



## CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 9, 2018

CASE NUMBER: 2017OPA-0652

### 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 (Inconclusive)
# 2	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Inconclusive)

#### Named Employee #2

Allegation(s):		Director’s Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Unfounded)
# 2	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	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 grabbed unnecessarily by an Unknown Employee and that Unknown Employees may have been unprofessional towards her. OPA identified the Named Employees as potentially being the officers described by the Complainant.

### ANALYSIS AND CONCLUSIONS:

#### **Named Employee #1 - Allegations #1**

#### ***Force – Use – 8.200 – Using Force 1. Use of Force: When Authorized***

This case involves the stop of a pedestrian – the Complainant – who was about to walk on a street that was blocked off due to construction. The stop was effectuated by Named Employee #1 (NE#1). Many of the facts concerning the nature of the stop, the force allegedly used by NE#1, and the verbal interaction between NE#1 and the Complainant are disputed. As discussed more fully below, the evidence suggests that Named Employee #2 (NE#2) did not physically or verbally interact with the Complainant.

The Complainant alleged that NE#1 grabbed her “very aggressively” on her arms. She stated that she tried to fight him and that she was crying. The Complainant further alleged that NE#1 pushed her back onto the sidewalk. The Complainant described the interaction as follows: NE#1 “grabbed me inappropriately for what seemed to be no good reason.”

NE#1, to the contrary, stated that he never took control of the Complainant’s person. He stated that, instead, he spread his arms like “an airplane” and prevented her from moving past him. NE#1 stated that his contact with the



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Complainant lasted approximately five seconds. NE#1 did not remember ever grabbing the Complainant's arms when she tried to move past him. Based on NE#1's account, he did not use reportable force.

There is a clear dispute as to whether or not NE#1 used any force, let alone reportable force, on the Complainant. Moreover, even had NE#1 grabbed the Complainant's arms, it is unclear that this would have violated SPD policy. It is undisputed that the Complainant was walking towards a blocked off street. If she continued to walk towards that street even after being told not to do so by NE#1, grabbing her arms to prevent her from doing so could have been reasonable, necessary, and proportional.

However, given the disputes of fact and given NE#1's lack of recollection as to whether he ever grabbed the Complainant's arms, I cannot determine whether any reportable force was used and, if so, whether that force was consistent with policy.

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

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

**Named Employee #1 - Allegation #2**

***5.001 – Standards and Duties 9. Employees Shall Strive to be Professional at all Times***

The Complainant alleged that NE#1 told her twice: "I don't care if you get hit by a car, but I got to do my job." The Complainant asserted that NE#1 did not appear to be joking and stated that, even if he was, it was not funny.

NE#1 reported that when he tried to prevent the Complainant from walking on the blocked off street, she stated: "Don't touch me you fucking asshole." NE#1 reported being shocked by this statement. The Complainant's mother, who the Complainant was on the phone with at that time, confirmed hearing the Complainant say "don't touch me," but did not report hearing the Complainant use any curse words. NE#1 also reported hearing the Complainant say "that fucking cop" while on the phone after their interaction. The Complainant's mother did not report hearing this.

If NE#1 told the Complainant that he did not care if she got hit by a car, such a statement could violate SPD's professionalism policy. However, as with the above allegation, there are disputes of fact as to what was said by NE#1 and the Complainant during their interaction that prevent me from determining what in fact occurred.

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

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

**Named Employee #2 - Allegations #1**

***Force – Use – 8.200 – Using Force 1. Use of Force: When Authorized***

Based on NE#1's account, he, not NE#2, was the officer who engaged with the Complainant. As such, I find by a preponderance of the evidence that NE#2 did not use force. Accordingly, I recommend that this allegation be Not Sustained – Unfounded.



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

**Named Employee #2 - Allegation #2**

***5.001 – Standards and Duties 9. Employees Shall Strive to be Professional at all Times***

As with the above allegation, based on a preponderance of the evidence, I conclude that NE#2 did not actually have any verbal or physical interaction with the Complainant. As such, I recommend that this allegation be Not Sustained – Unfounded.

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