



CLOSED CASE SUMMARY

ISSUED DATE: MAY 15, 2018

CASE NUMBER: 2017OPA-1216

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Unfounded)
# 2	8.200 - Using Force 2. Use of Force: When Prohibited	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:

During a search incident to arrest, the Complainant alleged that the Named Employee “pinched” her “nipple” and was “raping” her.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant was arrested for burglary. She was handcuffed and placed in front of a patrol vehicle. She was then searched incident to arrest by Named Employee #1 (NE#1) while another male officer stood by them. During the search, NE#1, who is a female officer, reached in front of the Complainant’s blouse in an apparent attempt to search the Complainant’s front left shirt pocket. At that moment, the Complainant stated: “You just pinched my nipple, she’s raping me, she’s raping me, she’s raping me...”

Notably, the search of the Complainant was entirely captured by In-Car Video (ICV). The ICV showed no evidence of NE#1 pinching the Complainant’s nipple. If further conclusively disproved the Complainant’s frivolous allegation that NE#1 was “raping” her.

SPD Policy 5.001-POL-9 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.” (SPD Policy 5.001-POL-9.)

There is no evidence that NE#1 engaged in unprofessional behavior during her interaction with the Complainant. Indeed, the ICV established the opposite – NE#1 was polite, calm, and composed, even in light of the Complainant’s erratic and irrational behavior.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded.



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

Named Employee #1 - Allegation #2

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

While SPD Policy 8.200(1) provides for when force is authorized, SPD Policy 8.200(2) sets forth those scenarios in which force is prohibited. Among those scenarios are: when force is used to retaliate against or punish a subject; and when force is used against a restrained subject, “except in exceptional circumstances when the subject’s actions must be immediately stopped to prevent injury, [] escape, [or] destruction of property.” (SPD Policy 8.200(2).)

It is unclear to me why this specific policy was classified in this instance. If anything, based on the Complainant’s claims, OPA should have evaluated this case under SPD Policy 5.001-POL-2, which requires that officers “adhere to laws, City policy, and Department policy.”

Regardless, as I find that no force occurred, let alone force that was prohibited by SPD policy, I recommend that this allegation be Not Sustained – Unfounded.

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