



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 19, 2020

CASE NUMBER: 2020OPA-0296

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a Report	Not Sustained (Unfounded)
# 2	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Lawful and Proper)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 6. Employees May Use Discretion	Not Sustained (Unfounded)
# 2	5.001 - Standards and Duties 10. Employees Shall 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 Named Employee #1 and Named Employee #2 were unprofessional by laughing and smirking at him, that Named Employee #1 made an inaccurate report resulting in the Complainant being held for an involuntary commitment, and that Named Employee #2 abused his discretion by failing to arrest the complainant for an outstanding warrant.

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.

In addition, this case also involves another OPA complaint made by the Complainant, which was given case number 2020OPA-0297. OPA merged the two cases as OPA deemed them to be related.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a Report

Security at Komo Plaza called SPD dispatch to report the Complainant was threatening to climb a tree and refusing to climb down if he did not get media attention. Security further reported the Complainant would not come down until SPD officers responded and was threatening to hurt himself if SPD did not do so. Named Employee #1 (NE#1) was dispatched to the scene.

NE#1 reported that he recognized the Complainant from past criminal activity and crisis incidents, which included delusions about “lizard people” and methamphetamine use. NE#1 reported that the Complainant was “barely balancing on a small branch with his shoes untied” and “breaking small limbs as he tried to move around higher” in the tree. NE#1 determined the Complainant was an imminent danger to himself and was able to talk him out of the tree. NE#1 detained the Complainant for an involuntary mental health evaluation. When told he was detained, the Complainant suggested resisting officers, but ultimately did not do so.

Several months later, NE#1 had a second interaction with the Complainant. At that time, the Complainant called to report a suspicious circumstance involving security guards at an apartment complex. Witness Officer #1 (“WO#1”) took a report from the Complainant, and NE#1 was present as WO#1’s partner. The Complainant became distracted by NE#1’s presence, and repeatedly alleged to WO#1 that NE#1 had lied in his previous report to get the Complainant committed. Specifically, the Complainant alleged NE#1 had previously lied about: 1) the Complainant’s shoelaces being untied; and 2) about the Complainant breaking branches off the tree. The Complainant further alleged that NE#1 told him to climb the tree during the previous incident. Named Employee #2 (NE#2), a supervisor, responded to the scene to speak to the Complainant.

SPD Policy 15.180-POL-5 requires that officers document all primary investigations on a report. All reports are required to be “complete, thorough and accurate.” (SPD Policy 15.180-POL-5.)

The evidence does not support the Complainant’s allegation that NE#1’s report was inaccurate. OPA’s review of this incident included review of NE#1’s BWV, the BWV from other officers, and two interviews with the Complainant. The Complainant’s allegation that NE#1 lied about his shoe being untied is conclusively disproven by the BWV, which depicted the Complainant’s left shoe being untied. The BWV also does not support the Complainant’s allegation that NE#1 told him to climb the tree. OPA reviewed video from two other incidents which occurred on the same day that the Complainant climbed a tree, and NE#1 never suggested the Complainant climb a tree. While the BWV does not conclusively show whether the Complainant was breaking branches on the tree as he climbed, it does show several small branches on the ground below the tree. NE#1 would have had no reason to fabricate this largely immaterial fact, as the Complainant was detained due to the danger he posed to himself, not a danger he posed to property.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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



Named Employee #1 - Allegation #2

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

The Complainant alleged that, at the time NE#2 responded to take his complaint about NE#1, both NE#1 and NE#2 were unprofessional when they made fun of him. Specifically, he alleged that the following interactions were unprofessional:

1. When the Complainant asked NE#1 if he recalled the incident at the news station, NE#1 replied: "Yeah, you wanted to talk to someone about the lizard people." The Complainant continued to ask NE#1 what he remembered about the incident, and NE#1 stated that was all he remembered.
2. The Complainant asked NE#1 if it was ever appropriate to climb a tree, and NE#1 stated it was appropriate to do so when being chased by a bear.
3. The Complainant alleged that NE#1 and NE#2 were smirking or chuckling at him during this interaction.

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.*)

Had either of the Named Employees deliberately mocked the Complainant, that would have been in violation of SPD policy. However, the evidence suggests that this did not occur during this case. NE#1's comments to the Complainant, which were captured on BWV, appeared to be in direct response to the Complainant's questions about the past incident. NE#1's statement about "lizard people" was not a joke but was, in fact, a direct reference to past crisis incidents involving the Complainant. Indeed, this had been previously documented in NE#1's crisis report.

The BWV recording of NE#1 and NE#2 does not support the allegation that they were "chuckling" about or laughing at the Complainant. It does show that NE#1 at one point admitted to smiling but explained to the Complainant that he was doing so while addressing a friend who had just walked by. While it is unfortunate that the Complainant believed the Named Employees were mocking him, the evidence does not support that conclusion. While SPD employees should take care when interacting with individuals in crisis to avoid escalating the situation and should always strive to avoid a demeanor that could be interpreted as mocking or derogatory, the conduct identified here was not contrary to policy.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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



Named Employee #2 - Allegation #1

5.001 - Standards and Duties 6. Employees May Use Discretion

The Complainant alleged that NE#2 abused his discretion when, after responding to the scene, he declined to arrest the Complainant for a non-criminal involuntary commitment warrant. However, OPA's investigation revealed that NE#2 and WO#1 looked into the Complainant's warrant and concluded that it had, according to a Designated Crisis Responder, been issued in error. Moreover, OPA knows of no legal or policy requirement that compelled NE#2 to arrest the Complainant.

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

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

Named Employee #2 - Allegation #2

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

For the same reasons as set forth above (see Named Employee #1 – Allegation #2), I recommend that this allegation be Not Sustained – Lawful and Proper.

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