



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 17, 2020

CASE NUMBER: 2019OPA-0553

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	6.220 - POL – 2 Conducting a Terry Stop 1. Terry Stops are Seizures Based Upon Reasonable Suspicion	Not Sustained (Lawful and Proper)
# 2	6.220 - POL – 2 Conducting a Terry Stop 5. Officers Cannot Require Subjects to Identify Themselves or Answer Questions on a Terry Stop	Not Sustained (Lawful and Proper)

Named Employee #2

Allegation(s):		Director's Findings
# 1	6.220 - POL – 2 Conducting a Terry Stop 5. Officers Cannot Require Subjects to Identify Themselves or Answer Questions on a Terry Stop	Allegation Removed

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 Named Employee #1 violated SPD Policy when he detained the Complainant and functionally compelled the Complainant to identify himself.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employee. As such, the Named Employee was not interviewed as part of this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

6.220 - POL – 2 Conducting a Terry Stop 1. Terry Stops are Seizures Based Upon Reasonable Suspicion

On July 24, 2019, at approximately 3:37 a.m., Named Employee #1 (NE#1) and other officers entered City Hall Park to contact several individuals who were inside the park after hours. As the park is closed between the hours of 10:00 p.m. and 6:00 a.m., all people inside the park at the time of the incident were trespassing. The Complainant in this case was the first person to be contacted by officers.

SPD Policy 6.220-POL-2 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-1.) 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.*)

At the time NE#1 contacted the Complainant, he had a legal basis to do so. Indeed, NE#1 had probable cause to arrest the Complainant for trespassing, which was a violation of City law. Accordingly, NE#1 acted consistent with policy when he detained the Complainant and, as such, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #1 - Allegation #2

6.220 - POL – 2 Conducting a Terry Stop 5. Officers Cannot Require Subjects to Identify Themselves or Answer Questions on a Terry Stop

SPD Policy 6.220-POL-6 states 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. (See SPD Policy 6.220-POL-6.)

As discussed above, NE#1 was beyond reasonable suspicion and had probable cause to believe that the Complainant was trespassing when he detained him. As such, NE#1 was not prohibited from directing the Complainant to provide his identification. Moreover, once NE#1 obtained the Complainant’s identifying information he was permitted to memorialize it in a report and/or citation and to enter that documentation into Department databases. Indeed, he was required by policy to do so.

Accordingly, OPA finds that NE#1 did not violate Department policy during this incident and recommends that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #2 - Allegations #1

6.220 - POL – 2 Conducting a Terry Stop 5. Officers Cannot Require Subjects to Identify Themselves or Answer Questions on a Terry Stop

After further review, OPA deems it unnecessary to allege that an unknown SPD employee acted contrary to SPD Policy 6.220-POL-2(5). OPA further believes that this issue is fully addressed in the context of NE#1. As such, OPA recommends that this allegation be removed.

Recommended Finding: **Allegation Removed**