



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 24, 2019

CASE NUMBER: 2018OPA-0776

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	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 Employee subjected him to excessive force and inappropriately touched him.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the OPA Auditor’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 - Allegations #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

Named Employee #1 (NE#1) was dispatched to a disturbance. It was reported that there was a male shouting and a female crying. NE#1 conducted a preliminary investigation and separated the male – who was later identified as the Complainant in this case – and the female. NE#1 further determined that the Complainant had an active DOC warrant. NE#1 attempted to take the Complainant into custody, but he physically resisted. NE#1 and another officer used force to control the Complainant and to place him into handcuffs. This included holding the Complainant’s arms, taking the Complainant down to the ground, and then bringing the Complainant’s arms behind his back and applying the handcuffs. Once he was handcuffed, the officers ceased using force and placed the Complainant into the rear of a patrol vehicle.

At around this time, the Complainant asked NE#1 if she was going to rape him and then he gave his consent to be raped. The Complainant later complained to a supervisor that he had been sexually assaulted by NE#1.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy. If NE#1 sexually assaulted the Complainant, as he alleged, this conduct would have constituted a violation of this policy. However, based on my review of the evidence – most notably, the Body Worn Video – there is no indication whatsoever that



she did so. In fact, the evidence indicates the opposite and shows that the Complainant's allegation is demonstrably frivolous.

As such, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

8.200 - Using Force 1. Use of Force: When Authorized

As discussed above, the Complainant further alleged that he was subjected to excessive force. Based on the evidence, the force used by NE#1 during this incident was reasonable, necessary, and proportional. NE#1 had abundant probable cause to arrest the Complainant and, when he physically resisted, NE#1 was permitted to use force to prevent him from further doing so. NE#1 used only that force required to prevent that physical resistance and to take the Complainant into custody. Once this occurred, NE#1 modulated and then ceased her force.

As such, I recommend that this allegation be Not Sustained – Lawful and Proper.

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