




CLOSED CASE SUMMARY

ISSUED DATE: MARCH 27, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0319

Allegations of Misconduct & Director’s Findings

Named Employee #1

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

ADMINISTRATIVE NOTE:

Allegations against Named Employee #1 (NE#1) were designated for Expedited Investigation. That means OPA, with the Office of Inspector General’s (OIG) review and agreement, believed it could reach and issue recommended findings based solely on its intake investigation without interviewing the involved employee. As such, OPA did not interview the involved employee in this case. OIG also certified this investigation as thorough, timely, and objective.

The Complainant also alleged NE#1 violated the department’s professionalism (SPD Policy 5.001-POL-10 “Employees will strive to be professional”) and bias-free policing (SPD Policy 5.140-POL-5 “Employees will call a supervisor in response to allegations of bias-based policing) policies. Both allegations were processed as supervisor actions.

EXECUTIVE SUMMARY:

The Complainant alleged while he rode a bike, NE#1 used his patrol car to cut him off abruptly. The Complainant also alleged NE#1 aggressively approached and accused him of possessing a stolen bike. The Complainant further alleged NE#1 profiled him, threw his bike to the ground, and threatened him by saying, “Oh, I’ll be seeing you around.”

SUMMARY OF INVESTIGATION:

On September 28, 2022, the Complainant emailed OPA with allegations against NE#1. OPA opened an investigation. During its investigation, OPA reviewed the complaint, computer-aided dispatch data, incident report, field contact report, Google Maps, in-car video, and body-worn video. OPA made several unsuccessful attempts to interview the Complainant, including at least five phone calls. The Complainant did not respond to OPA’s voicemail callback requests.



Computer-Aided Dispatch (CAD) data showed on September 28, 2022, at 6:35 AM, NE#1 contacted the Complainant. The CAD remark noted:

STOLEN BIKE TRACK WITH [BLUE] HANDLEBARS

NE#1 was listed as the primary officer, with Witness Employee #1 (WE#1) as the backup. NE#1 cleared the call indicating a follow-up report was made.

NE#1 wrote a related field contact report. In summary, that report stated NE#1 was on patrol and “saw a suspicious male”—the Complainant—“riding a specialized road bike with blue handlebar grips.” NE#1 noted he recently saw a posting for “[a stolen] specialized brand road bike.” NE#1 included the incident report for the stolen bike and the bike’s model and serial number. NE#1 wrote he ran the Complainant’s information, which returned clear. NE#1 wrote he explained the reason for the stop, but the Complainant replied, “You’re an idiot!” NE#1 wrote he confirmed the Complainant’s bike’s serial number did not match the serial number for the stolen bike and gave the Complainant a business card and an incident number. NE#1 also noted he knew the Complainant from prior encounters.

OPA reviewed the incident report for the stolen bike. That bike was described as a specialized bike ’56 centimeters, black aluminum frame, blue bar tape, with no decals. It was reported stolen on August 1, 2022.

BWV was generally consistent with NE#1’s field contact report. It captured what sounded like the Complainant’s bike fall when NE#1 released it but did not show NE#1 throwing it. The Complainant responded, “That’s a couple thousand dollars, dude...fucking idiot.” The detention lasted less than seven and a half minutes, including checking the bike’s serial number and running the Complainant’s information. After NE#1 told the Complainant he was free to leave, the Complainant questioned the stop and accused NE#1 of profiling. The exchange ended with NE#1 saying, “I’ll see you around!” and the Complainant replying, “Hope so.”

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged NE#1 engaged in bias-based policing by detaining him based on his attire while riding an expensive bike “in a not so desirable neighborhood.”

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-POL.

Here, NE#1 saw the Complainant riding a bike that resembled a bike NE#1 knew was stolen. NE#1’s field contact report included the stolen bike’s description, serial number, and related incident report. Moreover, since it was dark out, NE#1 approached the Complainant from behind, and a hood covered the Complainant’s face; it is unlikely NE#1 made out the Complainant’s discernible personal characteristics before initiating the stop.



Further, the Complainant's suggestion that NE#1 stopped him due to his attire while riding a nice bike in an undesirable area is far less convincing than NE#1's reported familiarity with a similar stolen bike.

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

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

Named Employee #1 - Allegation #2

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 NE#1 unjustifiably detained him.

Terry stops are seizures based on reasonable suspicion to be lawful. SPD Policy 6.220-POL-2(1). SPD Policy defines a Terry stop as: "A brief, minimally invasive seizure of a suspect based upon articulable reasonable suspicion to investigate possible criminal activity." SPD Policy 6.220-POL-1. It 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 justify the original stop." Id.

Here, NE#1 had reasonable articulable suspicion to conduct a *Terry stop*. The Complainant's bike significantly resembled the stolen bike, where both were dark-framed specialized bikes with blue taped handlebars.

Photo of the Stolen Bike (posted on a website that aims to help recover stolen bikes)



The Complainant's detention lasted less than seven and a half minutes, enough time for NE#1 to compare serial numbers and run the Complainant's information.

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

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