



## **CLOSED CASE SUMMARY**

ISSUED DATE: NOVEMBER 20, 2018

CASE NUMBER: 2018OPA-0487

### **Allegations of Misconduct & Director’s Findings**

**Named Employee #1**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	6.220 - Voluntary Contacts, Terry Stops & Detentions 10. Officers Must Document All Terry Stops	Not Sustained (Training Referral)
# 2	6.220 - Voluntary Contacts, Terry Stops & Detentions 3. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope	Not Sustained (Lawful and Proper)
# 3	6.220 - Voluntary Contacts, Terry Stops & Detentions 5. During all Terry Stops, Officers Will Take Reasonable Steps to Be Courteous and Professional, Including Identifying Themselves	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 she was unlawfully detained and handcuffed. She further contended that the officers who detained her did not explain why she had been stopped and handcuffed. OPA also alleged that the Named Employee failed to document the detention in a *Terry* Template.

#### **STATEMENT OF FACTS:**

Officers responded to a call concerning potential trespassers in a building. People squatting in the building had previously robbed an adjoining salon. The officers were let inside and they performed a building search. During that search, they located two trespassers. Both of those individuals were placed under arrest. The officers continued to search the building and came upon the Complainant, who was in a back hallway. She was sitting on the floor with her legs and feet covered by a blanket. She had a backpack and other clothing around her on the floor. The officers announced themselves as Seattle Police and asked the Complainant to put her hands up and walk towards them.

Named Employee #1 (NE#1), who was the supervisor on scene, told an officer to handcuff the Complainant. They asked her what business she was in the vicinity of and she stated the name of the salon. She told the officers that she worked there. The officers told the Complainant that she was going to be temporarily handcuffed until they could determine what was happening. The Complainant was visibly upset at being detained and handcuffed.

Once she was handcuffed, one of the officers told the Complainant that they were searching for and had located trespassers in the building. He told her that her things on the ground made it look like she was a “camper.” He further explained that she had been handcuffed for officer safety and that they were going to figure out what was



---

going on so that she could be released. The Complainant told the officer that she was upset and the officer responded that he could see that she was frustrated but that he needed to maintain his and other officers' safety.

After conducting further investigation, NE#1 returned to where the Complainant was standing. He informed the Complainant that she would be released and instructed an officer to remove her handcuffs. He apologized to the Complainant and explained that the officers believed that she was a trespasser. He gave her a business card and then left the scene. Another officer advised the Complainant to lock the door to the hallway that she was resting in.

The Complainant later filed this complaint with OPA. She indicated that she was unhappy with the situation and how it was handled. She explained that she was taking a break from work and was napping. She contended that she was not told what was happening and that the officers would not speak to her. She stated that she was handcuffed and detained without any discussion. She told OPA that she was released from custody after she informed the officers that she was pregnant.

OPA then initiated this investigation. NE#1 informed OPA that he ordered the detention and handcuffing of the Complainant. As such, NE#1 was included as a Named Employee, but the other involved officer, who performed the detention and handcuffing at his NE#1's direction, was not named.

#### **ANALYSIS AND CONCLUSIONS:**

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

##### ***6.220 - Voluntary Contacts, Terry Stops & Detentions 10. Officers Must Document All Terry Stops***

SPD Policy 6.220-POL-10 requires that officers document all *Terry* stops using a *Terry* Template. Within the *Terry* Template, officers are instructed to "clearly articulate the objective facts they rely upon in determining reasonable suspicion." (SPD Policy 6.220-POL-10.)

As discussed above, NE#1 told OPA that he was responsible for the detention of the Complainant. He further acknowledged that he failed to ensure that a *Terry* Template was generated to document the stop.

The failure to do so represented a violation of policy. However, I recommend a Training Referral rather than a Sustained finding for several reasons. First, sergeants generally are not responsible for completing *Terry* Templates. As such, I do not overly fault NE#1 for failing to remember to do so here. Second, NE#1 took responsibility for his error at his OPA interview and did not make any excuses. Third, NE#1 has not previously violated this policy and, based on his statements at his OPA interview, it does not appear that he will do so in the future.

- **Training Referral:** NE#1 should receive retraining on SPD Policy 6.220-POL-10 and, specifically, on the requirement that a *Terry* Template be generated to document all *Terry* stops. NE#1 should be counseled concerning his failure to execute a *Terry* Template here. NE#1's chain of command should ensure that he complies with this policy moving forward. This retraining and associated counseling should be documented and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**



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

***6.220 - Voluntary Contacts, Terry Stops & Detentions 3. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope***

As a threshold matter, the evidence indicates that there was reasonable suspicion supporting the detention of the Complainant. The officers were doing a building search and had already located two trespassers. When they came into contact with the Complainant, she was sitting in an empty hallway and, at first glance, reasonably appeared to also be trespassing. As such, the officers had a lawful basis to briefly detain her in order to determine whether she was, in fact, engaging in criminal activity. This was the case even though the detention was indisputably frightening and frustrating for the Complainant.

SPD Policy 6.220-POL-3 instructs that, during a Terry stop, officers will limit the seizure to a reasonable scope. Where additional steps are taken to limit a person's freedom – such as applying handcuffs – additional justification for such action is required. (SPD Policy 6.220-POL-3.) This allegation was classified in this case because NE#1 ordered that the Complainant be handcuffed while the officers conducted their investigation.

At his OPA interview, NE#1 stated his belief that such additional justification was present under the circumstances. Specifically, he stated that he was concerned about officer safety given that there were only three officers present in the immediate vicinity. He further explained that they had already arrested two trespassers, which reasonably suggested that more potential trespassers could be present. From OPA's review of the video, it appears that the detention of the Complainant lasted for approximately three minutes and that she was handcuffed for just over two minutes. Once NE#1 verified that she was not trespassing, the handcuffs were removed.

Based on OPA's analysis of the record, including the Body Worn Video (BWV) and NE#1's OPA interview, I conclude that NE#1 acted consistent with this policy and, as such, I recommend that this allegation be Not Sustained – Lawful and Proper. I reach this conclusion even though I sympathize with the Complainant in light of what she experienced.

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

**Named Employee #1 - Allegation #3**

***6.220 - Voluntary Contacts, Terry Stops & Detentions 5. During all Terry Stops, Officers Will Take Reasonable Steps to Be Courteous and Professional, Including Identifying Themselves***

SPD Policy 6.220-POL-5 requires that officers take reasonable steps to be courteous and professional during a Terry stop, including identifying themselves.

Here, the BWV establishes that NE#1, as well as the officer who handcuffed the Complainant, announced themselves as police officers. Both NE#1 and the other officer also explained why the Complainant had been



---

detained and handcuffed. After the detention had concluded, NE#1 apologized multiple times to the Complainant. Overall, NE#1 was professional towards the Complainant.

Based on the evidence, I find that NE#1 acted consistent with policy. As such, I recommend that this allegation be Not Sustained – Lawful and Proper.

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