



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 16, 2022

FROM: DIRECTOR GINO BETTS JR.
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0157

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	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
# 2	Voluntary Contacts, Terry Stops & Detentions 6.220 – POL – 2 Conducting a Terry Stop 2. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope.	Not Sustained - Training Referral

Named Employee #2

Allegation(s):		Director's Findings
# 1	Search and Seizure – 6.180 – Searches -General 1. Officer May Only Make Searches Pursuant to a Search Warrant unless a Specific Exception Applies.	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 Named Employee #1 (NE#1) allegedly conducted an unlawful traffic stop on a vehicle driven by the Complainant. The Complainant also alleged she was unlawfully handcuffed during the stop. Last, the Complainant alleged Named Employee #2 (NE#2) unlawfully searched the Complainant's vehicle.

ADMINISTRATIVE NOTE:

Further, the Complainant alleged during the stop an unnamed employee laughed at her. OPA's intake investigation identified that officer and forwarded the matter to his chain of command for Supervisor Action:

Requested Action of the Named Employee's Supervisor: Please document by completing a Chain of Command Report, attaching the report to this case, and sending it to OPA through Blue Team.

- Discuss complaint and department policy with Named Employee.

Generally, Supervisor Actions involve allegations of minor policy violations or performance issues best addressed through training, communication, or coaching by the employee's supervisor. *OPA Manual 5.4(B)(ii)*. OPA sends a



memo mandating the employee's supervisor take specific, relevant action with the employee. *Id.* The supervisor has 15 days to complete the action and return the case to OPA for review. *Id.*

SUMMARY OF INVESTIGATION:

On May 20, 2022, the Complainant made an OPA complaint via Blue Team. That complaint described SPD employees conducting a traffic stop on the wrong vehicle. The Complainant responded and spoke to the driver, who indicated she wanted the matter investigated. OPA initiated an investigation. That investigation included reviewing the OPA complaint, BWV, GO/incident report, screenshots, and a CAD call report. OPA also interviewed the Complainant and the named employees (except for the officer referred for a Supervisor Action). Evidence summaries are below:¹

OPA complaint

On May 17, 2022 around 11:40 PM, the Complainant responded to a high-risk vehicle stop officers conducted on what they believed was a stolen SUV. That SUV's Washington license plate was BJG5294, which returned to a yellow Ford Escape. The CAD call report reflected Washington plate BJG5284 was reported stolen by the Everett Police Department (emphasis added). The SUV's plate and the stolen plate numbers differed by a digit. NE#1 explained she misread the SUV's license plate, mistaking the "9" for an "8." When NE#1 realized her error, the driver was uncuffed. The driver, still on scene, was emotional. NE#1 apologized to the driver, but the driver yelled at NE#1 and declined her business card. The driver told the Complainant she wanted to "file a grievance," which the Complainant understood to mean an OPA complaint. The Complainant agreed to file the OPA complaint on the driver's behalf.

CAD call report

On May 17, 2022 at 11:35 PM, NE#1 radioed the following:

- 00:12 NE#1: "Rolling stolen, with a stolen vehicle plate. It's going to be rolling down Roosevelt" NE#1 gave license plate BJG5294 and said it was on a Ford Escape. Dispatch requested the cross street.
- 00:28 NE#1 gave the location of 5th and 130th
- 00:37 NE#1 advised she was at a the red-light facing westbound.
- 00:47 NE#1 requested another unit.
- 00:52 Dispatch told NE#1 BJG5294 returned clear to a yellow Ford Escape.
- 01:03 NE#1 stated the plate was BJG5284. Dispatch confirmed that plate was "5-2-eight-4.
- 01:29 Dispatch said the plate returned to an unverified rear stolen plate only.
- 01:37 NE#1 indicated she understood and noted the vehicle was a yellow Ford Escape occupied by a female.
- 01:47 NE#1 stated the SUV exited towards Northgate, where she planned to conduct a traffic stop.
- 02:22 Dispatch held the air.

Field Contact report²

On May 17, 2022 at 11:35 PM, NE#1 saw a vehicle driving westbound on NE 130th Street approaching I-5 South. A records search indicated Washington license plate BJG5284 returned to a stolen rear plate from Everett PD. NE#1 checked the plate and believed she correctly ran it. Based on the stolen rear plate notification and it being attached to the SUV's rear, NE#1 thought there was reasonable suspicion the SUV had a stolen rear plate. NE#1 conducted a high-risk traffic stop at 2150 N Northgate WY. NE#1 believed a high-risk stop was consistent with Department training.

¹ Evidence is summarized as presented to OPA. OPA's assessment of the evidence is captured in the 'Analysis and Conclusions' section.

² NE#1 wrote the report.



NE#1 handcuffed the SUV's driver. NE#1 inspected the SUV and found the keys in the ignition and an attached front plate. The SUV's front and rear plates were BJG5294. NE#1 rechecked the plate number she ran and realized she input the wrong number. NE#1 directed officers to uncuff the driver. The driver was upset and emotional. NE#1 apologized to her and explained the mistake. The Complainant, an acting sergeant, arrived and NE#1 explained what happened.

NE#1's BWV

Preparing for the traffic stop, NE#1 radioed "we're pulling into the Chevron." NE#1 approached the SUV and said, "Seattle police let me see your hands." NE#1 ordered the driver to show her hands out the window. NE#1's firearm was unholstered in the Sul position.³ NE#1 ordered the driver out of the SUV. NE#1 inspected the SUV to clear it of safety threats then holstered her firearm. NE#1 and a Witness Officer (WO#1) discussed the plate numbers. NE#1 went to her patrol car then reemerged once she realized she misread the SUV's plate. NE#1 immediately had the driver uncuffed. NE#1 tried explaining the mix-up, but the driver was upset. NE#1 stated she felt "really bad." Again, NE#1 approached the driver and apologized. Apparently talking to a laughing officer, the driver points off camera and said, "Why are you smiling, that's not funny, he thinks it's funny." NE#1 tried to calm the driver and apologized a third time. The driver replied, "Why wouldn't you double check something like that?" NE#1 said, "I did, I just read it wrong."

NE#2's BWV

As NE#1 realizes her mistake and orders the driver uncuffed, NE#2 is captured opening the SUV's driver side door. As NE#2 grips the door handle, WO#1 said, "It's wrong. It's wrong. It's wrong plate." NE#2 closed the door, never entering or searching inside the SUV.

The driver's OPA interview

On May 25, 2022, OPA interviewed the driver. She recounted leaving work heading to a store. The driver noticed a patrol car closely following her. The proximity of the patrol car frightened her. The driver decided to stop at a nearby Starbucks. The patrol car activated its emergency equipment as the driver exited Northgate Way. There were 4-6 patrol cars. Officers yelled for the driver to put her hands out the window. No one told the driver the reason for the stop, instead she was handcuffed. The driver was handcuffed for about a minute then released. NE#1 approached and said "Hi (the driver), I fucked up tonight." The driver was extremely emotional and agreed NE#1 messed up. A Black officer in a patrol car laughed. The driver believed that laugh was directed at her. She yelled at the officer to stop laughing. The driver saw officers search her vehicle. The driver believed NE#1 followed her for 10 minutes prior to stopping her. NE#1 told the driver she ran the SUV's plate four times. NE#1 owned her mistake.

NE#1's OPA interview

On August 3, 2022, OPA interviewed NE#1.⁴ NE#1 served the Department for about four years. On the night in question, NE#1 worked alone. NE#1 articulated her understanding of Terry stop requirements: "To stop someone there needs to be articulation that a crime may occur, has occurred or is going to occur." NE#1 admitted to misreading the SUV's plate by a digit. When the plate NE#1 ran indicated a stolen rear plate, NE#1 thought she had sufficient information for a traffic stop. NE#1 conducted a high-risk stop based on Department training for dealing with a vehicle with a stolen plate or a stolen vehicle for officer safety. NE#1 thought the SUV was stolen due to the presumed stolen plate attached to it. Prior to the night in question, NE#1 participated in several high-risk vehicle stops. NE#1 suggested stolen vehicles often contain weapons or were taken during violent crimes.

³ SUL position is where the firearm's muzzle is not pointed at someone's body. See Seattle Police Department Manual 8.050 - Use of Force Definitions.

⁴ NE#1's union representative was present.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - 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

Terry stops are seizures based upon reasonable suspicion. SPD Manual 6.220-POL-2-1. Terry stops require officers to have reasonable suspicion a subject was, is, or is about to engage in a crime. *Id.*

Here, NE#1 had reasonable suspicion the driver's car was stolen. Alone at night, NE#1 drove behind a SUV. She decided to run its plate, while multitasking driving, maintaining a close distance to accurately read the plate at night, and repeatedly running the plate. While NE#1 ultimately misread a digit on the plate, she made diligent efforts to ensure accuracy (she ran the plate four times prior to conducting a traffic stop.) NE#1's information ultimately proved faulty, which she repeatedly owned on scene and during her OPA interview, but her understanding prior to the stop suggested the SUV had a rear plate reported stolen by Everett PD. Whether NE#1 had reasonable suspicion to stop the SUV is premised on the information she had preceding the stop, rather than what she learned thereafter. Overall, where NE#1 had reasonable suspicion the plate or the SUV itself was stolen, she had a lawful duty to stop the vehicle for further investigation. Her later learned error of misreading the SUV's plate by a digit did not void the legitimacy of the stop.

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

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

Named Employee #1 - Allegation #2

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

Officers will articulate in a report the justification for the initiation, scope, and duration of a Terry stop. See SPD Manual 6.220-POL 2-2. Actions that would indicate to a reasonable person they are under arrest or indefinitely detained may convert a Terry stop to an arrest. *Id.* Unless justified by the articulable reasons for the stop, officers must have additional articulable justification for handcuffing, ordering a motorist to exit the car, or pointing a firearm at a person or occupied vehicle. *Id.*

Here, NE#1 authored a Field Contact report justifying the initiation, scope, and duration of the Terry stop. She noted the stop was initiated after the SUV's plate returned stolen. The scope consisted of detaining the driver while NE#1 rechecked the plate she ran. The duration was brief. The driver told OPA she was handcuffed about a minute, before NE#1 ordered her release. However, while the duration was brief, it is questionable whether officers had additional articulable justification for ordering the driver to exit the SUV and handcuffing her. The only information they had was the SUV's plate returned stolen. A stolen plate or car are not inherently violent offenses and there was no indication the driver participated in either crime. See *Green v. City & Cnty. of San Francisco*, 751 F.3d 1039, 1048 (9th Cir. 2014) [The fact that Green was stopped on suspicion of a stolen vehicle does not by itself demonstrate that she presented a danger to the officers. Furthermore, numerous factors—that law enforcement lacked any specific information that she was armed, that Green was compliant with instructions at all times, that there was no evidence of recent violence,



and that the police significantly outnumbered Green so as to diminish the risk she posed—count against such a finding.]

Further, NE#1 told OPA she conducted a high-risk stop⁵ on the SUV, including positioning her unholstered firearm at Sul/low-ready. However, the facts available to NE#1 preceding and during the stop did not reveal an apparent threat to officer safety requiring a high-risk stop. As noted above, there was no indication of violence and police presence greatly outnumbered the solo driver. NE#1 justified the response during her OPA interview, stating “stolen vehicles often contain weapons or are taken during other violent crimes.” However, as the *Green* court held, “suspicion of a stolen vehicle does not by itself demonstrate that she presented a danger to the officers.”

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

- **Training Referral:** NE#1’s chain of command should discuss OPA’s findings with NE#1, review SPD Policy 6.220-POL 2-2 with NE#1 and provide any retraining and counseling it deems appropriate. The retraining and counseling conducted should be documented and maintained in Blue Team.

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

Named Employee #2 - Allegation #1

6.180 - Searches-General 1. Officers May Only Make Searches Pursuant to a Search Warrant, Unless a Specific Exception Applies

Officers shall not conduct a search without a valid search warrant, unless an exception applies. SPD Manual 6.180(1).

Here, the SUV was not searched. BWV showed NE#2 grabbed the driver side door handle and crack it open. However, before NE#2 went further, an officer suggested they stopped the wrong vehicle. NE#2 immediately closed the SUV’s door without searching it.

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

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

⁵ A high-risk stop is any stop which poses a significant risk to the officer when dealing with the occupants of a motor vehicle. SPD-2019 High Risk Vehicle Stops training.