



CLOSED CASE SUMMARY

ISSUED DATE: JULY 20, 2018

CASE NUMBER: 2018OPA-0117

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 (Unfounded)
# 3	8.200 - Using Force 2. Use of Force: When Prohibited	Not Sustained (Unfounded)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 6. Employees Will Report Alleged Violations	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 Named Employee #1 intentionally slammed on his brakes causing injury to the Complainant. The Complainant was also interpreted to be alleging that Named Employee #2 failed to report misconduct.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) arrested the Complainant. After his arrest, they placed him in the rear of their patrol vehicle. The officers’ In-Car Video (ICV) showed the transport of the Complainant. It depicted him repeatedly moving about in the back of the vehicle. When NE#2 asked him to sit back so that NE#2 could secure him with a seatbelt, the Complainant did not do so. NE#2 was able to put the Complainant’s lap belt on but not his shoulder belt. During the transport, the Complainant continued to move around. At one point (see NE#1 and NE#2 Rear ICV, at 13:57), the Complainant appeared to lightly hit his forehead against the passenger door of the vehicle. He then complained that his teeth were “busted.”

The Complainant later alleged to a Department supervisor that, during his transport, NE#1 intentionally slammed on the brakes of the patrol vehicle causing the Complainant to suffer an injury. The supervisor, while noting that the Complainant had no apparent injury and that his claims were disproved by the ICV, referred this matter to OPA. This



investigation followed. After conducting its intake, OPA determined, with the consent of the OPA Auditor, that this matter should be classified as an expedited investigation. This means that it was deemed unnecessary to interview the officers and that a final determination could be reached based on OPA's intake investigation.

SPD Policy 5.001 requires that employees adhere to laws, City policy, and Department policy. Were the Complainant's allegations true, NE#1's conduct could have constituted a violation of this policy. However, as indicated above, the evidence directly contracts the Complainant's allegation that NE#1 deliberately slammed on the brakes of his vehicle to cause the Complainant to suffer injury. Moreover, based on OPA's review, the Complainant did not suffer any injury consistent with his claims. 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

Based on my review of the ICV, I do not find that NE#1 used any force on the Complainant, let alone force that was outside of policy. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #3

8.200 - Using Force 2. Use of Force: When Prohibited

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #1

5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 6. Employees Will Report Alleged Violations

SPD Policy 5.002-POL-6 requires Department employees to report potential violations of policy. NE#2 was in the patrol vehicle when NE#1 was alleged to have deliberately slammed on the brakes. As such, were the Complainant's allegations true, he would have been required to report this purported misconduct.

However, as discussed above, I find that NE#1 did not engage in any misconduct. As such, NE#2 was not required to report what did not occur. Accordingly, I recommend that this allegation be Not Sustained – Unfounded.

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