



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 12, 2018

CASE NUMBER: 2017OPA-0848

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Unfounded)
# 2	8.400 - Use of Force Reporting and Investigation 1. Officers Shall Report All Uses of Force Except De Minimis Force	Not Sustained (Unfounded)
# 3	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	Performance of Duty - 5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 2. Employees Will Assist Any Person Who Wishes to File a Complaint	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 he was assaulted by an Unnamed Employee, and that the Unnamed Employees he reported the assault to would not assist him. I note that, as discussed below, the Complainant did not conclusively identify who assaulted him, so OPA was unable to name an employee in this matter.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

SPD received a call claiming that an assault had occurred. Officers, including a Student Officer and his Field Training Officer (FTO), arrived at the scene. The Student Officer and the FTO, who was in plain-clothes due to his assignment, contacted the Complainant, who was injured and had reported being assaulted. During this initial conversation, however, the Complainant alleged that the FTO was the individual who had assaulted him. Two other officers then arrived at the scene – another Student Officer and FTO (who, like the first FTO, was in plain-clothes). The Complainant then stated that the second FTO, not first FTO, was the individual who assaulted him.

Based on these allegations, the officers contacted a supervising Sergeant. The Sergeant reported that the Complainant appeared heavily intoxicated. The Sergeant memorialized that the Complainant again alleged that he had been assaulted by SPD personnel. The Sergeant accordingly initiated an OPA complaint based on these allegations.



From my review of the record, there is no evidence that any SPD officer subjected the Complainant to any force, let alone assaulted him. The Complainant was clearly intoxicated during the incident and his account was undercut by the fact that he identified two totally different officers as the individuals who had purportedly assaulted him. Ultimately, OPA was able to determine by looking at GPS records that none of the officers who responded to this incident were even in the vicinity of the Complainant when he was assaulted, which conclusively disproves his allegations. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

8.400 - Use of Force Reporting and Investigation 1. Officers Shall Report All Uses of Force Except De Minimis Force

SPD Policy generally directs officers that they must report and document all uses of force aside from de minimis force. If, as the Complainant alleged, officers “assaulted” him, they would have been required to report this force under policy. However, as indicated above, I find that no officer used any force against the Complainant. Accordingly, the officers had no obligation to report force they did not use. For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #3

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

This allegation was classified based on the Complainant’s allegation that he was “assaulted” by officers, which could, if true, constitute a crime. However, as indicated above, I find that no officers used force against the Complainant, let alone assaulted him. Accordingly, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #1

Performance of Duty - 5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 2. Employees Will Assist Any Person Who Wishes to File a Complaint

In the electronic complaint he submitted to OPA, the Complainant alleged that he asked officers who responded to the scene why he was attacked by another officer and what laws he broke. The Complainant asserted that the officers did not answer him and, instead, returned to their vehicles. OPA construed the Complainant to be alleging a violation of SPD Policy 5.002-POL-2, which requires that officers assist any person who wishes to file a complaint.

Here, contrary to the Complainant’s assertions, the officers who responded to the scene interacted with the Complainant at length. It was only when the Complainant became, in their opinion, increasingly belligerent and unreasonable that they ceased communication with him. Notably, the Complainant was interviewed by the supervising Sergeant who, during that interaction, offered to file an OPA complaint on the Complainant’s behalf. The



Complainant was also later provided with OPA's phone number and his injuries were photographed by another officer.

As such, I find that the officers involved in this matter took ample steps to assist the Complainant in filing an OPA complaint and in seeking to have his allegations fully addressed and investigated. Accordingly, I recommend that this allegation be Not Sustained – Unfounded.

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