



## ***CLOSED CASE SUMMARY***

ISSUED DATE: JUNE 3, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0495

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

#### **Named Employee #1**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	5.001 - Standards and Duties 7. Employees Engaged in Department-Related Activities Identify Themselves When Requested	Not Sustained - Inconclusive
# 2	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Not Sustained - Training Referral
# 3	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	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 when he asked Named Employee #1 (NE#1) to provide credentials showing his off-duty assignment before entering a secure area, NE#1 refused to do so, cursed at the Complainant, and pushed the Complainant out of the way.

### **ADMINISTRATIVE NOTE:**

This is an abbreviated Director's Certification Memorandum. Due to present OPA staff limitations, an expanded Director's Certification Memorandum is forthcoming.

Pursuant to ordinance, OPA submitted this case to OIG for certification as thorough, timely, and objective. OIG certified the case as thorough and objective but declined to certify the case as timely because "the 30-day classification notice was not sent out within the required thirty days." OPA acknowledges the accuracy of OIG's assessment, but notes that the classification notice was submitted one day late. The Blue Team complaint was received by OPA on November 5, 2021. Thirty days from that date was Sunday, December 5, 2021. OPA submitted the classification notice in this case one day late, on Monday, December 6, 2021.

### **ANALYSIS AND CONCLUSIONS:**

Following an investigation that the Office of Inspector General certified as thorough and objective, OPA's analysis is that the preponderance of the evidence does not establish that any policy violations occurred or rose to the level of misconduct.



---

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

***5.001 - Standards and Duties 7. Employees Engaged in Department-Related Activities Identify Themselves 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.)

Although the interaction between NE#1 and the Complainant was video recorded, there is no audio recording of their interaction. NE#1 denied that the Complainant asked for his credentials and, instead, recalled that the Complainant only said “‘sir,’ or something like that.” A nearby third-party witness stated she did not hear what was said between NE#1 and the Complainant.

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

Recommended Finding: **Not Sustained - Inconclusive**

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

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

Contrary to the Complainant’s allegations that NE#1 “shoulder checked” and “shoved him,” security video of the interaction between NE#1 and the Complainant showed that NE#1 placed an open palm on the Complainant’s upper arm and guided the Complainant to the side as NE#1 walked by the Complainant. However, the video did corroborate the fact that the Complainant—a uniformed security guard—stepped in front of NE#1 and that NE#1 placed his hand on the Complainant to move him out of the way. OPA finds that this sort of minimal physical contact is common in social settings, but NE#1 should be cognizant that touching another person in order to move them out of the way could be considered unprofessional. OPA finds that there was a possible violation of policy not amounting to willful misconduct.

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 Policy 5.001-POL-10 with NE#1, and provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented, and this documentation should be maintained in an appropriate database.

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



---

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

***5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy***

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

Contrary to the Complainant's allegations that NE#1 "shoulder checked" and "shoved" him, security video of the interaction between NE#1 and the Complainant showed that NE#1 placed an open palm on the Complainant's upper arm and guided the Complainant to the side as NE#1 walked by the Complainant. This sort of physical contact is not of a character that would be considered offensive so as to rise to the level of violating law or policy.

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

Recommended Finding: **Not Sustained - Unfounded**