reviews but wrote only briefly about positive things the Complainant did.



- The Complainant alleged that NE#2 made a statement concerning wanting to use “water cannons” on protesters the way police did in the 1960s, which made the Complainant wonder whether NE#2 could be impartial given the “relation to the civil rights movement and using water cannons.”
- The Complainant alleged that unidentified officers made comments that were inappropriate—such as referring to the COVID-19 pandemic as the “Chinese Virus”—and also inappropriately mentioned politics, significant events, and presidents.

During his second EEO interview, the Complainant played video of the underlying incident that was discussed at the January 2021 meeting, which the Complainant alleged showed that NE#1 was inaccurate. The Complainant also recalled an incident in which he left his protective vest unsecured one day. The Complainant alleged that it was returned to him with items on the vest rearranged. The Complainant alleged that NE#1 brought the issue up later at roll call to embarrass the Complainant.

b. The Complainant’s Performance Reviews

OPA reviewed performance reports for the Complainant. Because the Complainant alleged that NE#2 was unfairly emphasizing negative comments over positive comments, OPA also reviewed performance reports NE#2 completed for other probationary officers in his squad.

NE#2, a sergeant, completed four FTS Reports for the Complainant, one each for the months of October, November, and December of 2020, and one for January 2021.

- **October 2020:** NE#2 noted the Complainant’s strong work ethic and strong grasp of law, policy, and procedures. NE#2 also mentioned report writing as a strength. However, NE#2 also noted that he observed the Complainant handling an evidentiary firearm without gloves and that NE#2 counseled the Complainant.
- **November 2020:** NE#2 noted the Complainant’s strong work ethic. NE#2 also noted weaknesses that he observed in the Field Training officer (FTO) Alternate Weekly Report (AWOR). NE#2 also noted “minor mistakes” in report writing, but that they are generally well written. NE#2 also noted two other weaknesses that were flagged by one of the Complainant’s Field Training Officers, Field Training Officer #1 (FTO#1). These were that the Complainant handcuffed a suspect by himself, did not answer his radio, and was outside his precinct without permission.
- **December 2020:** NE#2 listed strengths of the Complainant as work ethic and motivation. NE#2 also summarized weaknesses observed in the FTO AWOR. These included that the Complainant had received training concerning contacting suspects by himself but continued to do so. This report also noted that a matter was referred to OPA concerning the Complainant’s improper use of sick time. NE#2 recommended that the Complainant continue with his field training but be closely monitored by the FTO office.
- **January 2021:** NE#2 noted that the Complainant was proactive and made frequent traffic stops. NE#2 also noted weaknesses from the FTO AWOR including that the Complainant included inaccurate information in a report, ran red lights without justification, failed to answer his radio, and was outside of precinct boundaries. NE#2 included an email from NE#1 in this report concerning the January 2021 meeting. In the email, NE#1 noted that the meeting was non-disciplinary. The email stated in relevant part:

[The Complainant] provided input and feedback and was accepting of all topics covered. He conveyed that moving forward he will work to ensure all the above referenced policies are consistently applied during his patrol shifts. He advised that



he did not remove any electronics from the patrol vehicle and that he was unaware of this issue when he drove the car during his shift as the vehicle was functioning properly. He also stated that he did not believe he unsafely operated his patrol vehicle near coworkers and that, in the future, he will strive to operate a vehicle as safely as possible in any given situation. [The Complainant] understood this information would be provided to [NE#2] and updated in his AWOR for his probationary period.

OPA also reviewed FTS reports completed by NE#2 for the three other probationary officers in his squad. These reports were similar in length and content to those prepared by NE#2 for the Complainant, but contained substantive differences based on the FTO AWORs completed for those different officers, all of whom had different field training officers.

Additionally, OPA reviewed an FTS Report for the Complainant prepared by his new FTS, Witness Supervisor #1 (WS#1), in February 2021. This FTS Report did not specifically address strengths, but instead noted that WS#1 conducted a counseling session with the Complainant under order of the East Precinct Captain. WS#1 noted that, during the counseling session, a number of issues were addressed, including (1) a referral to OPA for the Complainant's alleged behavior concerning inappropriate messages on MDT, discussing an open OPA investigation, circumventing his chain of command, allowing a non-sworn dispatcher to drive a marked SPD vehicle, and conduct that "bordered on EEO violations,"; (2) the Complainant's involvement in several preventable vehicle collisions; and (3) several deficiencies in the Complaint's paperwork and processing of a motor vehicle stop. The February 2021 FTS Report concluded with a note that the Complainant was not performing at an acceptable level:

At this point of your probation I have strong concerns regarding your performance and even stronger concerns with your maturity and decision making. You recently took an extended vacation and I am very hopeful that it was the time you needed to reset. I am extremely hopeful that you turn a corner in the weeks to come and vastly improve your performance. You have the potential to be a great asset to the watch, precinct, and the department.

Please continue trying hard and being proactive. Please feel free to come to me and or any other Sergeant / senior officer for any assistance you have or any question that arises. Everyone on the watch wants to see you successful!

Finally, OPA reviewed eight AWORs completed by FTO#1 for the Complainant. These reports were used by NE#1 in completing his FTS reports for the Complainant. All of the reports documented specific calls that the Complainant handled during the review period. Within each of these calls, FTO#1 noted specific strengths, weaknesses, and required training. For the first two AWORs, FTO#1 noted no weaknesses, but had several training points. There were weaknesses noted along with corresponding training on each of the remaining six AWORs completed by FTO#1. There were also several training points noted without weaknesses documented. The weaknesses noted were consistent with those referenced by NE#2.

c. EEO Final Report

OPA also reviewed the related EEO Investigation and interviews.



The SPD EEO Office investigated three allegations made by the Complainant that NE#1 and NE#2 engaged in discriminatory behavior based on: (1) telling inappropriate jokes or laughing at them; (2) reporting inaccurate information about the Complainant; and (3) failing to put positive information in the Complainant's FTS reports.

The SPD EEO Office did not sustain any of these allegations.

d. Witness Interviews

OPA reviewed the interviews conducted by SPD's EEO Office in the related EEO investigation. OPA specifically reviewed these statements for information relevant to the allegations in this case, that the Named Employees: (1) made or failed to correct inaccurate statements in reports concerning the Complainant removing an ICV transponder in a vehicle, unsafely passing another officer, and having a poor working relationship with other officers; (2) did not provide positive feedback on FTS Reports; and (3) were unprofessional. OPA also reinterviewed one of these witness officers.

Training Sergeant #1 (TS#1) was interviewed by SPD EEO. TS#1 described that FTS Reports are meant to generally document, but not investigate, the claims made in the AWORs. TS#1 reviewed the January 2021 FTS Report by NE#2, which included NE#1's email documenting the January 2021 meeting. TS#1 described this FTS Report as a positive way to address these issues with the Complainant to strengthen his performance and keep him from failing. TS#1 also stated that officers should inspect their vehicles before and after every shift and that he had heard rumors that the Complainant had a struggling relationship with his classmates. TS#1 stated that FTS Reports and supervisors do not typically note specific strengths at this stage of the an officer's probationary period. TS#1 noted that his expectation is that an officer accepts constructive feedback. TS#1 also noted that the FTS Reports he reviewed did make positive mention of the Complainant being proactive and making frequent traffic stops, which TS#1 interpreted as a compliment.

Training Officer #1 (TO#1) was interviewed by SPD EEO. TO#1 stated that NE#2's inclusion of NE#1's email in an FTS Report was uncommon but not outside the scope of action for a supervisor. TO#1 stated that he read the FTS Report and email as an attempt by supervisors to provide a probationary employee with information. Moreover, TO#1 stated that NE#1 was the Complainant's direct supervisor, so he may have seen things that NE#2 did not. TO#1 also stated that there is a section for reviewed officers to note their disagreements with a review and that the Complainant's comments were noted. TO#1 also stated that he had heard rumors that the Complainant was causing problems in his squad and making comments about being the best worker in the East Precinct. TO#1 described that he has been in his role for 2-3 years and reads through all FTS reports. TO#1 stated FTS Reports are generally a couple sentences to a paragraph about strengths, but generally are focused on weaknesses as that is how officers learn the areas they need to improve.

FTO#1 was interviewed by SPD EEO. FTO#1 stated that she was not aware of the story that the Complainant alleged NE#2 told at roll call and that the Complainant never brought it to her attention. Moreover, FTO#1 stated that the Complainant never complained to her about the treatment he received from either NE#1 or NE#2. FTO#1 stated she was aware of the incident involving the missing ICV Transponder but did not know how it was removed and did not speak with the Complainant about it. FTO#1 also stated that she was aware of several incidents where the Complainant was alleged to have driven unsafely, including by driving through red lights without reason. FTO#1 stated it would not be unusual for NE#2 to speak with an officer's supervisor for input on an FTS Report. FTO#1 also stated that the Complainant would not listen to senior officers at times and that multiple sergeants were working with the



Complainant because there was a lot of friction between the Complainant and his squad. FTO#1 also stated that emphasis in the AWORs is on areas of improvement.

SPD EEO and OPA interviewed Field Training Officer #2 (FTO#2). FTO#2 was the Complainant's FTO after FTO#1. FTO#2 stated that she was not aware of the story that the Complainant alleged NE#2 told at roll call and that the Complainant never brought it to her attention. Moreover, FTO#2 stated that the Complainant never complained to her about the treatment he received from either NE#1 or NE#2. FTO#2 also stated that the Complainant often sought counsel from NE#2 and seemed comfortable with him. FTO#2 stated her AWORs note both strengths and weaknesses. During her interview with OPA, FTO#2 stated she did not remember hearing anyone, including NE#2, make a statement about wanting to use water cannons on protesters.

SPD EEO interviewed Field Training Officer #3 (FTO#3). FTO#3 was the Complainant's FTO when the Complainant was assigned to North Precinct. FTO#3 did not have firsthand knowledge of the facts underlying allegations in this case. FTO#3 stated that FTS Reports generally document deficiencies. FTO#3 also stated that he continued speaking to the Complainant after the Complainant was assigned to East Precinct and was aware that there were personality conflicts between the Complainant and others at the East Precinct.

SPD EEO also interviewed WS#1. WS#1 stated that he was not aware of any inappropriate jokes or comments being made by NE#1 or NE#2, nor did the Complainant raise any such concerns with him. WS#1 also noted that it is well known that WS#1 is the peer support officer and that the Complainant would have known he could come to WS#1 with any issues. WS#1 also described the Complainant having a history of getting into avoidable collisions but could only speculate as to the removal of the ICV Transponder. However, WS#1 stated he had experience with the Complainant being untruthful with him. WS#1 described that the report of the Complainant operating a vehicle unsafely by passing too close to other officers was of particular concern because of the significant tension between the Complainant and the other involved officer. Moreover, WS#1 stated that the Complainant had significant personality differences with other officers on the watch, such as not listening to their advice and chain of command issues. Finally, WS#1 stated that it is more important that FTS Reports note areas of improvement, to document shortcomings and try to fix them, and that his practice includes asking direct supervisors for comments on the FTS Report.

e. Named Employee Interviews

The SPD EEO Office and OPA interviewed both Named Employees.

i. Named Employee #1

NE#1 recounted the story that NE#2 told at roll call, but did not describe the story in the context of a joke. NE#1 described the story in the context of a lesson about situational awareness. As recounted by NE#1, NE#2 told a story about handling a domestic violence call and, after being in a home for 5 to 10 minutes, hearing a person speaking and then realizing that the person speaking was a woman of very small size who was dressed such that her entire body was covered. NE#1 recalled that NE#2 had been previously unaware that another person was in the house because NE#2 mistakenly confused the person with a decorative pillow. NE#1 did not believe the story was derogatory but was an opportunity for newer officers to learn from NE#2's mistaken that they needed to be aware of their surroundings. NE#1 admitted that he and others probably laughed at the story, but that the laughter was at the expense of NE#2's



lack of awareness on the call, not at the woman. NE#1 recalled that the Complainant was smiling during this story. NE#1 stated that no one acted offended or reported being offended by this story.

With respect to the ICV transponder, NE#1 stated that he became aware of the incident from another sergeant, who informed him that the ICV transponder was missing. NE#1 stated that the Complainant was the last person to drive the vehicle, so NE#1 raised the issue with him but did not accuse him of removing it. NE#1 stated he was not aware of an investigation being conducted into the missing ICV transponder, but that a Lieutenant sent out a reminder email to not interfere with the computers.

With respect to the allegation that the Complainant unsafely passed another officer with his vehicle, NE#1 stated he did not review the ICV prior to discussing the incident with the Complainant. NE#1 stated the report of this information came from another officer with whom the Complainant was having issues. NE#1 stated that the Complainant denied driving unsafely and that this was noted in his email as well.

With respect to the statements regarding the Complainant's personal issues with other officers, NE#1 noted that the Complainant was having a lot of issues with his interpersonal skills. NE#1 said he wanted the Complainant to take feedback from senior officers. NE#1 stated that, although the Complainant was professional with him, others in the squad did not want to work with the Complainant because the Complainant would accuse them of being lazy or not wanting to do police work. NE#1 stated that three different officers had come to him with issues about the Complainant, including an officer that had previously been close with the Complainant.

WS#1 also recalled the incident where the Complainant left his protective vest out unattended. NE#1 stated the vest was left out for three shifts and that other officers might have moved items in it around as a reminder not to leave their gear unattended. NE#1 stated that he has been a police officer in three different states and that it was not uncommon for officers to rearrange gear left unattended as a reminder to keep your gear secured.

ii. Named Employee #2

NE#2 recalled the story that he told at roll call. NE#2 described this story as a reminder to new officers not to make assumptions and that people come in all shapes and sizes. NE#2 described the story he told this way: NE#2 said he was on a domestic violence call when he heard a very small person start screaming at their mom. NE#2 stated this took him off-guard because he was not paying attention to his surroundings and, due to the small size of the person and the way they were dressed, he mistook them for a throw pillow. NE#2 stated that the story was not intended to belittle anyone and had nothing to do with religion. NE#2 admitted that people probably laughed at his story, but the Complainant never expressed a concern to him about the story.

With respect to the allegedly inaccurate information, NE#2 stated that NE#1 sent him an email noting specific performance issues with the Complainant. NE#2 stated that he took NE#1 at his word regarding the ICV transponder, but that his understanding was that no one knew where the transponder was or what happened to it, but it was a discussion with the Complainant as he was the last person to use that vehicle. Similarly, with respect to the unsafe passing, NE#2 did not think the specific incident seemed egregious, but since another officer reported it to NE#1, NE#2 listed it as an incident appropriate for coaching, counseling, and mentoring rather than a listed deficiency. NE#2 also stated that he personally observed the Complainant behave abrasively by criticizing other officers, including senior officers, on multiple occasions. NE#2 perceived that the Complainant had a better grasp on law and policy than other officers but did not necessarily know how to apply that knowledge when completing tasks. NE#2 stated that NE#1



gave the Complainant an opportunity to provide comments at the bottom of the email, which were included in the FTS Report.

NE#2 stated that his FTS Reports consist mostly of information from the FTOs, an officer's direct supervisor, and maybe a squad mate or two. Depending on the specific deficiency, NE#2 would address it himself or leave it to the FTO. NE#2 stated he was consistent with all officers and generally does not provide much praise for the expected level of performance. Instead, NE#2 stated that the program was designed to document deficiencies, specifically patterns of deficiencies. NE#2 stated this becomes a bigger issue when officers receive a "Not Responding to Training" (NRT) from an FTO. NE#2 stated that the Complainant's FTS Reports were related to his performance and not any personal characteristic of his. NE#2 described issues that were documented in October 2020 and November 2020 such as leaving the precinct boundaries without authorization and mishandling evidence, but that smaller issues were not documented as they were viewed as new officer mistakes. NE#2 stated that the issued documented in the December 2020 FTS Report related to larger issues, such as an OPA complaint for improper sick use and repeated officer safety concerns.

NE#2 stated he was aware that the Complainant's vest had been left unattended but did not know things had been moved around. NE#2 stated it would not have been surprising if things had been moved around because it's expensive equipment, much of which is not personally owned, so officers rearrange things in unattended equipment to remind others not to leave equipment unattended.

NE#2 did not remember making any comments about water cannons. NE#2 admitted that he had several conversations about different tools that could be used, but that any comment he might have made about water cannons could have noted that historical uses of these tools could preclude their use now.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication

The Complainant alleged that NE#1 failed to be truthful and complete in communication.

SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications.

The Complainant alleged that NE#1 was untruthful with respect to three comments that NE#1 made in an email to NE#2. NE#2 then incorporated these comments into his January 2021 FTS Report. The three comments were:

- (1) In an email on 01/09/2021 during first watch hours, [a sergeant] notified me that vehicle [#####] was BO because the Axon ICV Bluetooth transponder was removed from the computer and first watch was unable to use the car. [The Complainant] was the last person to use the vehicle from the previous shift. [The Complainant] was reminded to ensure ICV is in proper working order, this includes ensuring any electronic components are properly installed.
- (2) On 01/08/2021, Third watch officers notified me that [the Complainant] unsafely passed them while running lights and sirens to a priority 1 call. The officers were on an unrelated traffic accident and felt that [the Complainant] should have used more regard when passing their scene while en route to his call.



- (3) I reviewed the chain of command process with [the Complainant] regarding rank and seniority policies and best practices when dealing with co-workers in a professional setting, including the department culture of mentoring and receiving feedback from senior officers at SPD. Professionalism applies to fellow employees as well as the public. Professionalism toward fellow officers regarding work functions was addressed.

As an initial matter, none of these comments are untruthful because they either document the report of information to NE#1 (items #1 and #2) or document that NE#1 reviewed policy with the Complainant (item #3). This is in line with the non-investigatory, informational nature of the FTS Report process described by both TS#1 and TO#1. This was underscored by the fact that NE#1 included the Complainant's explanations and denials of these incidents within his email. The fact that neither the spirit nor letter of these statements is untruthful is sufficient for this allegation to be Not Sustained – Unfounded.

Instead, the Complainant's allegation appears grounded on his assertion that the underlying statements to NE#1—which NE#1 then documented and reported to NE#2—were not true. That is, the Complainant denied removing the ICV transponder, unsafely passing other officers, or behaving unprofessionally with his colleagues. Therefore, the Complainant felt like these comments should not have been included in his FTS Report.

Complainant's claim mischaracterized the content of this information. With respect to the ICV transponder, neither NE#1's email nor NE#2's FTS Report contained any allegations that the Complainant himself removed the transponder. Rather, the notation of this incident appeared to address that the transponder was missing, the Complainant was the most recent individual to use that vehicle, and—since the report of the missing transponder did not come from the Complainant—it appeared that the Complainant was not adequately inspecting his vehicle before and after his shifts. This is exactly the sort of information that is appropriate to be included in an FTS Report. Similarly, the report of the unsafe passing was not made by either NE#1 or NE#2. Rather, it was included because another officer deemed it serious enough to report. Its inclusion was not disciplinary. While opinions on the seriousness of that specific issue differed, both BWV and ICV substantiated that the Complainant did, in fact, pass by another officer with the Complainant's engine revving such that both the other officer and a community member discussed on BWV that the Complainant's behavior was "not necessary." Given the Complainant's documented history of avoidable collisions, this report—regardless of whether it was substantiated—was important to document and discuss. Finally, the Complainant stated he had a good working relationship with his squad, even if he acknowledged that he did not have a great personal relationship with everyone. The Complainant also described wanting NE#1 to provide the specific names of all the individuals who had issues with him, which NE#1 declined to do. Both NE#1 and NE#2 stated that the Complainant had conflict with almost everyone else on his watch. All the witnesses interviewed by the SPD EEO Office substantiated this. Moreover, NE#1 provided the names of three specific officers who reported issues with the Complainant not receiving mentoring and feedback. However, NE#1 appropriately abstained from providing this specific information to the Complainant to because he did not want the Complainant to feel like an outsider on his watch.

The Complainant also mistook the purpose of the FTS Report and AWORs. While information contained in these documents should be accurate, they are not disciplinary documents. Instead they are meant to provide feedback, help probationary officers improve, and note areas of concern regarding a probationary officer's development.

For these reasons, 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

The Complainant alleged that NE#1 was unprofessional.

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.*)

The Complainant alleged that NE#1 was unprofessional in two respects: (1) by laughing at NE#1’s story; and (2) by bringing the issue up at roll call.

The Complainant alleged that the story NE#2 told was a culturally insensitive joke regarding a Muslim woman’s manner of dress and that NE#1 was “laughing hysterically” at the joke. NE#1 and NE#2 both acknowledged that NE#2 told a story involving a woman who was wearing clothing that covered her entire body but denied that the story was at the expense of the woman and, instead, other officers laughed at NE#2’s lack of awareness. In evaluating this allegation, OPA notes that the Complainant’s recollection of this story was extremely vague and that the Complainant did not allege that NE#2 stated anything explicitly derogatory regarding the woman. Moreover, the specifics that the Complainant himself recalled were very similar to those recounted by both NE#1 and NE#2: during a response to a call, NE#2 failed to notice that a specific woman was present until she started speaking because “based on the clothes she was wearing she looked like a decorated pillow that was on the couch.” OPA finds by a preponderance of the evidence that the story that NE#2 was not unprofessional because it was not “derogatory, contemptuous, or disrespectful” towards the woman described in the story. More likely than not, NE#2 was not leveling the phrase “decorated pillow” as an insult at the woman but describing how he failed to perceive that an additional person was present—that is, he mistook the woman for a decorated pillow because of her physically small size coupled with the fact she was dressed in clothing that fully covered her body and was seated on a couch. OPA similarly finds that, more likely than not, NE#1’s explanation was true: NE#1 probably laughed at this story not at the expense of the woman, but at the expense of NE#2 who failed to notice that a human being was sitting in a room in front of him for a period of 5-10 minutes.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #2 - Allegation #1

5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication

For the reasons stated above at Named Employee #1, Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**



Named Employee #2 - Allegation #2

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

For the reasons stated above at Named Employee #1, Allegation #2, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #3 - Allegation #1

5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication

The Complainant did not allege any other information was inaccurate besides the information set forth above as it related to NE#1 and NE#2. Accordingly, OPA is removing this allegation against an Unknown Employee.

Recommended Finding: **Allegation Removed**

Named Employee #3 - Allegation #2

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

The Complainant alleged that Unknown Employees made comments about the COVID-19 Pandemic, politics, significant events, and presidents that he felt were inappropriate. The Complainant was unable to identify these employees, nor did any witnesses substantiate the Complainant's allegation. Relatedly, the Complainant stated that these comments were made when there were a significant number of outside agencies operating within the East Precinct. Without more specifics, OPA cannot establish by a preponderance of the evidence whether any other unprofessional comments were made or whether any such comments, if made, were made by SPD officers.

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

Recommended Finding: **Not Sustained - Inconclusive**