




CLOSED CASE SUMMARY

ISSUED DATE: JUNE 9, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0413

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	6.150 - Advising Persons of Right to Counsel and Miranda 6.150-POL 2. Miranda Warnings Must Precede Custodial Interview.	Sustained
# 2	6.290 - Juvenile Investigations and Arrests 6.290-POL 4. Officers Will Notify Parents of Arrest as soon as Possible.	Not Sustained - Unfounded

Imposed Discipline

Oral Reprimand

Named Employee #2

Allegation(s):		Director's Findings
# 1	6.150 - Advising Persons of Right to Counsel and Miranda 6.150-POL 2. Miranda Warnings Must Precede Custodial Interview.	Sustained
# 2	6.290 - Juvenile Investigations and Arrests 6.290-POL 4. Officers Will Notify Parents of Arrest as soon as Possible.	Not Sustained - Unfounded

Imposed Discipline

Oral Reprimand

Named Employee #3

Allegation(s):		Director's Findings
# 1	6.150 - Advising Persons of Right to Counsel and Miranda 6.150-POL 2. Miranda Warnings Must Precede Custodial Interview.	Sustained
# 2	6.290 - Juvenile Investigations and Arrests 6.290-POL 4. Officers Will Notify Parents of Arrest as soon as Possible.	Not Sustained - Unfounded

Imposed Discipline

Oral Reprimand

Named Employee #4

Allegation(s):		Director's Findings
# 1	6.150 - Advising Persons of Right to Counsel and Miranda 6.150-POL 2. Miranda Warnings Must Precede Custodial Interview.	Not Sustained - Training Referral
# 2	6.290 - Juvenile Investigations and Arrests 6.290-POL 4. Officers Will Notify Parents of Arrest as soon as Possible.	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:

The Complainant alleged the Names Employees unlawfully interrogated his juvenile son about a residential burglary.

ADMINISTRATIVE NOTE:

The Office of Inspector General (OIG) certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

On November 14, 2022, officers responded to a residential burglary call. Community Member #1 (CM#1) reportedly left his three sons at home. While he was away, an unknown subject reportedly entered the house and stole \$5,300 from CM#1's wallet. Community Member #2 (CM#2)—one of CM#1's sons who reportedly saw the offender—described the subject as a Black man around 35 years old, medium build, wearing a black baseball cap, grey t-shirt, and black sweatpants. Later that night, CM#2 saw the offender outside their gate. The offender fled into a nearby encampment. Officers unsuccessfully searched the area.

On November 28, 2022, CM#1 called 9-1-1, reporting that someone was inside his home trying to steal money. CM#1 identified the subject as the same offender from the November 14th residential burglary. Officers arrived and contacted CM#1 and Community Member #3 (CM#3)—the Complainant's juvenile son. CM#1 told officers he saw CM#3 trying to open CM#1's residence door. CM#1 said he opened the door, told CM#3 to enter, and told CM#3 he was calling the police. CM#1 said one of his sons recognized CM#3 from the November 14th residential burglary. CM#3 told officers he was one of CM#1's son's friends/schoolmates. CM#3 said he came to the house because CM#1's son was not at school. CM#1 insisted CM#3 and his son could not be friends because they did not speak the same language. CM#1 declined to have CM#3 arrested but wanted his parents' names and contact information. An officer gave CM#1 CM#3's mother's name and contact information.

Body-worn video (BWV) captured the named employees' interactions with CM#3. In summary, BWV showed:

Upon arrival, Named Employee #1 (NE#1)—a sergeant—encountered CM#3 exiting CM#1's house. NE#1 asked whether CM#3 had weapons. CM#3 replied, "No, I'm a kid!" CM#3 sat on the front steps and said he wanted to go home. NE#1 directed CM#3 to put his phone down. NE#1 asked CM#3 whether he knew anyone at CM#1's house. CM#3 said his classmate lived there, and he came to check on him when he did not show up at school. CM#3 said he left the house when CM#1's family approached him about a prior burglary and took him inside. NE#1 asked where CM#3 lived. CM#3 said he lived up the street and was 13 years old. NE#1 asked what school CM#3 attended. CM#3 said, Mercer. NE#1 asked the name of the kid CM#3 was visiting. CM#3 said he did not know his name, but the kid did not speak English and walked to school together. NE#1 asked how they communicated. CM#3 explained they did not talk but played together, like pushing shopping carts down a hill behind their homes. CM#3 asked whether he was going to the police station. NE#1 said he did not know, but "they'll figure it out."

Named Employee #2 (NE#2) patted CM#3 for weapons and documented his information. NE#2 also asked CM#3 about his relationship with CM#1's family. Named Employee #3 (NE#3) and Named Employee #4 (NE#4) approached. NE#4



asked whether CM#3 was at the house two weeks prior, but NE#2 interjected with CM#3's information. NE#2 and CM#3 discussed cars. CM#3 said he only entered CM#1's house when they pulled him inside and made him await the police. CM#3 repeated the story about checking on his classmate. NE#2 question, "Does that seem a little strange that you're coming over here and you don't know his name or don't talk to him? You're looking in the windows?" NE#4 said, "So they said that you were here two weeks ago, and you took \$5,300." CM#3 exclaimed, "53!!" NE#2 said, "All you gotta do right now is just tell the truth." CM#3 reiterated he never entered CM#1's house before that day. NE#2 asked, "You're sure you're telling the truth?" NE#2 asked whether CM#1's family would say he was friends with their son. CM#3 replied, "I mean yeah, friends... or acquaintances." NE#2 said, "Friends? But you don't know his name, and he doesn't speak English. Look at me. You telling the truth?" CM#3 said yes. NE#2 again asked, "You sure? Were you here two weeks ago?" NE#2 directed CM#3 to sit on his SPD cruiser's push bar and said, "There's something going on. Just tell me. Whatever, you're 13. People make mistakes. I don't know what's going on." CM#3 said he heard about nearby robberies. NE#2 again asked whether CM#3 took any money. CM#3 denied it but asked about the consequences. NE#2 said, "Well, it'd be burglary if you entered the home. So that's a felony, but you're a juvenile. So you go to court, trial, judge, you know, they all they make those decisions."

NE#3 and N#4 arrived together. Witness Employee #1 (WE#1) told NE#4 that CM#1 saw CM#3 enter the house and take \$5,300. WE#1 told NE#4 to pull up the prior report. NE#4 returned to his cruiser. An officer approached and asked, "I don't know if you heard the kid's side of the story?" NE#3 replied, out of CM#3's earshot, "He definitely did it." NE#4 asked CM#3 whether he entered CM#1's home two weeks prior, which he again denied. NE#4 told NE#3 that CM#3 should have the opportunity to return CM#1's money but that CM#3 should be arrested if he refused. WE#1 relocated to CM#1's family, who confirmed that CM#1's son knew CM#3 but insisted they never interacted since CM#1's son did not speak English. NE#4 told CM#3, "All right, [CM#3]. So, this is pretty much where we're at right now. So, they're willing, if you give us your parents' information and they can try working it out, getting that money back with your parents or, since they did identify you and say you were here two weeks ago and you took that money, we could, we could take you to jail for, for burglary. So, do you want to give them..."¹ NE#3 followed up, "At this point, basically, you get ahold of your parents, and you get to go home today. If not, you gotta come with us today." CM#3 provided his mom's name and contact information. NE#4 verified that information, and CM#3 was released.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

6.150 - Advising Persons of Right to Counsel and Miranda 6.150-POL 2. Miranda Warnings Must Precede Custodial Interview.

The Complainant alleged that NE#1 failed to issue Miranda warnings before a custodial interview with CM#3.

Sworn employees must give Miranda warnings before questioning a person who is in custody (i.e., custodial interview). SPD Policy 6.150-POL-2. "A juvenile's age is a consideration in determining whether the juvenile would not feel free to leave. A child may be in custody for purposes of the Miranda rule when an adult in the same circumstances would not." *Id.*

Here, CM#3 was detained by the named employees. While several named employees seemed misinformed about when *Miranda* is triggered—either indicating it's by a *Terry* stop or arrest—SPD policy makes it clear that *Miranda*

¹ That statement was interrupted by NE#2 going to another call.



warnings must precede a custodial interview [Also see *Miranda v. Arizona*, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694 (1966) (a custodial interrogation means questioning initiated by law enforcement officers after a person has been taken into custody **or otherwise deprived of his freedom of action in any significant way** (emphasis added).] The circumstances 13-year-old CM#3 faced established he was not free to leave. Specifically, CM#1—an adult—stopped him, accused him of residential burglary, and directed him into CM#1’s home to await police. NE#1—a uniformed sergeant—arrived and initiated CM#3’s detention by directing him to sit on CM#1’s steps and to put his phone down. Thereafter, NE#1 questioned—without issuing *Miranda* warnings—CM#3 about his connection to CM#1’s home. Despite CM#3 telling NE#1 he was 13 years old, lived up the street, and wanted to go home, NE#1 probed him about his claimed relationship with CM#1’s son and the school he attended. The circumstances reasonably suggested to CM#3 that he was detained and pending arrest when he asked NE#1 whether he would be taken to a police station. NE#1 replied, “They’ll figure it out.” Although NE#1 did not stay for CM#3’s entire detention, his actions violated policy. Further, as a supervisor and first officer at the scene, NE#1 failed to complete a *Terry* template form or investigate whether CM#3 matched the description of the offender listed in the November 4th police report. A simple search would have flagged an 18-year age gap between the described November 4th offender and CM#3 rather than subjecting CM#3 to what most adults, let alone a 13-years old, would find to be a terrifying experience.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #2

6.290 - Juvenile Investigations and Arrests 6.290-POL 4. Officers Will Notify Parents of Arrest as soon as Possible.

The Complainant alleged that NE#1 failed to notify CM#3’s parents about his contact with the named employees.

Officers will notify parents of an arrest as soon as possible. SPD Policy 6.290-POL-4. Officers will make reasonable attempts to contact the parents/guardians of arrested juveniles to advise them of the juvenile’s status and location. *Id.* This will be documented in the report. *Id.* Officers will document the name, date of birth, address, and telephone number of the parent/guardian contacted. *Id.*

While NE#3 and NE#4 suggested they were prepared to arrest CM#3 unless he provided his parents’ contact information, he was not arrested. Therefore, the named employees were not required to notify CM#3’s parents.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #2 - Allegation #1

6.150 - Advising Persons of Right to Counsel and Miranda 6.150-POL 2. Miranda Warnings Must Precede Custodial Interview.

The Complainant alleged that NE#2 failed to issue Miranda warnings before a custodial interview with CM#3.

Here, after CM#3 was detained by NE#1, NE#2 frisked, detained, and further questioned him. Specifically, NE#2 frisked CM#3 for weapons—although there was no indication he was armed or dangerous (See SPD Policy 6.180-POL-5). NE#2



also directed CM#3 to sit on his patrol cruiser’s push bar. Without issuing *Miranda* warnings, NE#2 repeatedly pushed CM#3 to “tell the truth.” He also had CM#3 reexplain why he came to CM#1’s house and pressed him on explanations he found questionable: “But you don't know [CM#1’s son’s] name, and he doesn't speak English. Look at me. You telling the truth?” and “There's something going on. Just tell me. Whatever, you're 13. People make mistakes.” NE#2 also questioned CM#3 about the November 4th residential burglary: “You sure? Were you here two weeks ago?” Moreover, where a reasonable temporary detention is generally up to 20 minutes, CM#3 was detained for roughly 30 minutes.² Overall, NE#2’s actions violated policy.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #2 - Allegation #2

6.290 - Juvenile Investigations and Arrests 6.290-POL 4. Officers Will Notify Parents of Arrest as soon as Possible.

The Complainant alleged that NE#2 failed to notify CM#3’s parents about his contact with the named employees.

For the reasons at Named Employee #1 – Allegation #2, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #3 - Allegation #1

6.150 - Advising Persons of Right to Counsel and Miranda 6.150-POL 2. Miranda Warnings Must Precede Custodial Interview.

The Complainant alleged that NE#3 failed to issue *Miranda* warnings before a custodial interview with CM#3.

Here, NE#3 told OPA that CM#3 was detained when he encountered him. Despite NE#3’s limited role in the investigation—he participated in CM#1’s interview and verified CM#3’s mother’s contact information—he was apparently convinced CM#3 committed a crime: NE#3 told WE#1, “He definitely did it.” Further, after WE#1 directed NE#4—NE#3’s student officer—to pull up the November 4th police report, NE#3 failed to either review that report or ask NE#4 about it. Last, while NE#3 did not technically question CM#3, his statements coerced him into providing his mother’s contact information: “At this point, basically, you get ahold of your parents, and you get to go home today. If not, you gotta come with us today.” Those statements indicated CM#3 had two options: provide information to the officers or go to jail. Perhaps, had CM#3 been issued *Miranda* warnings, he would have understood that he had other options.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

² While *Terry* requires a “reasonable” detention period, many law enforcement agencies interpret it as under 20 minutes.



Named Employee #3 - Allegation #2

6.290 - Juvenile Investigations and Arrests 6.290-POL 4. Officers Will Notify Parents of Arrest as soon as Possible.

The Complainant alleged that NE#3 failed to notify CM#3's parents about his contact with the named employees.

For the reasons at Named Employee #1 – Allegation #2, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #4 - Allegation #1

6.150 - Advising Persons of Right to Counsel and Miranda 6.150-POL 2. Miranda Warnings Must Precede Custodial Interview.

The Complainant alleged that NE#4 failed to issue Miranda warnings before a custodial interview with CM#3.

Here, NE#4 had two weeks of patrol experience before encountering CM#3. His limited experience is the only reason OPA recommends a training referral. Mainly where NE#4 was tasked with pulling the November 4th police report and knew or should have known that CM#3 was not the 30-plus-year-old man described as committing that offense. NE#4's failure to relay that information to the other officers is inexplicable. Also, like NE#3, NE#4 suggested CM#3 only had two options: "So, this is pretty much where we're at right now. So, they're willing, if you give us your parents' information and they can try working it out, getting that money back with your parents or, since they did identify you and say you were here two weeks ago and you took that money, we could, we could take you to jail for, for burglary. So, do you want to give them..."

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

- Required Training: NE#4's chain of command shall review SPD Policy 6.150-POL-2 and OPA's findings with NE#4. It shall also impose counseling or retraining it deems necessary. Any counseling and retraining shall be documented and maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**

Named Employee #4 - Allegation #2

6.290 - Juvenile Investigations and Arrests 6.290-POL 4. Officers Will Notify Parents of Arrest as soon as Possible.

The Complainant alleged that NE#4 failed to notify CM#3's parents about his contact with the named employees.

For the reasons at Named Employee #1 – Allegation #2, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**