



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 26, 2019

CASE NUMBER: 2019OPA-0393

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)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	16.110–PRO–2 Referring a Subject for an Involuntary Mental Health Evaluation 5. Reviews the incident and advises the officer whether to order the evaluation	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 Employees behaved in an intimidating manner and that they failed to tell him that he was being detained under the Involuntary Treatment Act (ITA).

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’s review and approval, 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 - Allegation #1

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

On May 30, 2019, Named Employee #1 (NE#1) and Named Employee #2 (NE#2) responded to a call from an employee at a transitional housing facility for persons with mental health issues. The facility employee reported that a resident, the Complainant in this case, was burning something in his room and creating a large amount of smoke. NE#1 and NE#2 spoke with the facility employee and determined that the Complainant had not taken his medication for several weeks and was being evicted in a few days. They also spoke to the Complainant, who said that he was burning incense and homeopathic remedies. NE#1 and NE#2 observed the inside of the Complainant’s room, which was full of smoke. The Complainant had been burning grass and other plant matter on a camp stove. NE#1 and NE#2



explained that it was not safe to burn plant matter indoors using a camp stove and the Complainant agreed to stop. The officers then cleared the scene.

As NE#1 was leaving, the facility employee told him that the Complainant had restarted the fire. NE#1 and NE#2, who was also still present, called for the Seattle Fire Department (SFD) to respond and went to speak to the Complainant again. The Complainant said that he had been burning the plant matter outside; however, officers observed smoke in the apartment. The facility employee said that the Complainant had been burning the plant matter in his room as before, and only took his stove outdoors when the facility employee went to talk to NE#1. Body Worn Video (BWV) indicated that, while waiting for SFD to arrive, NE#1 and NE#2 discussed whether the Complainant's behavior violated the law and was grounds for detention under the Involuntary Treatment Act (ITA).

SFD responded and the Complainant agreed to unlock the door to his room for inspection. SFD personnel observed that the Complainant had covered his smoke detector with a bandana. They inspected the camp stove outside and noted that it was a propane grill that produced carbon monoxide when ignited. SFD personnel noted that carbon monoxide is a deadly gas, and that the Complainant's use of it indoors could be fatal to him and other residents.

NE#1 consulted with NE#2, who was a supervisor, about what the SFD personnel reported. NE#1 also spoke to the facility employee, who told him that the Complainant had not taken his prescription medication for several weeks. NE#1 asked the Complainant what medication he was taking, and the Complainant answered that he used only homeopathic remedies but that he had been "drugged" by King County Jail when he was arrested in a previous incident. After screening the matter with NE#2, NE#1 called for an ambulance to transport the Complainant to a hospital for a mental health screening pursuant to the ITA. He asked the Complainant to step outside, which the Complainant did voluntarily. NE#1 then went to his car to fill out paperwork for the involuntary detention, while NE#2 watched the Complainant, who sat in the shade.

When the ambulance arrived, NE#1 asked the Complainant to sit on the gurney. He explained to the Complainant that he was being involuntarily detained and that he would be going to a hospital for a mental health evaluation. The Complainant sat voluntarily on the gurney and said that he appreciated the officers' handling of a "difficult situation" with the facility employee. BWV did not indicate that NE#1 or NE#2 used any force to detain the Complainant. The BWV further did not show the officers placing their hands on or near their weapons or using their body language to intimidate the Complainant. Rather, the Complainant, NE#1, and NE#2 remained conversational throughout the incident.

Eight days later the Complainant contacted OPA, made a complaint, and this investigation ensued. The Complainant alleged that NE#1 behaved in an intimidating manner toward him, and that neither NE#1 nor NE#2 adequately explained to him that he was being involuntarily detained pursuant to the ITA. OPA construed this to assert a professionalism allegation against NE#1 and this investigation ensued.

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.)

As discussed more fully below, the Named Employees appropriately determined that they had a legal basis to involuntarily detain the Complainant. Moreover, the BWV established that the Complainant was informed that he



was being involuntarily detained prior to the detention being effectuated and he agreed to be transported to the hospital. Lastly, the BWV contradicted the Complainant's assertion that NE#1 behaved in an intimidating fashion towards him. To the contrary, the video showed that neither NE#1 nor, for that matter, NE#2 were rude, intimidating, or unprofessional in any respect.

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

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

Named Employee #2 - Allegation #1

16.110-PRO-2 Referring a Subject for an Involuntary Mental Health Evaluation 5. Reviews the incident and advises the officer whether to order the evaluation

SPD Policy 16.110-PRO-2 sets forth the responsibilities of the Sergeant where a subject is referred for an involuntary mental health evaluation. The policy specifies that the Sergeant must review the incident and advise the officers whether to order the evaluation. (SPD Policy 16.110-PRO-2.)

Washington State law permits police officers to detain and transport an individual for mental health evaluation where the officers reasonably believe the individual suffers from a mental disorder that presents an imminent risk of serious harm to the afflicted individual or others.

Based on the totality of the evidence—most notably, the Complainant's repeated burning of plant matter inside his room despite repeated warnings from housing employees and police, his refusal to take prescribed medication, and his use of a propane stove which generated harmful carbon monoxide, the Named Employees had sufficient evidence to conclude that the Complainant met the standard for an involuntary detention. Moreover, while not violent or combative towards the officers and others, the Complainant was unable to appreciate the risk his conduct posed to himself and residents of the facility.

A review of the BWV indicated that NE#1 and NE#2 consulted with each other concerning whether there was a sufficient basis to involuntarily detain the Subject. OPA finds that this satisfied NE#2's supervisory obligations under SPD Policy 16.110-PRO-2. As such, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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