



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 3, 2020

CASE NUMBER: 2020OPA-0135

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	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 the Named Employee acted unprofessionally towards him by making misstatements concerning the reason for seizing the Complainant's baseball bat.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the review and approval of the Office of Inspector General for Public Safety, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

Named Employee #1 (NE#1) was dispatched to a disturbance call. When he arrived at the scene, he spoke to the 911 callers. They alleged that a male – who was later identified as the Complainant – had yelled at them, threatened them, and pointed a baseball bat towards them. The 911 callers showed NE#1 a video they recorded of the incident. The video was consistent with the 911 callers' allegations concerning the Complainant's conduct.

NE#1 approached the Complainant, who was still holding the bat. The Complainant denied threatening or pointing the bat at the 911 callers. When NE#1 tried to further explore the incident, the Complainant gave unclear answers and referred to people in the vicinity being "KKK." Given the totality of the circumstances and based on the Complainant's conduct and statements, NE#1 determined that the Complainant was likely experiencing a mental health crisis.

NE#1 subsequently took the bat from the Complainant. NE#1 told the Complainant that he was seizing the bat as evidence of harassment and that the Complainant could retrieve it once the City Attorney's Office made a charging decision concerning this case.

NE#1 completed a report in which he requested charges for harassment against the Complainant. In that report, NE#1 wrote that he seized the bat to diffuse the situation and to ensure that there was no ongoing danger to the 911 callers. He further entered the bat into evidence. Lastly, NE#1 completed a Behavioral Crisis Report in which he documented his perceptions of the Complainant's condition.

The Complainant later filed an electronic complaint with OPA concerning this incident. He alleged that NE#1 acted unprofessionally towards him by making misstatements concerning the reason for seizing the baseball bat. The Complainant also asserted that the bat was not properly deemed to be evidence because the underlying allegation that he had threatened community members with the bat was false. This investigation ensued.

As part of its investigation, OPA attempted to contact and interview the Complainant. However, OPA was unable to do so despite its best efforts. OPA also reviewed the documentation generated by NE#1, as well as the Body Worn Video (BWV), which fully captured the incident.

SPD Policy 5.001-POL-10 requires that SPD employees "strive to be professional at all times." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers." (SPD Policy 5.001-POL-10.)

Based on OPA's review of the evidence, there is no merit to the Complainant's claim that NE#1 was unprofessional. First, NE#1 spoke to the Complainant calmly and respectfully during this incident and did not use any derogatory and contemptuous language or escalate the situation with his words. Second, NE#1's statement that the bat was being seized as evidence was not inaccurate, given that NE#1 did, in fact, enter it into evidence. Moreover, OPA notes it was very important that NE#1 gain control over the bat, which was a potentially dangerous weapon. This was particularly the case given NE#1's perception – which was supported by the BWV – that the Complainant was in crisis at the time. Accordingly, even had NE#1 deliberately provided the Complainant with an alternate reason for the bat's seizure, this would not have violated policy. Third, there was a lawful basis to seize the bat given the 911 callers' claims and the video that corroborated their description of the threatening behavior engaged in by the Complainant. This undermines the Complainant's assertion that the 911 callers' complaints were falsehoods and further calls into question the accuracy of his perception of this incident.

For all of the above reasons, OPA finds that NE#1 fully complied with the Department's professionalism policy during this incident. As such, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**