



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 5, 2019

CASE NUMBER: 2019OPA-0022

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) |

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 she was “sexually harassed” when her breast was exposed in the presence of the Named Employee.

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 - Allegations #1

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

The Complainant was involved in a vehicle collision. Named Employee #1 (NE#1) and his partner, who is referred to here as Witness Officer #1 (WO#1), responded to the scene of the collision. After the officers conducted a preliminary investigation, they determined that the Complainant caused the collision because she was driving under the influence. They also discovered that the Complainant did not have a valid driver’s license.

The Complainant was arrested and transported to the hospital for evaluation. While at the hospital, WO#1, who is a female officer, remained in the hospital room with the Complainant. NE#1 was present but waiting in the hallway. While WO#1 was in the hospital room, she observed multiple baggies of suspected methamphetamine, heroin, and cocaine spilling out of the Complainant’s bra. WO#1 reported that the Complainant became agitated and uncooperative after realizing that WO#1 was collecting this evidence. After WO#1 ordered the Complainant to stop moving and to comply with her orders, NE#1 entered the hospital room to assist WO#1 in taking the Complainant into custody as WO#1 was a solo officer at that time. The officers then placed the Complainant into handcuffs to restrain her after she continued to ignore their commands to comply. WO#1 reported that, during their attempts to



restrain the Complainant and to handcuff her, the Complainant's breast may have been unintentionally exposed in NE#1's presence.

The Complainant later alleged to a Department supervisor that she felt "sexually harassed" because NE#1, a male officer, was in the hospital room when her breast was exposed. The supervisor made an OPA referral and this investigation ensued.

During its investigation, OPA made multiple attempts to interview the Complainant but was ultimately unsuccessful.

OPA interviewed one of the nurses who treated the Complainant. The nurse acknowledged that she was the person who removed the Complainant's bra in advance of preparing the Complainant for a medical procedure. The nurse stated that it was at this point when narcotics started falling out of the bra. The nurse stated that had she kept the Complainant covered by her hospital gown up until that time. The nurse stated that, if the Complainant's breasts were exposed, it would have been for a brief second and was the result of the Complainant's movement more than anything else. As such, the nurse's assessment was that the exposure was both inadvertent and accidental.

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."

Based on the evidence, it is clear that NE#1's presence in the hospital room was appropriate. At that time, the Complainant was being taken into custody by WO#1, who was by herself. The expectation of the Department was that NE#1 would enter the room and assist WO#1 in securing the Complainant. Moreover, once he was in the room, any exposure that he had to the Complainant's breast was unintended, unexpected, and not the result of any misconduct on his part. As such, I recommend that this allegation be Not Sustained – Unfounded.

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