



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 8, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0554

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties. 10. Employees Will Strive to be Professional.	Not Sustained (Lawful and Proper)

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 (NE#1) was unprofessional.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 – Standards and Duties. 10. Employees Will Strive to be Professional.

The Complainant alleged that NE#1 was unprofessional in his response to the Complainant's inquiries.

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.*)

There is no dispute of fact in this case. The NE's BWV captured the entire exchange. The Complainant's factual allegations against the NE were, in sum and substance, the same as what the NE's BWV captured. Instead, the Complainant's allegation appears to stem from his perception that the NE's behavior was unprofessional. To the contrary, the NE was professional throughout the entirety of the interaction.

The Complainant in this case observed the NE and another police vehicle in a parking lot. At that time, the NE was writing a lawful Tow/Impound and Inventory Record Form for a nearby van based on probable cause that it contained stolen property. The Complainant then approached the NE—who was seated in his marked police vehicle—because



he “was curious what they were doing there” and thought it looked like “some sort of stakeout or something.” The Complainant and the NE then engaged in the following, brief exchange:

Named Employee: I’m blocking you in?

Complainant: No, no.

Named Employee: Oh, ok.

Complainant: I just want to ask what, ah...what you’re staked out here today for?

Named Employee: Ah, this van has stolen property in the back of it. Yeah...so.

Complainant: Ok.

Named Employee: Yep, so.

Complainant: You’re going to be ah... impounding the van then?

Named Employee: Yes.

Complainant: Got an impound on the way ...or?

Named Employee: Yeah. ...Why...why you so curious?

Complainant: I ah...I worry for the safety of folks when police are around.

Named Employee: Oh, ok.

Complainant: I don’t mean this personally...

Named Employee: [laughs]

Complainant: ...but as a general rule I like to keep an eye out.

Named Employee: Fare enough, man. Appreciate it.

Complainant: Yeah.

Named Employee: I also...I also worry about people’s safety which is why I became a police officer, but...I appreciate it.

Complainant: You going to be ah...planning on tryin’ to make an arrest today, or...?

Named Employee: Alright man...since you don’t have anything to add to this investigation, I think we can call it good right here, alright? Have a good day. [rolls up window] Have a good day. Bye.

A short time later, the Complainant asked for the NE’s name and serial number, which the NE provided. The Complainant then left.

The Complainant’s allegations with respect to this exchange appeared to center on his impression that the NE’s response that “I also worry about people’s safety which is why I became a police officer” was a retort and was not “a fielding of a concern.” The Complainant also expressed an impression that the NE cut him off by ending the conversation and rolling up his window, which the Complainant characterized as a “power move.” Neither of these allegations amount to misconduct.



At the time of the exchange, the NE was actively engaged in a lawful function. The NE then politely responded to the Complainant's inquiry about what he was doing ("this van has stolen property in back of it") as well as two follow up questions. This was more than the NE was required to do under the circumstances. The NE was not required to engage the Complainant in any further back and forth. Moreover, the NE appropriately, but firmly, ended the conversation and explained his reason for doing so ("since you don't have anything to add to this investigation, I think we can call it good right here"). Relatedly, it was entirely appropriate for the NE to inform the Complainant that one of his reasons for becoming a police officer was concern for "people's safety."

Accordingly, OPA recommends that this allegation be Not Sustained (Lawful and Proper).

Recommended Finding: **Not Sustained (Lawful and Proper)**