



## ***CLOSED CASE SUMMARY***

ISSUED DATE: MARCH 23, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0365

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

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 7. Employees Engaged in Department-Related Activities Identify Themselves When Requested	Not Sustained (Training Referral)
# 2	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained (Inconclusive)
# 3	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5.002-POL 2. Employees Will Assist Any Person Who Wishes to File a Complaint	Not Sustained (Training Referral)

***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 failed to properly identify himself when requested to do so. It was further alleged the Named Employee was rude during his interaction with the Complainant and did not assist the Complainant with filing a complaint.

### **SUMMARY OF INVESTIGATION:**

Named Employee #1 (NE#1) was closing out a separate, unrelated incident when he was approached by the Complainant. The Complainant stated that he approached the Named Employee because he saw that was driving a specific SPD vehicle. The Complainant stated that he knew this vehicle had associated complaints relating to the unlawful use of emergency lights and sirens while exiting the Precinct. The Complainant stated that this vehicle, which he knew by number, was continually abusing the siren as he exited the Precinct. The Complainant stated that he knows "OPA is completely overwhelmed" and chose to approach the officer and get as much as information as possible to assist in the previous complaint progression for OPA. The Complainant stated it was unclear as to why the Named Employee was present in the first place and it looked like, to him, that the Named Employee was just hanging out with another officer. The Complainant stated that he waited until the Named Employee finished a conversation with a passerby then approached him. The Complainant stated that he requested the name and badge number of the Named Employee. The Complainant stated that the Officer immediately asked for a reason to give his name and badge number. The Complainant stated that they replied that "I don't believe I need an explicit reason to get your name and badge number." The Complainant further stated that the Officer said that since there was no lawful reason for the request, he did not have to give it. The Complainant stated that the Officer walked past the complainant and stated



“have a great day” in an indignant tone then got into his vehicle slamming the door. The Complainant stated that the Name Employee’s tone was disrespectful.

ICV video captures part of the conversation held between the Complainant and NE#1 where the Complainant can be heard asking for name/badge. The Named Employee can be heard entering the vehicle saying “God.” NE#1 can be heard asking if the Complainant had a police report to file. The Complainant responded stating that he would now like to file a complaint with OPA about NE#1, then asked for the NE’s name and badge number again. NE#1 provided his name and serial number, stated “have a great day.” NE#1 then drove away.

OPA interviewed NE#1. NE#1 stated that he recalled the incident. He was assisting another officer on a call. NE#1 stated that after he had finished assisting in that call, he deactivated his BWV. NE#1 stated a person immediately walked up to him and requested his name and badge number. NE#1 stated that he was in the process of getting into his car when this occurred, and it made him feel uncomfortable. NE#1 stated that he believed that the Complainant was an “Auditor” and would try and escalate the situation, so he got into his car. NE#1’s explanation of an auditor to OPA related to an individual who approached Officers at stressful, emotional times, or on a hot call and then asked them questions that get them into trouble. NE#1 stated that he knew the Complainant was not involved in the call he had just processed.

#### **ANALYSIS AND CONCLUSIONS:**

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

##### ***5.001 - Standards and Duties 5.001-POL 7. Employees Engaged in Department-Related Activities Identify Themselves When Requested***

The Complainant alleged that NE#1 failed to identify himself when requested.

SPD Policy 5.001-POL-7 requires that SPD employees engaged in department related activities “provide their name and Department serial number verbally, or in writing if requested.” (SPD Policy 5.001-POL-7).

The conversation between the Complainant and NE#1 is detailed above. When interviewed by OPA, NE#1 stated that he was mistaken in his understanding of the policy. When this incident occurred, he believed that he was only required to give his name and badge number when he was actively engaged in a call for service. NE#1 stated that after speaking with his supervisor when he left the scene, he is now aware that he must always provide his name and serial number when requested to do so. OPA does not believe that the failure to initially give his details when requested to do so was a willful violation of this policy. Moreover, OPA notes that NE#1 did ultimately provide his name and serial number to the Complainant. OPA accepts that NE#1 received clarification on this policy with his supervisor but would now like to ensure that this is documented accordingly.

As such, OPA recommends that this allegation be a Not Sustained – Training Referral.

- **Training Referral:** NE#1’s chain of command should discuss OPA’s findings with NE#1, review SPD Policies 5.001-POL-7 and 5.002-POL-2 with NE#1, and provide any further retraining and counseling that it deems appropriate. This retraining and counseling should be documented, and this documentation should be maintained in Blue Team.



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Recommended Finding: **Not Sustained - Training Referral**

**Named Employee #1 - Allegation #2**

***5.001 - Standards and Duties 5.001-POL 10. Employees Will 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.*) 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.*)

The Complainant alleged that NE#1 became defensive when asked for his badge number and that NE#1 was dismissive in his interactions with the Complainant. The Complainant they stated that NE#1 had an indignant tone and when NE#1 said, “have a nice day,” NE#1’s tone made it sound like “f- you.” Some of the interaction between the Complainant and NE#1 was captured on ICV and is detailed in the above summary of investigation.

NE#1 stated that he was defensive but that it was due to the Complainant approaching him from behind and his own interpretation was that the Complainant could possibly be an “auditor.” NE#1 described an “auditor” as a person who approaches police and tries to escalate a situation. NE#1 stated that he did not believe that his behavior towards the Complainant was unprofessional. In his explanation, NE#1 believed that the Complainant may have interpreted his defensiveness as rudeness. OPA accepts that the behavior of NE#1 may have been influenced by his, incorrect, stated belief that he did not think he was required to give his name and badge number.

In OPA’s review of the audio it appears that NE#1 is somewhat rushed, if not flustered, in his responses to the Complainant. OPA believes that this may be in part response to what appeared to be the sudden appearance of the Complainant and that NE#1 was caught somewhat off-guard. While his tone does not appear to be rude or dismissive at the end of the conversation, owing to the lack of BWV or ICV, OPA cannot comment on the start of the conversation.

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

Recommended Finding: **Not Sustained - Inconclusive**

**Named Employee #1 - Allegation #3**

***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5.002-POL 2. Employees Will Assist Any Person Who Wishes to File a Complaint***

It was also alleged that NE#1 did not assist the Complainant with filing a complaint.

SPD Policy 5.002-POL-2 requires that SPD “employees will assist any person who wishes to file a complaint.” The policy further directs that “employees will assist the complainant by taking the complaint and passing it on to a supervisor and/or OPA.” (SPD Policy 5.002-POL-2.)



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OPA alleged that when the Complainant stated they wanted to make a complaint NE#1 failed to address them. ICV captured the end of the conversation between the Complainant and the NE. The Complainant can be heard saying they want to file an OPA complaint. NE#1 did not adhere to policy with respect to assisting or giving the Complainant any information about how to file his complaint. NE#1 stated that after the event occurred, he told his Sergeant who explained the actual requirements of the policy to him. In his OPA interview, NE#1 stated that at the time of this incident he was not familiar with the policy. OPA does not believe that NE#1's failure to adhere to the policy was done in a manner to intentionally circumvent the complaint process. Although NE#1's lack of knowledge about the policy provides some explanation about NE#1's actions, it is not an acceptable excuse. Accordingly, OPA recommends that this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with NE#1, review SPD Policies 5.001 POL 7 and 5.002 POL 2 with NE#1, and provide any further retraining and counseling that it deems appropriate. This retraining and counseling should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**