




CLOSED CASE SUMMARY

ISSUED DATE: JUNE 9, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0409

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001-POL 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained - Unfounded (Expedited)
# 2	6.220 - Voluntary Contacts, Terry Stops & Detentions POL-2 Conducting a Terry Stop 2. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope	Not Sustained - Training Referral (Expedited)
# 3	6.220 - Voluntary Contacts, Terry Stops & Detentions POL- 4 During all Terry Stops, Officers Will Take Reasonable Steps to Be Courteous and Professional	Not Sustained - Unfounded (Expedited)

**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 Named Employee #1 (NE#1)—a former employee—harassed and stole money from a detainee.

ADMINISTRATIVE NOTE:

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General’s agreement, believed it could reach, and issue recommended findings based solely on its intake investigation without interviewing the involved employees. As such, OPA did not interview the involved employee.

NE#1 separated from the Department during this investigation. Accordingly, the case is not governed by a collective bargaining agreement.

SUMMARY OF INVESTIGATION:

OPA received an Unsubstantiated Misconduct Screening (UMS) from an SPD supervisor.¹ The UMS indicated NE#1 saw an occupied stolen vehicle that fled from NE#1 and crashed. There were two occupants. The driver was arrested without incident, but the passenger escaped. Minutes later, NE#1 identified the Complainant as the passenger. NE#1 detained the Complainant. The Complainant alleged that his detention was harassment and that NE#1 stole cash from his wallet. The SPD supervisor reviewed the BWV and ICV and requested the matter be deemed unsubstantiated. OPA requested a referral and opened an investigation.

¹ See OPA Internal Operations and Training Manual, section 8.1 (Unsubstantiated Misconduct Screenings).



During its investigation, OPA reviewed the UMS, OPA complaint sent via Blue Team, computer-aided dispatch (CAD) call report, incident and supplemental reports, body-worn video (BWV), and in-car video (ICV). OPA contacted the Complainant multiple times by telephone, the only available contact information. OPA called the Complainant three times and left two messages. The Complainant did not respond. Accordingly, the Complainant was not interviewed.

The relevant facts concerning this incident were captured in the CAD Call Report, BWV, and ICV.

The CAD call report showed NE#1 responded to an occupied stolen vehicle. NE#1 saw the car, and dispatch confirmed the vehicle was stolen. NE#1 also gave dispatch the vehicle's description, location, and occupants' description. NE#1 attempted a traffic stop, but the vehicle fled, distancing itself from NE#1 as she followed. The car lost control and drove over a roadway median, driving in the wrong lane. NE#1 deactivated her lights and sirens and stopped following the vehicle.

Less than two minutes later, other officers found the vehicle crashed into a tree. Officers arrested the driver without incident. The passenger was not in the car. However, an officer in a nearby location saw the Complainant and requested a description of the passenger. NE#1 radioed the passenger's description and drove to confirm whether the Complainant was the passenger.

NE#1 identified the Complainant as the passenger. NE#1 identified herself as SPD and ordered the Complainant to stop, but he kept walking. Other officers arrived, and NE#1 approached the Complainant with her firearm drawn and ordered him to put his hands against a wall. The Complainant complied. Officers handcuffed the Complainant. The Complainant said he was "...not doing anything" and asked why they were "harassing" him. NE#1 explained he was detained for being in a stolen vehicle, which the Complainant denied. NE#1 asked the Complainant for identification. The Complainant said it was in his wallet in his back pocket. NE#1 asked for the Complainant's consent to retrieve his wallet, which he allowed.

As other officers guarded the Complainant, NE#1 returned to her police vehicle with the Complainant's wallet. NE#1 removed his driver's license and ran his information. NE#1 learned the Complainant had open felony and misdemeanor warrants. NE#1 returned to the Complainant and told him about the warrants. The Complainant replied, "They won't take me."

NE#1 returned to her vehicle and put the Complainant's wallet on the hood. In her car, NE#1 checked information on CAD and waited for information to be returned on the Complainant's warrants. NE#1 learned from dispatch that the Complainant was only bookable at the South Correctional Entity (SCORE). The Complainant was released since no officer was immediately willing to transport him to SCORE.

NE#1 retrieved the Complainant's wallet and returned it to him. The Complainant said, "But my cash is in there, though." NE#1 replied, "Yeah, I didn't touch any of your cash." The Complainant looked in his wallet and said, "You did take my cash." NE#1 replied, "No, don't even say I took your cash. It's all on camera. Don't try, 'cause I'll take you down myself. Do you want to talk to a sergeant?" The Complainant asked to speak to a sergeant but immediately left after NE#1 gave him a business card.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001-POL 2. Employees Must Adhere to Laws, City Policy and Department Policy

The Complainant alleged that NE#1 stole cash from his wallet.

Employees must adhere to laws, City policy, and Department policy. SPD Policy 5.001-POL-2.

Here, OPA reviewed all the BWV and ICV associated with this incident. BWV showed NE#1 only removed the Complainant's driver's license from his wallet. BWV did not depict NE#1 removing currency. Moreover, ICV recorded the wallet on the hood of NE#1's vehicle and did not depict NE#1 taking cash from it.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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

Named Employee #1 - Allegation #2

6.220 - Voluntary Contacts, Terry Stops & Detentions POL-2 Conducting a Terry Stop 2. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope

The Complainant alleged NE#1 unjustifiably stopped him.

Officers must limit a seizure to a reasonable scope. SPD Policy 6.220-POL-2(2). The policy further states, "Actions that would indicate to a reasonable person that they are being arrested or indefinitely detained may convert a *Terry* stop into an arrest." SPD Policy 6.220-POL-2(2). The policy provides a list of possible actions that could indicate to a reasonable person that they are being arrested—such as applying handcuffs or using force—but specifies that the occurrence of any one of these would not necessarily convert a *Terry* stop into an arrest. *See id.* Unless justified by the basis for the original stop, the policy requires officers to have "additional articulable justification" to take any of these actions. *Id.*

Here, BWV, ICV, and CAD established that NE#1 believed the Complainant occupied a stolen car. However, without more, simply occupying a stolen car was not a crime. There was no indication that the Complainant possessed the stolen car (see RCW 9A.56.068) or even knew it was stolen. At best, the Complainant leaving the scene after the crash suggested he knew something was awry. Yet still, NE#1 forcibly detaining the Complainant with her firearm, ordering him against a wall, and allowing him to be handcuffed likely exceeded the scope of the questionable stop.

Accordingly, OPA recommends this allegation be Not Sustained – Training Referral (Expedited).

- Required Training: Had NE#1 remained with the Department, her chain of command would have discussed OPA's findings with NE#1, reviewed SPD Policy 6.220-POL-2(2) with NE#1, and provided retraining and counseling deemed appropriate. Retraining and counseling should be documented and maintained in Blue Team.

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



Named Employee #1 - Allegation #3

6.220 - Voluntary Contacts, Terry Stops & Detentions POL- 4 During all Terry Stops, Officers Will Take Reasonable Steps to Be Courteous and Professional

The Complainant alleged NE#1 “harassed” him during a *Terry* stop.

SPD Policy 6.220-POL-2(4) requires that, during a *Terry* stop, officers will take reasonable steps to be courteous and professional. The policy further states that: “When reasonable, as early in the contact as safety permits, officers will inform the suspect of the following: The officer’s name; The officer’s rank or title; The fact that the officer is a Seattle Police Officer; The reason for the stop; That the stop is being recorded, if applicable.”

Here, NE#1 took reasonable steps to be professional during this stop. Although, at times, NE#1 employed assertive language to respond to the Complainant’s statements or allegations, NE#1 was not unprofessional. Moreover, NE#1 informed the Complainant of her status as a police officer and the reason for the stop. NE#1 also provided the Complainant with a business card towards the end of the short detention. The business card provided most of the remaining information listed in the policy (NE#1’s name and rank). NE#1 also referenced it was all “on camera,” which reasonably apprised him he was recorded.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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