



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 23, 2018

CASE NUMBER: 2018OPA-0317

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 6. Employees Will Report Alleged Violations	Not Sustained (Lawful and Proper)
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 2. Employees Will Assist Any Person Who Wishes to File a Complaint	Not Sustained (Lawful and Proper)

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 (Lawful and Proper)
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 2. Employees Will Assist Any Person Who Wishes to File a Complaint	Not Sustained (Lawful and Proper)

Named Employee #3

Allegation(s):		Director’s Findings
# 1	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 6. Employees Will Report Alleged Violations	Not Sustained (Lawful and Proper)
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 2. Employees Will Assist Any Person Who Wishes to File a Complaint	Not Sustained (Lawful and Proper)

Named Employee #4

Allegation(s):		Director’s Findings
# 1	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 6. Employees Will Report Alleged Violations	Not Sustained (Lawful and Proper)
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 2. Employees Will Assist Any Person Who Wishes to File a Complaint	Not Sustained (Lawful and Proper)

Named Employee #5

Allegation(s):		Director’s Findings
# 1	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 6. Employees Will Report Alleged Violations	Not Sustained (Lawful and Proper)



# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 2. Employees Will Assist Any Person Who Wishes to File a Complaint	Not Sustained (Lawful and Proper)
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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:

It was alleged that the Named Employees failed to report misconduct as required by policy. It was further alleged that the Named Employees may have failed to assist the Complainant with filing a complaint.

STATEMENT OF FACTS:

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) responded to an assault call at the Lazarus Day Center. The officers were told the following: “In the lobby, there’s a high female with a knife.” NE#1 was a student officer on the date in question and NE#2 was his Field Training Officer. Named Employee #3 (NE#3), Named Employee #4 (NE#4), and Named Employee #5 (NE#5) also self-dispatched to the call. When the Named Employees arrived at the location, they spoke to two witnesses who identified the Complainant as the subject. She was not armed with the knife at that time and was facing away from the officers.

NE#1 identified himself as a police officer and he and NE#5 approached the Complainant on each side of her. Both he and NE#5 attempted to control the Complainant’s arms and to prevent her from reaching for the knife using control holds. The officers asked her where the knife was and she stated that she did not have to tell them. She also refused to tell the officers her name. NE#4 searched her outside pockets to locate the knife. The Complainant asserted that this was an unconstitutional search and began pulling away from and turning towards the officers. NE#2 then made the decision to place the Complainant into handcuffs. The officers pushed her forward so that her body was bent over a counter and NE#1 handcuffed her. During this time, the Complainant spoke incoherently, including stating that she had been subjected to rape and liposuction. At one point, she stated that she was being kidnapped, falsely arrested, and subjected to brutality. She also claimed that the officers were subjecting her to excessive force. She began to push back against the officers, including trying to kick them.

NE#2 then informed the Complainant that she was under arrest and ordered her to stand up. She tried to drop down to the ground but was held up by officers. The officers then carried her to the exit. She kicked at the officers. She asked the officers why they kept hurting her. When they got to the stairs, the officers placed the Complainant on the ground. She continued to repeatedly yell, often incoherently. The officers then carried her up the stairs and, when they got to the street level, placed her on the ground. While outside, she told the officers that they broke her finger.

When the Complainant was later examined by medics, it was determined that she potentially did have a broken finger. The Department’s Force Investigation Team (FIT) was notified and took over the investigation. The involved officers were all interviewed shortly after the incident. Given the Complainant’s numerous allegations of misconduct – most notably, that she was being raped, kidnapped, falsely arrested, subjected to excessive force and police brutality, and that a number of her bones were broken (ribs, back, finger) – FIT referred this matter to OPA and this investigation ensued.



In a separate case (*see* 2018OPA-0318), OPA evaluated potential supervisory deficiencies on the part of the Named Employees' Sergeant, who did not come to the scene when requested. This case solely concerns whether the Named Employees failed to properly report alleged misconduct and/or whether they failed to assist the Complainant in initiating an OPA complaint.

During its investigation, OPA reviewed the documentation relating to this case and the Department video. OPA also reviewed the FIT file. Lastly, OPA conducted interviews of all of the Named Employees.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

All of the Named Employees told OPA that the Complainant was screaming and ranting incoherently during virtually the entirety of their interaction with her. They further stated that it was clear that she was in severe crisis. Both of these observations are consistent with the video evidence. NE#1, NE#2, NE#3, and NE#5 told OPA that they did not hear any of the complaints of potential misconduct. They explained that the scene was chaotic and that they were trying to take the Complainant into custody and remove her against her will from the building while, at the same time, ensuring officer safety in a location that could contain potential threats. NE#4, to the contrary, said that he heard the complaints of purported misconduct; however, he believed it to be the ranting of a mentally ill individual rather than actual actionable complaints of misconduct. As such, he, like the other Named Employees, did not report the Complainant's allegations to a supervisor.

SPD Policy 5.002-POL-6 requires Department employees to report any alleged serious misconduct to a supervisor or directly to OPA. Serious misconduct includes allegations of false arrest, excessive force, rape, and kidnapping.

Under the circumstances of this case, I find that the Named Employees' failure to immediately report the Complainant's myriad statements to a supervisor was excusable. First, she was clearly in crisis and was yelling and speaking incoherently during the entire incident. Second, her claims were clearly frivolous based on the video evidence. Third, as NE#4 contended, it was unclear whether she was actually making a claim of misconduct or whether she was simply articulating anything that came to her mind in the moment. Fourth, as addressed in 2018OPA-0318, the overall supervision of this incident by the Named Employees' Sergeant was lacking. Had there been a more thorough screening conversation, these issues might have been discerned and the alleged misconduct disclosed at an earlier time. Fifth, this case was referred to FIT and, as such, a complete investigation was completed and these issues were thoroughly explored at the Named Employees' FIT interviews.

While best practice would have been to report the Complainant's numerous allegations, as discussed above, I do not find that the Named Employees violated policy in this instance. For these reasons, and given the unique circumstances of this case, I recommend that this allegation be Not Sustained – Lawful and Proper as against all of the Named Employees.

Recommended Finding: **Not Sustained (Lawful and Proper)**



Named Employee #1 - Allegation #2

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

SPD Policy 5.002-POL-2 states that Department employees must assist any person who wishes to file a complaint.

Here, while the Complainant made a number of allegations of misconduct, she did not explicitly request assistance in filing an OPA complaint or, for that matter, indicate that she wished to file a complaint. However, when she made those statements, none of the Named Employees asked her if she wanted them to facilitate the filing of a complaint with OPA.

All of the Named Employees contended that the Complainant was clearly in crisis. As is clear from the Department video, they were unable to communicate with her and she continually yelled and spoke incoherently during the incident.

Given the above, and under the specific circumstances of this case, I do not find that the Named Employees violated this policy. As such, I recommend that this allegation be Not Sustained – Lawful and Proper as against the Named Employees.

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #2 - Allegations #1

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

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

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #2 - Allegation #2

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

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

Recommended Finding: **Not Sustained (Lawful and Proper)**



Named Employee #3 - Allegations #1

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

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

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #3 - Allegation #2

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

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

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #4 - Allegations #1

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

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

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #4 - Allegation #2

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

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

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #5 – Allegation #1

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

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

Recommended Finding: **Not Sustained (Lawful and Proper)**



Named Employee #5 – Allegation #2

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

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

Recommended Finding: **Not Sustained (Lawful and Proper)**