

JERSEY VILLAGE POLICE DEPARTMENT



CONFIDENTIAL

IAD# 1803

Narrative of Finding

**THIS DOCUMENT CONTAINS CONFIDENTIAL
INFORMATION SUBJECT TO CRIMINAL
PENALTY FOR UNLAWFUL DISCLOSURE**



JERSEY VILLAGE POLICE DEPARTMENT

16401 Lakeview Dr.
Jersey Village, Texas 77040-1999
(713)466-5824 / Fax (713)466-0784

Incorporated 1956 A Texas Star Community

Eric Foerster, MPA
Chief of Police

August 16, 2018

Summary of Finding IAD 1803

Introduction

On August 15, 2018, Sgt. Ferguson learned of an incident occurring between Cpl. Boughter and Cpl. M. Zatzkin, by way of an email from Cpl. Zatzkin. This incident occurred in the parking lot of the Jersey Village Police Department on August 15, 2018 at around 0500 hours.

On August 15, 2018 Sgt. Ferguson was also notified of this incident in person by Cpl. Boughter at around 0700 hours this same date. Sgt. Ferguson spoke with both Corporals over the incident, reviewed the parking lot surveillance video, and felt that a policy could have been violated. Sgt. Ferguson noted that these two Corporals have had problems working together previously, and noted that both were spoken to on June 12, 2018 about these same issues. Sgt. Ferguson had both Corporals write a statement over the incident, which are included in the attached investigation under "Complaint Intake/Notice of Investigation".

Scope and Authority

On August 15, 2018, I was requested by Chief Foerster to investigate this incident for policy violations, which occurred on August 15, 2018 in the parking lot of the Jersey Village Police department between Cpl. Boughter and Cpl. Zatzkin.

Fact Collection Issues and Controls

The data used in reaching a finding in this investigation came by direct conversation, video and audio records, writings of Officers or complainant, or official records of the Jersey Village Police Department or the City of Jersey Village, or internet postings, documents and emails of this or other law enforcement agencies. As a core best practice, only data gleaned from direct oral statements, written documents, statements, audio or video, or other writings of the person or those of direct personal knowledge was used to evaluate the authenticity of the conduct or relied upon to reach key conclusions.

Details of Finding

Review of Cpl. Boughter's Statement

Cpl. Boughter wrote that on August 15, 2018 at around 0450 hours, as he was ending his shift and emptying his assigned patrol Tahoe, Cpl. Zatzkin approached his Tahoe, turned off the radio, and adjusted the seat. Boughter asked Zatzkin about him doing this and Zatzkin tells Boughter that he is in a hurry to patrol a local burglary spot. Boughter tells Zatzkin that he is rushing him, as he still needed to unload the vehicle and sign off the computer. Boughter moves the Tahoe to the supervisor space. Zatzkin "*stormed over, opened the driver's side door, and juted his head into the door opening*". Zatzkin "*began screaming and cursing at me, stating that I shouldn't have driven away from him while he was waiting for the vehicle*". Boughter writes that Zatzkin was "*essentially yelling at me like a drill instructor with his chest puffed up and his arms out to their sides and flexed and his eyes opened wide with an angry expression on his face*". Boughter told Zatzkin that he is in his personal space, and wanted him to step back. Zatzkin tells Boughter he was "*a fucking child*" several times.

When Boughter stepped out of the vehicle, he was between the driver's door and Zatzkin. Boughter asked Zatzkin to move but Zatzkin told him to walk around him or that he was not moving. **Zatzkin then put his hand on the outside of Boughter's right arm and shoved him about two feet to the left and out of the area of the driver's door** while saying, "*Well then you can move*" or "*you should move then*". Boughter told Zatzkin that he did not want him putting his hands on him and then Boughter left.

Review of Cpl. Zatzkin's Statement

Cpl. Zatzkin wrote that at around 0455 hours on August 15, 2018, he walked over to Boughter in the parking lot, after speaking to Officer Divel about recent burglaries in the area. The car stereo was playing at a high volume with both doors open. Zatzkin turned off the stereo and adjusted the seat to suit him. Boughter was upset that Zatzkin had turned off the stereo. Boughter got into the driver's seat to log out of the computer, and drove the car to the supervisor parking spot. Zatzkin opened the door to the Tahoe and called Jason "*a child*" and that he was playing stupid games. Zatzkin told Boughter to get out of the car so he could go on patrol. Boughter got out but stood in the doorway, blocking the door. Zatzkin tells him to move, and Boughter replies, "*are you going to beat me up now*"? Zatzkin tells Boughter to get out of the way, but he continued to stand there, and Boughter told him that he was blocking his way, but that Zatzkin was not and pointed out a path for Boughter to take. Zatzkin did not mention any physical altercation in the email to Sgt. Ferguson. Later when speaking to Sgt. Ferguson, Zatzkin told him that he "*placed his hand on Cpl. Boughter's shoulder and escorted him out of the way*", and admitted that he should not have done that.

Parking Lot Video Review

I received a CD from Sgt. Ferguson, which contained video of the parking lot of the police department during the period of this incident. From the video, I learned the following:

- At around 0457 hours, Boughter is observed parking the Tahoe in the supervisor parking space in the rear parking lot of the Jersey Village Police Department. Boughter can be seen gathering his things
- At around 04:57:24 Zatzkin walks up to the Tahoe. Apparently, there is no motion, so the video skips to the next sequence.
- At 04:59:40, the video shows Zatzkin in the doorway of the Tahoe.
- At 04:59:42, Boughter exits the Tahoe driver's seat, as Zatzkin is in the doorway of the Tahoe. **It appears that both Zatzkin and Boughter are very close to each other and appears that Zatzkin pushes/shoves Boughter.**
- Zatzkin gets into the Tahoe and Boughter walks into the back door of the PD.
- I noticed two vehicles next to each other, which appeared to be occupied, possibly by other on-duty officers. After making inquiries, I learned that Officer Divel was speaking to a dispatcher during this incident in the far west side of the parking lot (Officer Bryant was in the PD and Officer Dougherty was on patrol). I spoke with Officer Divel on August 15, 2018, who told me that he knew that Zatzkin and Boughter were in the parking lot having a discussion, but he did not see or hear anything, as he was in a conversation with the dispatcher.
- The video is included in this investigation under the "media" section

Cpl. Boughter Interview

On August 15, 2018, I interviewed Cpl. Boughter in the interview room of the Jersey Village Police Department. From this interview, I learned the following:

- Boughter drove his assigned police Tahoe to the back parking lot of the PD to unload his gear into this personal vehicle, a few minutes before 5 am on August 15, 2018. He had the car stereo on and both doors open while he unloaded his gear.
- Zatzkin reached in, turned off the stereo, and adjusted the seat to the Tahoe. Zatzkin told Boughter that he needed the car to look for a burglary at Advanced Auto. Boughter told Zatzkin that he was in his personal space and that he was trying to unload the Tahoe, and added that it was not 0500 hours yet. Boughter was on the passenger side and Zatzkin was on the driver's side of the Tahoe.
- Boughter gets into the Tahoe and moves it to the Supervisor parking spots near the back door to the police station. Boughter said that he believed that Zatzkin was going to pick up the Tahoe from the original location at the rear parking lot of the police station, but Boughter moved it to the supervisor spot despite this, and Boughter admitted that this was "petty". Boughter said *"I made him walk, that's an inconvenience...comparable to him coming over and screwing around with me while I am trying to go home...that was wrong I admit...it was childish...two wrongs don't make a right"*.
- Once the Tahoe is parked in the supervisor spot, Zatzkin opens the driver's door, places his face very close to Boughter's face, screams, and curses at him at a very high volume. Boughter tells Zatzkin to get out of his personal space. Zatzkin screamed at Boughter saying, *"you're a fucking child"*.
- Boughter exits the Tahoe, but Zatzkin is in the same space, so Boughter asks Zatzkin to move so that he can go into the station. Zatzkin replies that Boughter can walk around the

car to go into the PD. Zatzkin then places his left hand on the right arm of Boughter, and shoves him out of the way about two feet. Boughter said that he told Zatzkin not to place his hands on him. Boughter said that he was not injured nor did he feel any pain from the incident. Zatzkin then enters into the Tahoe. Boughter goes into the station and watches the video of the incident in dispatch.

- Boughter was not interested in pursuing criminal charges and wanted to let the administrative process handle the incident.
- The interview video was copied to a DVD, which is included in this investigation file.

Cpl. Zatzkin Interview

On August 16, 2018, I interviewed Cpl. Zatzkin in the interview room of the Jersey Village Police Department. I read to Cpl. Zatzkin the Garrity Warning, which he signed, and is included in this investigation file. From this interview, I learned the following:

- Zatzkin stated that he met with Officer Divel around 0450 hours on August 16, 2018, about a burglary detail at Advanced Auto. Zatzkin approached the Tahoe that Boughter had been driving, and who was unloading the Tahoe. Zatzkin reached inside and turned off the stereo, which was being played loudly. Boughter was upset that Zatzkin was doing this and said that he was still using the Tahoe. Zatzkin told him to hurry up so that he could get over to Advanced Auto. Boughter told Zatzkin that he was in his personal space. Boughter told Zatzkin that he needed to log off his computer in the Tahoe. Boughter shut the Tahoe door and drove the Tahoe to the supervisor parking spot behind the PD. This made Zatzkin "*upset...pissed off*".
- Zatzkin opens the door and he "*starts cussing him out*". Zatzkin admits to yelling, cursing and calling Boughter an idiot and childish. Zatzkin told him to get out of the car. Boughter exits but stands in the doorway. Zatzkin tells him to get out of the way and to move. Zatzkin then shoves Boughter to the side with his left hand pushing against Boughter's right arm/shoulder. Zatzkin states the he was wrong and that he should not have done this. Zatzkin stated that he went to O'Reilly's Auto and then to Advanced Auto after getting into the Tahoe.
- Zatzkin said that he spoke with Divel to determine if he had seen the incident, but Divel told Zatzkin that he had not. The interview was copied to a DVD, which is included in this investigation file.

Conclusion

It is the opinion of this investigator that the facts learned from this investigation clearly show the following:

1. On August 15, 2018, as Cpl. Boughter was unloading his police Tahoe, Cpl. Zatzkin turned off the radio and adjusted the seat to the Tahoe that Boughter had been using. This made Boughter upset, who then drove the Tahoe to the Supervisor parking spot instead of allowing Zatzkin to take the Tahoe from that original location.
2. Zatzkin walked to where the Tahoe had just been parked by Boughter, and told him to get out of the Tahoe. Zatzkin yelled profanity at Boughter, and called him an "idiot". When


Boughter exited the Tahoe. he asked Zatzkin to move, but Zatzkin told him to walk around the Tahoe. When Boughter did not walk around, Zatzkin pushed/shoved Boughter and Zatzkin entered the Tahoe. Boughter then walked into the Police Station, and Zatzkin left the police department in the Tahoe.

3. Zatzkin's behavior in this incident violates the Jersey Village Police Department Policy 5.01.00 for Professional Conduct, which states:

... "While in uniform, or acting in an official capacity, all personnel shall conduct themselves in a manner that shall not bring discredit to the Jersey Village Police Department. Loud, indecent, profane, or harsh language, sexual harassment of any kind, and "Horseplay", is prohibited. All personnel shall conduct their personal affairs in a manner will not bring discredit to the Jersey Village Police Department. Personnel shall be civil, orderly, courteous and quiet in their conduct and behavior. All personnel shall avoid answering questions in a short or abrupt manner, but shall give the greatest possible attention and courtesy to all individuals, groups, and members of the public. Personnel shall refrain from harsh, violent, coarse, profane or insolent language while on duty. Personnel off duty but in uniform shall conduct themselves as though they were on duty" ...

As the evidence in this incident shows clearly that Cpl. Zatzkin exhibited this behavior, this policy violation is **SUSTAINED**

Respectfully,



Lt. R. Dooley