



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 22, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0557

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Unfounded
# 2	15.180 - Primary Investigations 15.180-POL 1. Officers Shall Conduct a Thorough and Complete Search for Evidence	Not Sustained - Unfounded

Named Employee #2

Allegation(s):		Director's Findings
# 1	6.220 - Voluntary Contacts, Terry Stops & Detentions 6.220 - POL - 2 Conducting a Terry Stop 1. Terry Stops are Seizures Based Upon Reasonable Suspicion	Not Sustained - Unfounded

Named Employee #3

Allegation(s):		Director's Findings
# 1	6.220 - Voluntary Contacts, Terry Stops & Detentions 6.220 - POL - 2 Conducting a Terry Stop 1. Terry Stops are Seizures Based Upon Reasonable Suspicion	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:

It was alleged that on October 14, 2020, Named Employee #1 (NE#1) "screamed" at the Complainant while taking the Complainant's statement regarding an incident, and that NE#1 refused to take the Complainant's evidence regarding the incident. In addition, the Complainant alleged that on January 18, 2021, he was illegally detained by Named Employee #2 (NE#2) and Named Employee #3 (NE#3), which the Complainant stated may have been related to the incident he was reporting to NE#1.

ADMINISTRATIVE NOTE:

Due to present OPA staff limitations, this is an abbreviated Director's Certification Memorandum. At the Director's discretion, an expanded Director's Certification Memorandum may be completed at a later time.



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 involved employees. As such, OPA did not interview the involved employees in this case.

ANALYSIS AND CONCLUSIONS:

The Office of Inspector General certified this expedited investigation as thorough, timely, and objective. OPA's analysis is that the preponderance of the evidence does not establish that any policy violations occurred or rose to the level of misconduct.



Named Employee #1 - Allegation #1

5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional

The Complainant alleged that NE#1 screamed at him while taking a report.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. (SPD Policy 5.001-POL-10.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (Id.) Lastly, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (Id.)

During the course of its Intake Investigation, OPA reviewed Body-Worn Video (BWV) of NE#1’s interaction with the Complainant, wherein the Named Employee was shown calmly speaking with the Complainant over a protracted period of time. OPA did not find any indication that the Named Employee engaged in unprofessional conduct with the Complainant.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #1 - Allegation #2

15.180 - Primary Investigations 15.180-POL 1. Officers Shall Conduct a Thorough and Complete Search for Evidence

The Complainant alleged that NE#1 refused to take the Complainant’s evidence.

SPD Policy 15.180-POL-1 requires that, in primary investigations, officers conduct a thorough and complete search for evidence. The policy further requires officers to collect evidence and states that only evidence that it impractical to collect shall be retained by the owner. (SPD Policy 15.180-POL-1.) Such evidence should be photographed. (Id.)

During its review of relevant BWV, OPA found no indication that the Complainant wished to provide the Named Employee with evidence, let alone that the NE refused to accept any evidence from the Complainant.

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

Recommended Finding: **Not Sustained - Unfounded**



Named Employee #2 - Allegation #1

6.220 - Voluntary Contacts, Terry Stops & Detentions 6.220 - POL - 2 Conducting a Terry Stop 1. Terry Stops are Seizures Based Upon Reasonable Suspicion

The Complainant alleged that NE#2 illegally detained him.

SPD Policy 6.220-POL-2(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-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.)

OPA also reviewed BWV from NE#2 and NE#3 regarding the Complainant's allegations of an illegal detention. From this BWV, the Named Employees can be seen stopping their vehicle at the beginning of the video, during the silent "buffer" timeframe. NE#2 appears to speak with someone through her driver's side window, gestures forward, begins driving forward, and then rolls up her window. The Named Employees then slowly drive down the block and park, at which point in time they make contact with the Complainant. During the contact, NE#2 explains that someone was concerned about the Complainant and asked if he was okay.

The Complainant stated that he was fine and that he was just trying to go around the reporting party; NE#1 repeatedly stated that it was okay and returned to her vehicle after approximately one minute. When NE#1 turned back to her vehicle, it could be seen that the emergency lights were not activated. Computer-Aided Dispatch (CAD) was searched for all calls assigned to the Named Employees at the time of the incident, which showed that the Named Employees had been checking license plates of vehicles parked on the street when they were contacted by the reporting party. For these reasons, OPA believes that the interaction amounted to a "voluntary contact," and was not a detention of the Complainant.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #3 - Allegation #1

6.220 - Voluntary Contacts, Terry Stops & Detentions 6.220 - POL - 2 Conducting a Terry Stop 1. Terry Stops are Seizures Based Upon Reasonable Suspicion

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

Recommended Finding: **Not Sustained - Unfounded**