



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 14, 2019

CASE NUMBER: 2018OPA-0052

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	6.220 - Voluntary Contacts, Terry Stops & Detentions 4. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Amount of Time	Not Sustained (Lawful and Proper)
# 3	6.220 - Voluntary Contacts, Terry Stops & Detentions 6. Officers Cannot Require Subjects to Identify Themselves or Answer Questions on a Terry Stop	Not Sustained (Lawful and Proper)
# 4	6.220 - Voluntary Contacts, Terry Stops & Detentions 7. Officers Can Detain Subjects to Identify Them in Order to Issue a Notice of Infraction	Not Sustained (Lawful and Proper)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	6.220 - Voluntary Contacts, Terry Stops & Detentions 4. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Amount of Time	Not Sustained (Lawful and Proper)
# 3	6.220 - Voluntary Contacts, Terry Stops & Detentions 6. Officers Cannot Require Subjects to Identify Themselves or Answer Questions on a Terry Stop	Not Sustained (Lawful and Proper)
# 4	6.220 - Voluntary Contacts, Terry Stops & Detentions 7. Officers Can Detain Subjects to Identify Them in Order to Issue a Notice of Infraction	Not Sustained (Lawful and Proper)

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 that the Named Employees subjected him to bias when they stopped and then later arrested him. It was further alleged that the Named Employees may have extended the stop of the Complainant to more than a reasonable amount of time, that they required the Complainant to provide his identification during a Terry stop, and that they improperly detained him for an extended period of time in order to identify him.



ADMINISTRATIVE NOTE:

Due to high investigatory caseloads and the time it took to complete the additional investigation requested by the OPA Auditor, this investigation was completed and the DCM submitted past the 180-day deadline.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” (SPD Policy 5.140.) This includes different treatment based on the race of the subject. (*See id.*)

The Complainant alleged that the Named Employees stopped him based on bias. Specifically, the Complainant contended that they did so because he was African-American and unsheltered. The Named Employees stated that, to the contrary, the sole reason they stopped the Complainant was because he was riding his bicycle without a helmet in violation of the King County Health Code.

As part of its investigation, OPA researched the stops made by the Named Employees to see whether there was any evidence of bias on their part. Over the two-month period preceding this incident, NE#1 stopped 17 individuals for a variety of potential infractions and/or criminal activity. Of those 17 individuals, 12 were Caucasian, two were African-American, and two others were race unknown. Five of NE#1’s stops involved a subject who was riding a bicycle without a helmet and, of those, four of the subjects were Caucasian and one was African-American.

NE#2 conducted 11 stops in the same two-month period, which involved 21 individuals. Of the individuals stopped, 18 were Caucasian, one was identified as Asian, and two were African-American. Two of the 11 stops involved subjects riding a bicycle without a helmet. One of those stops involved both an Asian male and African-American male. The second stop involved a Caucasian male.

Based on the above, as well as on the documentation and Department video in this case, I find insufficient evidence to establish that the Named Employees engaged in biased policing. For these reasons, I recommend that this allegation be Not Sustained – Unfounded as against both Named Employees.

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

Named Employee #1 - Allegation #2

6.220 - Voluntary Contacts, Terry Stops & Detentions 4. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Amount of Time

SPD Policy 6.220-POL-4 requires that officers limit Terry stops to a reasonable amount of time. It instructs that “subjects may only be seized for that period of time necessary to effect the purpose of the stop” and further states that “officers may not extend a detention solely to await the arrival of a supervisor.” (SPD Policy 6.220-POL-4.)



As discussed above, the officers stopped the Complainant for riding his bicycle. This was a violation of law for which the officers had probable cause to issue a citation. Moreover, in order to issue the citation, the officers were permitted to require the Complainant's identification.

After the detention was effectuated, the officers asked the Complainant to identify himself. He provided a first and last name at that time; however, the Named Employees believed this information to be false. The Named Employees believed this based on the Complainant saying to the officers that he did not have a middle initial, his initial refusal to tell them how old he was, and his fluctuations when describing his height. He further had no state-issued identification on his person and said that he was from out of state. The Named Employees spent the first 17 minutes of the detention trying to unsuccessfully identify the Complainant. An Acting Sergeant then arrived on the scene and tried to help identify the Complainant. The officers collectively attempted to do so until approximately 43 minutes into the detention when the Acting Sergeant asked the Complainant whether he would agree to be fingerprinted in the field. The Complainant again refused to cooperate and was placed under arrest for obstruction.

Here, the officers detained the Complainant for a total of 43 minutes. This is significantly longer than the 20 minutes that is viewed as the outside of a presumptively reasonable detention. That being said, I find that this detention was reasonable as the length of the detention was based on the Complainant's ongoing refusal to cooperate. The officers were legally permitted to require the Complainant to identify himself. When he did not do so and provided them with false information, they were allowed to continue to detain him until he could be identified.

As such, I recommend that this allegation be Not Sustained – Lawful and Proper as against both Named Employees.

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

Named Employee #1 - Allegation #3

6.220 - Voluntary Contacts, Terry Stops & Detentions 6. Officers Cannot Require Subjects to Identify Themselves or Answer Questions on a Terry Stop

SPD Policy 6.220-POL-6 holds that "officers cannot require subjects to identify themselves or answer questions on a Terry stop." While officers are entitled to request this information, they cannot mandate it. The policy further states that: "Officers may not transport a person to any police facility or jail merely for the purpose of identifying them unless they have probable cause for arrest." (SPD Policy 6.220-POL-6.) Lastly, the policy permits arrests for false reporting when a subject provides false written or oral identification. (*Id.*)

As discussed more fully above and below, the Named Employees were permitted to require the Complainant to identify himself as they had the legal authority to issue him a citation. As such, the prohibition on doing so set forth in this policy is inapplicable to this incident. Accordingly, I recommend that this allegation be Not Sustained - Lawful and Proper as against both Named Employees.

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



Named Employee #1 - Allegation #4

6.220 - Voluntary Contacts, Terry Stops & Detentions 7. Officers Can Detain Subjects to Identify Them in Order to Issue a Notice of Infraction

SPD Policy 6.220-POL-7 states that, where officers have probable cause to issue a notice of infraction for any City ordinance violation, they may detain the subject for a reasonable amount of time to identify the subject. If the subject refuses to provide identification, the officer may request that a fingerprinting kit be brought to the scene and used to identify the subject. (SPD Policy 6.220-POL-7.) Subjects who then “refuse or physically resist being fingerprinted or who leave while waiting for the fingerprinting kit can be arrested for obstructing.” (*Id.*)

The Named Employees had probable cause to issue an infraction to the Complainant. When he provided identifying information that the Named Employees reasonably believed was false, they were permitted to detain the Complainant to identify him using a Mobile Fingerprint Reader. Further, when he refused to allow himself to be fingerprinted, the Named Employees appropriately arrested the Complainant for obstruction.

As such, I find that the Named Employees complied with the requirements of this policy and I recommend that this allegation be Not Sustained – Lawful and Proper as against both Named Employees.

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

Named Employee #2 - Allegation #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

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

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

Named Employee #2 - Allegation #2

6.220 - Voluntary Contacts, Terry Stops & Detentions 4. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Amount of Time

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 #2 - Allegation #3

6.220 - Voluntary Contacts, Terry Stops & Detentions 6. Officers Cannot Require Subjects to Identify Themselves or Answer Questions on a Terry Stop

For the same reasons as stated above (see Named Employee #1, Allegation #3), I recommend that this allegation be Not Sustained – Lawful and Proper.



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

Named Employee #2 - Allegation #4

6.220 - Voluntary Contacts, Terry Stops & Detentions 7. Officers Can Detain Subjects to Identify Them in Order to Issue a Notice of Infraction

For the same reasons as stated above (see Named Employee #1, Allegation #4), I recommend that this allegation be Not Sustained – Lawful and Proper.

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