



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 12, 2022

FROM: DIRECTOR GINO BETTS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0161

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	6.220 - Voluntary Contacts, Terry Stops & Detentions 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 - Unfounded (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	6.220 - Voluntary Contacts, Terry Stops & Detentions 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 - Unfounded (Expedited)

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)
# 2	6.220 - Voluntary Contacts, Terry Stops & Detentions 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 - Unfounded (Expedited)

Named Employee #4

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)
# 2	6.220 - Voluntary Contacts, Terry Stops & Detentions 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 - Unfounded (Expedited)

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:

Seattle Police Department (SPD) officers responded to a parking enforcement officer's report the Complainant threw something at her. The Complainant alleged Named Employees #3 and #4 (NE#3 and NE#4, respectively) handcuffed and searched the Complainant based on his race. The Complainant also alleged Named Employee #1 (NE#1) repeatedly and unnecessarily requested his telephone number. Last, the Complainant alleged Named Employee #2 (NE#2) threatened to arrest him.

ADMINISTRATIVE NOTE:

This case was designated an Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) review and approval, believed it could reach and issue recommended findings based on its intake investigation, without interviewing the involved employees.

SUMMARY OF INVESTIGATION:

During its investigation, OPA reviewed BWV and related police reports. OPA also interviewed the Complainant

CAD call and Field Contact reports showed officers responded after a parking enforcement officer (PEO) reported the Complainant threw a bottle at her. The PEO described the offender to a 911 dispatcher. Officers found the Complainant matched that description. The Field Contact Report noted the Complainant was handcuffed due to the violent act alleged.

BWV captured the Named Employees' interactions with the Complainant.

NE#4 told the Complainant he was detained due to the violent report. NE#3 and NE#4 handcuffed the Complainant. NE#3 read Miranda Warnings. Thereafter, the Complainant agreed to talk to NE#3. The Complainant stated he was upset with a PEO and threw a water bottle at the ground. NE#4 spoke with an independent witness, who corroborated the Complainant's account.

NE#1 and the Complainant discussed whether the Complainant had a phone number. The Complainant insisted he did not. NE#1 questioned the Complainant's claim after he saw a phone ringing near the Complainant. The Complainant clarified he did not want to provide that information, as opposed to not having it. NE#1 stopped asking for the Complainant's phone number.

The Complainant was handcuffed for approximately seven minutes, while officers investigated the report. Thereafter, the Complainant was allowed to leave.

Once unhandcuffed, the Complainant asked whether officers would arrest him for "hitting a cop" if he backed his car towards them. NE#2 explained the possible outcomes, including the Complainant's possible arrest. The Complainant remained on scene engaging with officers.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

6.220 - Voluntary Contacts, Terry Stops & Detentions 6.220 - POL – 2 Conducting a Terry Stop 5. Officers Cannot Require Subjects to Identify Themselves or Answer Questions on a Terry Stop

The Complainant alleged NE#1 harassingly requested his telephone number.

SPD Policy 6.220-POL-2(5) prohibits officers from requiring a subject's identification during a *Terry* stop. Officers may request identification but may not require compliance. *See id.*

NE#1's BWV showed his questioning was based on confusion about whether the Complainant was deceptive. The Complainant initially denied having a phone number. NE#1 saw the Complainant's cell phone ring on the hood of a patrol car, while the Complainant denied having a phone number. The Complainant later clarified he was unwilling to provide a phone number. At that point, NE#1 stopped requesting that information.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited)

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

Named Employee #2 - Allegation #1

6.220 - Voluntary Contacts, Terry Stops & Detentions 6.220 - POL – 2 Conducting a Terry Stop 4. During all Terry Stops, Officers Will Take Reasonable Steps to Be Courteous and Professional

The Complainant alleged NE#2 threatened to arrest him during a *Terry* stop.

SPD policy requires officer to take reasonable steps to be courteous and professional during a *Terry* stop. *See* SPD Policy 6.220-POL-2(4). Officers are also required to provide details regarding the nature of the stop and, when reasonable, explain the reason for the stop. *See id.*

Here, NE#2's BWV showed she explained the possible outcomes to the Complainant's hypothetical question¹, including his possible arrest. OPA found no evidence NE#2 threatened the Complainant with arrest or failed to properly explain the nature of the detention. Nor did NE#2's explanation extend the detention's duration, where the Complainant engaged NE#2 with the question after he was freed to leave.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited)

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

¹ The Complainant asked officers whether he would be arrested for "hitting an officer," if he back his car towards them.



Named Employee #3 - Allegation #1

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

SPD policy prohibits biased policing, defined 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-POL. That includes different treatment based on race. See id.

OPA’s investigation found no evidence NE#3 treated the Complainant different based on protected class or any discernible characteristics. Overall, NE#3 lawfully detained the Complainant, who matched the description of an alleged PEO offender, for further investigation.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited)

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

Named Employee #3 - 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

SPD Policy 6.220-POL-2(4) requires officers limit *Terry* stops to a reasonable duration. It instructs, “subjects may only be seized for that period of time necessary to effect the purpose of the stop.” Further, “officers may not extend a detention solely to await the arrival of a supervisor.”

Here, evidence suggests NE#3’s application of handcuffs was justified due to the nature of the alleged crime. Specifically, a PEO alleged the Complainant threw a bottle at her. Officers questioned the PEO and witnesses. NE#3 determined no crime occurred and removed the Complainant’s handcuffs. The Complainant was detained for approximately seven minutes while officers investigated.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited)

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

Named Employee #4 - Allegation #1

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

For the reasons above at Named Employee #3, Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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



Named Employee #4 - 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

For the reasons above at Named Employee #3, Allegation #2, OPA recommends this allegation be Not Sustained – Unfounded (Expedited)

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