



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 5, 2018

CASE NUMBER: 2018OPA-0260

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5. Supervisors Will Investigate or Refer Allegations of Policy Violations Depending on the Severity of the Violation	Not Sustained (Unfounded)

Named Employee #2

Allegation(s):		Director's Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Unfounded)
# 2	6.220 - Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures and Must Be Based on Reasonable Suspicion in Order to be Lawful	Not Sustained (Lawful and Proper)
# 3	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)
# 4	6.220 - Voluntary Contacts, Terry Stops & Detentions 9. Under State Law, Traffic Violations May Not Be Used as a Pretext to Investigate Unrelated Crimes	Not Sustained (Unfounded)
# 5	16.230 - Issuing Tickets and Traffic Contact Reports 3. Officers Document All Traffic Stops	Not Sustained (Unfounded)
# 6	16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity	Not Sustained (Unfounded)
# 7	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)
# 8	6.220 - Voluntary Contacts, Terry Stops & Detentions 8. Officers May Conduct a Frisk or Pat-Down of Stopped Subject(s) Only if [...]	Not Sustained (Lawful and Proper)
# 9	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #3

Allegation(s):		Director's Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Unfounded)



# 2	6.220 - Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures and Must Be Based on Reasonable Suspicion in Order to be Lawful	Not Sustained (Lawful and Proper)
# 3	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)
# 4	6.220 - Voluntary Contacts, Terry Stops & Detentions 9. Under State Law, Traffic Violations May Not Be Used as a Pretext to Investigate Unrelated Crimes	Not Sustained (Unfounded)
# 5	16.230 - Issuing Tickets and Traffic Contact Reports 3. Officers Document All Traffic Stops	Not Sustained (Unfounded)
# 6	5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication	Not Sustained (Unfounded)
# 7	16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity	Not Sustained (Unfounded)
# 8	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)
# 9	6.220 - Voluntary Contacts, Terry Stops & Detentions 8. Officers May Conduct a Frisk or Pat-Down of Stopped Subject(s) Only if [...]	Not Sustained (Unfounded)
# 10	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #4

Allegation(s):		Director's Findings
# 1	6.220 - Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures and Must Be Based on Reasonable Suspicion in Order to be Lawful	Not Sustained (Lawful and Proper)
# 2	6.220 - Voluntary Contacts, Terry Stops & Detentions 8. Officers May Conduct a Frisk or Pat-Down of Stopped Subject(s) Only if [...]	Not Sustained (Lawful and Proper)
# 3	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #5

Allegation(s):		Director's Findings
# 1	6.220 - Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures and Must Be Based on Reasonable Suspicion in Order to be Lawful	Not Sustained (Lawful and Proper)
# 2	6.220 - Voluntary Contacts, Terry Stops & Detentions 8. Officers May Conduct a Frisk or Pat-Down of Stopped Subject(s) Only if [...]	Not Sustained (Lawful and Proper)



# 3	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
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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:

Various misconduct was alleged concerning the detention of the Complainant, including that the officers lacked reasonable suspicion, that the stop was unreasonable in scope, that there were improper frisks, that it constituted a pretext stop, that excessive force was used, and that the officers engaged in biased policing.

STATEMENT OF FACTS:

Named Employee #2 (NE#2) and Named Employee #3 (NE#3) contacted the occupants of a parked car. The driver was the Complainant and there was a front passenger. NE#2 asked the driver what was going on and asked him whether he had put something behind the seat. NE#2 instructed the Complainant to get out of the vehicle, again asked whether he was shoving something between the seats, and frisked him. The other Named Employees then arrived at the scene.

NE#2 told the Complainant that he had been making him nervous. NE#3, Named Employee #4 (NE#4), and Named Employee #5 (NE#5) removed the passenger from the car and he was also frisked by NE#4 and NE#5. Both the Complainant and the passenger sat on the fender of the vehicle. The passenger asked what they had done wrong and NE#2 stated that they had been observed speeding and cutting other motorists off on the highway. The Complainant denied that he had done so and told NE#2 that they had the wrong suspects.

A K-9 unit was brought to the scene. The K-9 did not hit on the vehicle and was unable to be used to detect drugs on the Complainant’s person. The Complainant refused to allow NE#2 to search his pockets. NE#2 and the Complainant went back and forth on this request multiple times; however, the Complainant continually refused to let him conduct the search. NE#2 spoke with his supervisor, Named Employee #1 (NE#1) and then made a phone call. As a result of that phone call, NE#2 told NE#1 that they were not going to impound the vehicle.

NE#2 went back to speak with the Complainant and urged him to disclose whether there were narcotics in the truck. The Complainant denied that there were. The officers then told the Complainant and the passenger that they were free to leave and gave the Complainant a business card but no other documentation. In total, the stop lasted for approximately 31 minutes. The officers then left the scene. NE#3 later documented the stop using a Street Check.

The Complainant initiated this complaint with OPA alleging that he was unlawfully stopped, “roughed up,” and that the stop was due to his race (African-American).

OPA initiated this investigation. After reviewing the documentation generated by NE#3 and the video of the stop, OPA was concerned that it could have been a pretext stop and that the documentation was deficient and potentially inaccurate. OPA also believed at the time that the officers may not have had reasonable suspicion for the stop, may have improperly extended the stop beyond a reasonable scope, and may have frisked the Complainant and the passenger without a legal basis to do so.



During its investigation, OPA learned that this stop was made as part of an ongoing narcotics investigation. The Named Employees stated that they had been conducting wiretaps and other information gathering that indicated that the Complainant had engaged in a narcotics transaction during which the passenger was present. The stop was effectuated as part of that narcotics operation and based on probable cause to arrest; however, this was not conveyed to the Complainant at the time and a ruse was used. When the K-9 did not detect narcotics from the Complainant's car and when it could not be used on his person, the Named Employees, in consultation with other working on the operation, made the strategic decision to release the Complainant from the scene without arresting him. The Complainant was later arrested, prosecuted, and convicted for narcotics-related offenses.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5. Supervisors Will Investigate or Refer Allegations of Policy Violations Depending on the Severity of the Violation

SPD Policy 5.002-POL-5 requires supervisors who become aware of a potential policy violation to investigate or refer the allegations depending on their severity. Minor allegations of misconduct may be investigated by a supervisor, while allegations of serious misconduct must be referred to OPA. (SPD Policy 5.002-POL-5.)

NE#1 denied that he violated this policy. He asserted that he did not believe that any of the Named Employees committed any misconduct and, as such, he had no obligation to make an OPA referral related to this case.

As discussed more fully herein, I agree that the Named Employees did not engage in any policy violations. Accordingly, NE#1 acted consistent with this policy when he did not make an OPA referral. For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegations #1

8.200 - Using Force 1. Use of Force: When Authorized

As indicated above, the Complainant alleged that he was “roughed up” during the stop. This was construed by OPA to be a claim of excessive force and it was alleged against NE#2 and NE#3 as they were the primary officers who initiated the stop.

Based on a review the Department video, which captured the entirety of the stop, there is no indication that NE#2, NE#3, or any other officer used force on the Complainant, let alone excessive force. Accordingly, there is no evidentiary support for the Complainant's allegation.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded as against both NE#2 and NE#3.

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



Named Employee #2 - Allegation #2

6.220 - Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures and Must Be Based on Reasonable Suspicion in Order to be Lawful

SPD Policy 6.220-POL-1 governs Terry stops and stands for the proposition that Terry stops are seizures of an individual and, as such, must be based on reasonable suspicion in order to be lawful. SPD Policy defines a Terry stop as: "A brief, minimally invasive seizure of a suspect based upon articulable reasonable suspicion in order to investigate possible criminal activity." (SPD Policy 6.220-POL-2(b).) SPD Policy further defines reasonable suspicion as: "Specific, objective, articulable facts, which, taken together with rational inferences, would create a well-founded suspicion that there is a substantial possibility that a subject has engaged, is engaging or is about to engage in criminal conduct." (*Id.*) Whether a Terry stop is reasonable is determined by looking at "the totality of the circumstances, the officer's training and experience, and what the officer knew before the stop." (*Id.*) While "[i]nformation learned during the stop can lead to additional reasonable suspicion or probable cause that a crime has occurred, it "cannot provide the justification for the original stop." (*Id.*)

The Named Employees told OPA that the Complainant was one of the subjects in an ongoing narcotics investigation. Based on wiretaps and other information gathering, the Named Employees determined that the Complainant had engaged in a narcotics transaction during which the passenger in the vehicle was present. As such, at the time of the detention, the officers believed that they had probable cause to arrest the Complainant.

The Named Employees ultimately made the decision to not arrest the Complainant after consultation with the individuals running the narcotics investigation. This decision was made in order not to compromise the overall investigation. The Complainant was later arrested, prosecuted, and convicted of narcotics related offenses.

Based on the information available to OPA, there appears to have been a more than sufficient legal basis to stop and detain the Complainant. Indeed, the officers proffered evidence suggesting that they had probable cause to arrest at the time, which is a higher standard than the reasonable suspicion needed to conduct a Terry stop. As such, I recommend that this allegation be Not Sustained – Lawful and Proper as against NE#2, NE#3, NE#4, and NE#5.

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

Named Employee #2 - Allegation #3

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." (SPD Policy 6.220-POL-4.)

Here, the Named Employees detained the Complainant to determine whether he was actively engaged in narcotics activity. This included questioning him and the passenger, as well as bringing a K-9 to the scene to engage in drug detection. The stop in this incident lasted for around 31 minutes. While that it on the long side, I do not find that it was unreasonable as a matter of policy or law under the circumstances.



This was a serious offense that was part of an ongoing operation. Moreover, as detailed by the officers, they had probable cause to arrest at the time of the stop. As such, I find that the officers were warranted in detaining the Complainant for this period of time to complete a thorough investigation and to take precautions to ensure that they did not compromise their overall narcotics operation.

For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper as against both NE#2 and NE#3.

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

Named Employee #2 - Allegations #4

6.220 - Voluntary Contacts, Terry Stops & Detentions 9. Under State Law, Traffic Violations May Not Be Used as a Pretext to Investigate Unrelated Crimes

SPD Policy 6.220-POL-9 precludes the use of a traffic violation to investigate unrelated crimes. The policy defines “pretext” as where an officer stops “a suspect for an infraction to investigate criminal activity for which the officer has neither reasonable suspicion nor probable cause.” (SPD Policy 6.220-POL-9.) The policy explains that pretext stops are prohibited by law. (*Id.*) It further explains that: “Officers must actually, consciously, and independently determine that a traffic stop is reasonably necessary in order to address a suspected traffic infraction.” (*Id.*)

The Named Employees stated that the basis they gave the Complainant for the stop constituted a ruse. They explained that the actual reason that they stopped the Complainant was because they had probable cause to arrest him for engaging in a narcotics transaction. As the officers had probable cause to arrest, this was not a pretext stop as such a stop only exists where there is an *absence* of probable cause or reasonable suspicion for the offense being investigated.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded as against NE#2 and NE#3.

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

Named Employee #2 - Allegation #5

16.230 - Issuing Tickets and Traffic Contact Reports 3. Officers Document All Traffic Stops

NE#2 and NE#3 asserted that they did not make a traffic stop and, instead, initiated the detention of the Complainant while his vehicle was parked. As such, they contended that this policy, which requires that traffic stops be documented, was inapplicable to this incident. They explained that NE#3 generated a street check that that memorialized the contact and this documentation was sufficient.

Based on my review of the nature the stop, I agree with NE#2 and NE#3 that this policy is inapplicable. I also do not believe that this was a traffic stop and, as such, the documentation referenced in this policy did not need to be completed.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded as against both NE#2 and NE#3.

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



Named Employee #2 - Allegation #6

16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity

SPD Policy 16.090-POL-5 concerns when Department employees are required to record police activity. SPD Policy 16.090-POL-5(b) sets forth the categories of activity that must be recorded, which include: responses to dispatched calls starting before the employee arrives on the scene; traffic and Terry stops; on-view infractions and criminal activity; arrests and seizures; searches and inventories of vehicles, persons, or premises; and questioning victims, suspects, or witnesses.

During OPA's investigation, it was determined that NE#2 and NE#3 recorded both ICV and BWV. As such, they complied with this policy and, accordingly, I recommend that this allegation be Not Sustained – Unfounded as against both officers.

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

Named Employee #2 - Allegations #7

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

SPD Policy 6.200-POL-3 requires that officers limit a seizure to a reasonable scope. The policy further states that: "Actions that would indicate to a reasonable person that they are being arrested or indefinitely detained may convert a Terry stop into an arrest requiring probable cause or an arrest warrant." (SPD Policy 6.200-POL-3.)

Here, the stop of the Complainant and the passenger was extended in four main respects. First, they were ordered out of the vehicle and made to sit on the fender. Second, their IDs were taken from them and brought to the patrol car. Third, they were both frisked. Fourth, the stop was on the long end at around 31 minutes.

Under the circumstances of this case and based on the ongoing narcotics investigation being conducted by the Named Employees and others, I do not find that any of these extensions of the stop were unreasonable. Moreover, I do not believe that they converted the detention into an arrest. However, even if they did, the Named Employees all asserted that they had probable cause to arrest both the Complainant and the passenger for narcotics crimes.

As such, I recommend that this allegation be Not Sustained – Lawful and Proper as against NE#2 and NE#3.

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

Named Employee #2 - Allegations #8

6.220 - Voluntary Contacts, Terry Stops & Detentions 8. Officers May Conduct a Frisk or Pat-Down of Stopped Subject(s) Only if [...]

SPD Policy 6.220-POL-8 states that: "Officers may conduct a frisk or a pat-down of a stopped subject only if they reasonably suspect that the subject may be armed and presently dangerous." The policy explains that: "The decision to conduct a frisk or pat-down is based upon the totality of the circumstances and the reasonable conclusions drawn



from the officer's training and experience." (SPD Policy 6220-POL-8.) The policy provides a non-exclusive list of factors supporting such a search. (*Id.*)

NE#2 conducted a frisk of the Complainant's person. NE#2 contended that the frisk was justified based on his knowledge of the Complainant's status as a "career criminal," the fact that the officers had probable cause to arrest the Complainant for a narcotics transaction, and NE#2's belief that the Complainant could be armed. The Department video indicated that NE#2 conducted a limited search of the Complainant and did not reach inside of his pockets.

Based on my review of the record, including the statements of all of the Named Employees, I find that NE#2 had sufficient justification to frisk the Complainant. Given the knowledge that the Complainant had engaged in narcotics activity, NE#2's concern that he could be armed was warranted. Ultimately, NE#2 conducted a limited frisk, which ended once it was determined that the Complainant was not armed.

For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #2 - Allegations #9

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.*)

Based on my review of the record, there is no evidence that the Named Employees detained and investigated the Complainant based on his race. Instead, the Named Employees believed that they had a legal basis to detain and, for that matter, to arrest the Complainant based on his involvement in a narcotics transaction. There is no indication that law enforcement action was taken against the Complainant due to his status as an African-American man.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded as against NE#2, NE#3, NE#4, and NE#5.

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

Named Employee #3 - Allegations #1

8.200 - Using Force 1. Use of Force: When Authorized

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

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



Named Employee #3 - Allegation #2

6.220 - Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures and Must Be Based on Reasonable Suspicion in Order to be Lawful

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

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

Named Employee #3 - Allegation #3

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 #2, Allegation #3), I recommend that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #3 - Allegations #4

6.220 - Voluntary Contacts, Terry Stops & Detentions 9. Under State Law, Traffic Violations May Not Be Used as a Pretext to Investigate Unrelated Crimes

For the same reasons as stated above (see Named Employee #2, Allegation #4), I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #3 - Allegation #5

16.230 - Issuing Tickets and Traffic Contact Reports 3. Officers Document All Traffic Stops

For the same reasons as stated above (see Named Employee #2, Allegation #5), I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #3 - Allegation #6

5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication

SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications.

This allegation was classified against NE#3 based on the belief that he may have intentionally included inaccurate information in the Street Check that he generated.



NE#3 denied including any inaccurate information in the Street Check. He stated that the officers were aware that the Complainant was a career criminal at the time of the stop. He further stated (and NE#1 echoed this) that the Complainant was, in fact, speeding and driving erratically when he was being followed and observed by the officers. Lastly, he told OPA that NE#2 reported seeing the Complainant engage in furtive movements, so he included this information in the Street Check.

NE#3 noted that he did not include any information concerning the narcotics operation because he did not want to compromise it at that time.

I find insufficient evidence to determine that NE#3 engaged in dishonesty. While there is no video evidence of the Complainant speeding and driving erratically and while he denied doing so, multiple Named Employees stated the opposite. Moreover, I find that it was not improper or inaccurate to characterize the Complainant as a “career criminal.” Lastly, I find that there is no video evidence discounting NE#2’s assertion that the Complainant engaged in furtive movements. As such, and with regard to the question of whether NE#3 deliberately included inaccurate information in the Street Check, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #3 - Allegations #7

16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity

For the same reasons as stated above (see Named Employee #2, Allegation #6), I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #3 - Allegation #8

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

For the same reasons as stated above (see Named Employee #2, Allegation #7), I recommend that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #3 - Allegation #9

6.220 - Voluntary Contacts, Terry Stops & Detentions 8. Officers May Conduct a Frisk or Pat-Down of Stopped Subject(s) Only if [...]

From OPA’s review of the Department video, it did not appear that NE#3 frisked anyone. The Complainant was frisked by NE#2 and the passenger appeared to have been frisked by NE#4 and NE#5. As such, I recommend that this allegation be Not Sustained – Unfounded as against him.

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



Named Employee #3 - Allegations #10

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

For the same reasons as stated above (see Named Employee #2, Allegation #9), I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #4 - Allegations #1

6.220 - Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures and Must Be Based on Reasonable Suspicion in Order to be Lawful

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

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

Named Employee #4 - Allegation #2

6.220 - Voluntary Contacts, Terry Stops & Detentions 8. Officers May Conduct a Frisk or Pat-Down of Stopped Subject(s) Only if [...]

NE#4 and NE#5 frisked the passenger. They stated that they were aware that he had been present for and, in their belief, involved in a narcotics transaction. They contended that, given his involvement in a narcotics transaction, risk factors were high and they believed it possible that he could have a weapon. These officers further noted that they believed they had probable cause to arrest the passenger at the time of the frisk.

I find these officers' arguments to be reasonable. I conclude that it was appropriate to frisk the passenger due to the belief that he had been involved in a narcotics transaction and based on the officers' training and experience that suggested that such suspects tended to be armed.

For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper as against both NE#4 and NE#5.

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

Named Employee #4 - Allegation #3

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

For the same reasons as stated above (see Named Employee #2, Allegation #9), I recommend that this allegation be Not Sustained – Unfounded.

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



Named Employee #5 – Allegation #1

6.220 - Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures and Must Be Based on Reasonable Suspicion in Order to be Lawful

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

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

Named Employee #5 – Allegation #2

6.220 - Voluntary Contacts, Terry Stops & Detentions 8. Officers May Conduct a Frisk or Pat-Down of Stopped Subject(s) Only if [...]

For the same reasons as stated above (see Named Employee #4, Allegation #2), I recommend that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #5 – Allegation #3

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

For the same reasons as stated above (see Named Employee #2, Allegation #9), I recommend that this allegation be Not Sustained – Unfounded.

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