




CLOSED CASE SUMMARY

ISSUED DATE: MARCH 20, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0308

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 - Timeliness

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:

SPD's Force Review Board (FRB) alleged Named Employee #1 (NE#1) was unprofessional by using profanity with a fleeing and resistant suspect.

ADMINISTRATIVE NOTE:

The Office of the Inspector General (OIG) certified this case as timely, thorough, and objective. However, NE#1's supervisor documented NE#1's use of profanity and provided coaching, mentoring, and training to NE#1. NE#1's supervisor forwarded his Type II Use of Force investigation, including flagging NE#1's profanity, to the chain of command on December 4, 2021. Under Section 3.6(B)(iii) of the SPG CBA, the 180 Start Date was fourteen days after that (December 18, 2021). Under the SPOG CBA, the 180-day timeline expired on June 16, 2022. OPA received this complaint from FRB on September 22, 2022. Therefore, no discipline can result. See SPOG CBA, § 3.6(B).

SUMMARY OF INVESTIGATION:

FRB referred this complaint to OPA. FRB alleged during a use of force incident, NE#1 said, "get that motherfucker" and "you are going to get tased, motherfucker."

OPA opened an investigation. During its investigation, OPA reviewed the complaint, the computer-aided dispatch (CAD) call report, the incident report, the Use of Force documents, a Performance Appraisal System (PAS) entry, and body-worn videos (BWV). OPA also interviewed NE#1. In summary, the evidence showed:

SPD officers stopped a truck for having license plates that did not match the vehicle description. The truck unsuccessfully attempted to flee. The truck's driver (Community Member #1 or CM#1) exited and fled on foot. SPD officers, including NE#1, pursued CM#1 through a shopping area to a dead end.



BWV showed while pursuing CM#1, NE#1 stated, "He's right there. Get him . . . Get him . . . Get that motherfucker." NE#1 continued to pursue CM#1 on foot. As NE#1 chased CM#1 around a corner into a dead end, NE#1 stated, "You're going to get tased motherfucker. You're going to get tased." NE#1 drew his taser and pointed it at CM#1, who resisted the officers' commands and attempted to handcuff him. NE#1 deployed his taser at CM#1. CM#1 was arrested.

During his OPA interview, NE#1 admitted his profanity could undermine public trust in the department and said he immediately reported it to his supervisor, who provided counseling. NE#1 further realized it was "a bad choice of words," "ill-mannered," and "unprofessional."

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged NE#1 was unprofessional when he directed profanity at a fleeing and resisting suspect.

SPD must employees "strive to be professional." SPD Policy 5.001-POL-10. Further, "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers...." *Id.* Additionally, employees must "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." *Id.* Moreover, "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 derogatory, contemptuous, or disrespectful toward any person." *Id.*

Here, NE#1 violated policy. However, OPA cannot sustain the allegation because the complaint was sent to OPA beyond the timeframe in which discipline could be imposed. See OPA Internal Operations and Training Manual, Section 7.2(A)(vi) (defining "Not Sustained Timeliness" findings).

As NE#1 acknowledged, NE#1's language crossed the line into unprofessionalism by twice referring to CM#1 as a "motherfucker." While impolite words are sometimes uttered during the heat of the moment, especially during foot pursuits or physical struggles, NE#1 has prior discipline and counseling for similar conduct. NE#1's persistent profanity toward others suggests a willful disregard for the Department's professionalism policy. Since 2019, NE#1 has received the following findings, training referral, and supervisor action:

- **2019OPA-0232:** NE#1 received a sustained finding for professionalism for, among other things, brandishing his taser and telling a subject, "All I'm asking for is your fucking ID, so give me your fucking ID."
- **2020OPA-0165:** NE#1 received a sustained finding for professionalism for, among other things, calling a fleeing subject "motherfucker" twice while threatening to use his taser.
- **2020OPA-0744:** NE#1 received a training referral for professionalism for, among other things, laughing while photographing a community member inside a holding cell.
- **2021OPA-0225:** NE#1 received a supervisor action for calling a subject a "motherfucker."

Although OPA cannot issue a sustained finding, OPA finds NE#1's repeated unprofessional behavior unacceptable and unjustifiable. OPA recommends this allegation be Not Sustained – Timeliness.

Recommended Finding: **Not Sustained - Timeliness**