



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 4, 2022

FROM: DIRECTOR GINO BETTS JR.
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0098

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Sustained
# 2	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded
Imposed Discipline		
Oral Reprimand		

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 Named Employee #1 (NE#1) was unprofessional by using profane and demeaning language when speaking to the Complainant. The Complainant also alleged NE#1 refused to allow her to move her vehicle after it had been involved in a traffic accident and that NE#1's actions were motivated by bias based on her race, gender, and housing status.

SUMMARY OF INVESTIGATION:

OPA received a Blue Team complaint from the Chain of Command on behalf of the Complainant. NE#1 and another officer, Witness Officer #1 (WO#1,) responded to a traffic collision in which the Complainant was involved. The Complainant alleged that NE#1 was rude to her, threatened to impound her vehicle, and treated her differently due to her race, housing status, and gender. OPA opened this investigation.

During its investigation, OPA reviewed the Blue Team Complaint, Computer Aided Dispatch (CAD) Call Report, Incident Report, Body Worn Video (BWV), In-Car Video (ICV), and Photographic Evidence. OPA also interviewed the Complainant, NE#1, and WO#1. The entirety of NE#1's interaction with the Complainant was captured on BWV. Accordingly, the facts are not in dispute.

A. Summary of Incident

NE#1 and WO#1 were dispatched to respond to a two-vehicle traffic collision. After responding to the scene, NE#1 and WO#1 contacted two community members, Community Member #1 (CM#1) and Community Member #2 (CM#2). CM#1 and CM#2 reported that they were in a traffic accident with another vehicle driven by a woman. CM#1 and



CM#2 reported that the other vehicle failed to stop at a stop sign and struck their vehicle. CM#1 and CM#2 reported that the woman fled the scene after the accident. CM#1 showed NE#1 a picture of the woman's license plate. CM#1 and CM#2 reported that the woman was just a short distance away and that she was "homeless."

While NE#1 was writing down CM#1's contact information, the other involved vehicle returned to the scene. The Complainant was driving the other involved vehicle. The Complainant parked along the side of the road, in front of a fire hydrant, a short distance away. While NE#1 continued to record CM#1's contact and insurance information, WO#1 went over to the Complainant's vehicle and spoke with her.

After recording CM#1's information, NE#1 walked over to speak with the Complainant. The Complainant reported that CM#1 and CM#2's vehicle tried to turn the wrong way down a one-way street, striking her vehicle. The Complainant also reported that she asked CM#1 and CM#2 to meet her a short distance away and that she was not trying to flee. NE#1 then returned to speak with CM#1 and CM#2. CM#1 and CM#2 denied that the Complainant asked them to meet her.

NE#1 then returned to the Complainant's vehicle and surveyed the damage to the Complainant's vehicle. The Complainant stated that some of the damage was pre-existing but that the accident with CM#1 and CM#2 caused her windshield to crack. NE#1 chuckled and the Complainant stated "you're laughing at me, I'm serious." NE#1, referring to the windshield, stated "that's from a rock hit." NE#1 said, "Well, here's what I can do. You guys can exchange, because there's no injuries, no nothing here. Right? Or I can do a collision investigation and everyone who gets tickets gets tickets." The Complainant responded, "whatever, it's up to you." NE#1 replied, "it's not up to me . . . it's not a hit and run because you came back . . . it was almost a hit and run." NE#1 and the Complainant then debated the details of whether the Complainant should have left the scene. The Complainant explained that she was worried about having her car towed, to which NE#1 responded, "that doesn't make no sense, you came right back and parked right in front of a fire hydrant . . . going the wrong way down the street, so I don't think you're worried about getting towed." The Complainant explained that her brother, who was in the car, convinced her to return to the scene. NE#1 responded, "that makes more sense."

NE#1 told the Complainant to locate her insurance, registration, and driver's license. NE#1 returned to CM#1 and CM#2 and asked them to grab their registration and meet NE#1 back at the Complainant's car. After grabbing paperwork from his SPD vehicle, NE#1 met the parties at the Complainant's vehicle. There, NE#1 learned that the Complainant only had ID, but did not have insurance or a valid driver's license.

The Complainant stated, "please don't be too mean to me, I understand you're doing your job." NE#1 interjected, "too mean to you?" NE#1 then asked if the Complainant's brother had a driver's license and learned that he did not. NE#1 stated, "Nobody's got a driver's license? And you're worried about your car getting towed?" The Complainant said, "please don't be too mean to me." NE#1 said, "I'm not. Fuck. I changed my mind, get everything."



The Complainant stated, "I literally just came out of being homeless, you know I just got my own place . . . I'm trying to get my shit together right now." NE#1 responded, "seems like a time to make good decisions." The Complainant replied, "Yes, I'm trying to do that right now. I'm in the process of doing that. Which is why I just got a job, and dropped my dog off, and then he gets me . . . you have money to do certain things, I didn't just start out with luck like everybody else does. So I'm asking, please just don't be too mean to me."

NE#1 then said to the Complainant, "you know who insurance is for? The people you hit. So, when you smoke a little kid in a crosswalk. Or hit some little old lady, they're not out on their ass for the rest of their life, because you're driving around with no fuckin' license and no insurance. You got no business out here." The Complainant responded, "well, I'm working trying to get myself together." NE#1 stated, "that's what a bus is for." The Complainant stated, "well, if you live in a violence neighborhood like I do, it's hard to catch the bus when people point guns at you." NE#1 replied, "you've got an excuse for everything so far, literally everything." The Complainant said, "but, can, do you have a heart sir?" NE#1 responded, "I do, but not for bullshit."

While NE#1 continued writing, the Complainant described events that had happened to one of her friends. The Complainant said, "being a minority, I don't grow up like you do." NE#1 then said, "you don't know how I grew up. What is that about? You don't know anything about me, so I ain't listening to that. You just sit tight." NE#1 walked back to his SPD vehicle. As he walked away, the Complainant said, "I know you don't give a fuck about . . ."

NE#1 and WO#1 returned to their SPD vehicle and NE#1 continued processing his report. After about seven minutes, the Complainant approached the SPD vehicle and spoke with WO#1 outside. When WO#1 returned to the patrol vehicle, WO#1 informed NE#1 that the Complainant wanted to know if she could leave. NE#1 said, "yeah, who's going to drive her car?" NE#1 then said to the Complainant, who was standing nearby, "you got somebody coming to drive you?" The Complainant said, "yeah, my mother. Can I move my car from here to the pa- . . ." NE#1 interjected, "No. . . . No. . . . You moved once already and got in a wreck." The Complainant asked, "so if I move it, you're going to do what?" NE#1 responded, "arrest you." As the Complainant continued to ask to move her car, NE#1 said, "I won't tow it. How's that?"

The Complainant then said, "Fuck me. It's because I'm black and you're not. I understand." NE#1 responded, "that's not true." The Complainant said, "that is true, very true." NE#1 responded, "OK. Would you like to speak with a sergeant about your bias complaint?" The Complainant replied, "No, it's ok, I know how this racism goes." NE#1 said, "No, no, I'm going to get a sergeant down here because obviously there is a bias complaint." NE#1 requested a sergeant to the scene. The Complainant said, "I'm not talking to no sergeant, it's pointless. It's racism, that's all it is." NE#1 said, "that's why they are coming down here."

NE#1 issued the Complainant a traffic infraction for failing to stop at a stop sign, driving without insurance, and driving without a valid driver's license.

B. OPA Interview – Complainant



OPA interviewed the Complainant. The Complainant stated that she was involved in a motor vehicle collision and asked the other party of the collision to meet her in a nearby parking lot to discuss the collision. The Complainant said the other party did not follow her, so she returned to the scene after the police arrived. The Complainant described the officers as playing roles, like “good cop, bad cop.” The Complainant said that NE#1 was being “really really mean.” The Complainant explained her opinion that NE#1 had a reputation, but that she had never interacted with him before. The Complainant explained that she felt NE#1 was being racist because he saw it was the Complainant driving the vehicle and he was nice to the other driver but mean to her. The Complainant thought NE#1 was rude and singled her out even though she did not cause the collision. The Complainant explained that she felt NE#1’s attitude shifted when he started to speak to her and that NE#1 did not have any sympathy for her. The Complainant also stated that NE#1 may not have been acting rude because of the color of her skin, but that NE#1 was being mean to her.

C. OPA Interview – Witness Officer #1

OPA interviewed WO#1. WO#1 stated he has been riding with NE#1 in a two-officer patrol vehicle for the last four and a half years. WO#1 characterized NE#1’s language and tone as normal for NE#1, especially when he “started getting frustrated with people.” WO#1 stated that NE#1 does not get easily frustrated, but does get frustrated with people who drive without insurance and then try to justify their actions. WO#1 stated his opinion that NE#1 was using strong language to get his point across. However, after watching the BWV during the OPA interview, WO#1 acknowledged that, “I mean, hearing it now it doesn’t seem very professional, but I don’t . . . really see the issue with it. Sometimes. Depending on the situation, you know.”

D. OPA Interview – Named Employee #1

OPA interviewed NE#1. NE#1 explained, after the Complainant returned to the scene, his original plan for the incident was to have the parties exchange information and not file a police report. NE#1 stated that he changed his mind after learning that the Complainant did not have a driver’s license or insurance. NE#1 denied being upset during this call, but felt that the Complainant was making excuses for their actions and not taking responsibility. NE#1 characterized his language as conversational and that he did not violate the professionalism policy because he did not “direct any language as a means to be offensive or insulting.” NE#1 denied that the Complainant’s race played any factor in his decision making.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged 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.*

OPA finds that NE#1 violated the Department’s professionalism policy. Throughout most of his interaction with the Complainant, NE#1 was casual and conversational. NE#1 was also firm-but-fair regarding the Complainant’s decision to initially leave the scene. However, NE#1’s tone, demeanor, and language shifted appreciably after he learned that that Complainant was driving without a license or insurance. NE#1’s cursing (“fuck,” “ass,” and “bullshit”) and snide interjections (“seems like a time to make good decisions” and “that’s what a bus is for”) alone might have warranted only a training referral, but OPA finds that NE#1 crossed the line into contemptuous, disrespectful language in two instances. First, NE#1’s lecture to the Complainant regarding the purpose of insurance¹ was unnecessary, crass, and patronizing. Second, NE#1’s comment “I won’t tow it. How’s that?” was similarly unnecessary and taunting. Additionally, OPA also finds that NE#1’s tone, demeanor, and language towards the Complainant—considered collectively—was disrespectful and unnecessary to gather her information and write a traffic infraction.

OPA appreciates that NE#1 evidently feels strongly about drivers who operate vehicles without insurance. However, citing such drivers in a professional manner is a basic aspect of NE#1’s patrol duties.

Accordingly, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #2

5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged NE#1 engaged on bias-based policing based on her race, housing status, and gender.

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” SPD Policy 5.140-POL. This includes different treatment based on the race, gender, and housing status (“homelessness”) of the subject. *See id.*

As discussed more fully above, NE#1’s attitude towards the Complainant—and plan for disposing with this call—noticeably shifted after he learned that she was uninsured and unlicensed. Moreover, NE#1’s unprofessional comments appear directly related to the fact that the Complainant was driving without insurance or a license. Additionally, NE#1 not allowing the Complainant to move her car was due to the fact she did not have a license.

OPA also reviewed a section of BWV during the time that NE#1 is completing his report for this incident. WO#1 stated to NE#1, “I think your, uh, picking up dope assumption is probably correct, because the passenger in her car is like ‘I don’t want that guy to see me.’” NE#1 responded, “which guy?” WO#1 replied, “that guy in the hoodie.” WO#1 then stated, “I’m not sure I fully believe that because, then, why would they call this in at all.” Whatever conversation WO#1 was referencing, it was not captured on BWV and presumably occurred before the officers arrived on scene and were

¹ “You know who insurance is for? The people you hit. So, when you smoke a little kid in a crosswalk. Or hit some little old lady, they’re not out on their ass for the rest of their life, because you’re driving around with no fuckin’ license and no insurance. You got no business out here.”



aware of any personal characteristics of the parties to the traffic accident. Also, whatever assumptions NE#1 may have made about the activities of either party to the accident, the precipitating factor for NE#1's shift in demeanor and decision to issue tickets was directly tied to the Complainant not having insurance or a drivers license. Finally, OPA did not find any evidence to suggest NE#1 took any action with respect to an assumption that either party to the accident was "picking up dope."

OPA finds by a preponderance of the evidence that NE#1's behavior during and disposition of this call were not motivated by the Complainant's race, housing status, or gender.

Recommended Finding: **Not Sustained - Unfounded**