



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 18, 2024

FROM: DEPUTY DIRECTOR BONNIE GLENN ON BEHALF OF DIRECTOR GINO BETTS JR.,
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0546

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	6.220 - Voluntary Contacts, Terry Stops, & Definitions, 6.220-POL-2 Conducting a Terry Stop, 1. Terry Stops are Seizures Based Upon Reasonable Suspicion	Not Sustained - Lawful and Proper (Expedited)
# 2	6.220 - Voluntary Contacts, Terry Stops, & Definitions, 6.220-POL-2 6. Officers May Conduct a Frisk of Stopped Subject(s) ...	Not Sustained - Lawful and Proper (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties, 5.001-POL 10. Employees Will Strive to be Professional	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:

The Complainant was stopped for carrying toy pistols. The Complainant alleged Named Employee #1 (NE#1) stopped and searched him and confiscated his property for no reason. The Complainant also alleged Named Employee #2 (NE#2) told him to go home like a little child.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employees. As such, OPA did not interview the named employees involved in this case.

On January 23, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

The Complainant filed a web-based complaint alleging he was at a bus stop "carrying some obvious toy pistols," when officers stopped and frisked him "for no reason." The Complainant alleged officers confiscated his work knives and some hatchets he was planning to return to Amazon. The Complainant alleged officers told him he "should just stay home like a little child."

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, incident report, body-worn video (BWV), and photographs. OPA also interviewed the Complainant.



The CAD call report showed multiple 9-1-1 callers reported seeing a male carrying “colorful handguns” but there was uncertainty whether they were real. A 9-1-1 caller reported the male was “twirling” the guns around his fingers and pointing the “gold gun” at vehicles and himself.

NE#2 documented locating and apprehending the Complainant. NE#2 wrote that multiple knives, folding hatchets, and four BB guns were recovered from the Complainant. NE#2 documented that all the weapons were seized and placed into evidence.

BWV recorded officers locating and contacting the Complainant. NE#1 ordered the Complainant to drop his BB guns, and the Complainant complied. After contacting the Complainant, NE#1 asked the Complainant if he had any other weapons on him. The Complainant responded, “Yeah, I have a few hatchets there and a couple knives in my pockets.” NE#1 searched the Complainant and recovered the knives, hatchets, and BB guns. NE#1 also asked the Complainant if he could remove his wallet to take his identification. The Complainant consented. Officers discovered the Complainant had a protection order against him, but determined he did not violate it during this incident. The officers discussed confiscating the Complainant’s weapons, and NE#1 noted that all the weapons were illegal in Seattle and agreed they should be seized. NE#2 informed the Complainant that all his weapons were going to be seized. The Complainant asked NE#2 if he was going to go to jail. NE#2 responded, “Yeah, we’re not gonna do that today. We’ve got this nice winter day, the sun’s out, how bout you just go enjoy it?” The Complainant asked if he could just “chill” there, and NE#2 responded affirmatively.

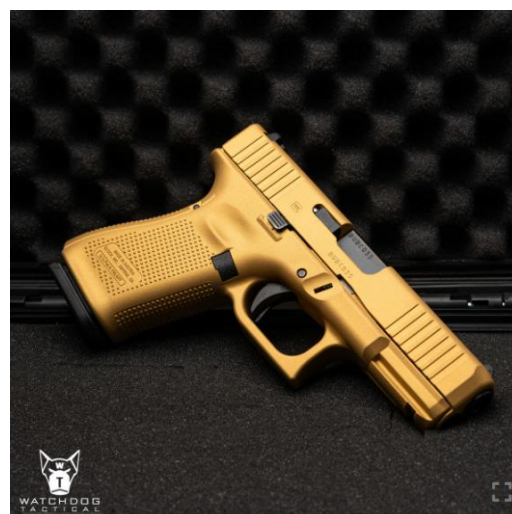
OPA compared the following photographs of the Complainant’s BB guns to a picture of a gold-colored, fully functional, Glock 19 pistol.



Complainant's BB Guns 1 & 2



Complainant's BB Guns 3 & 4



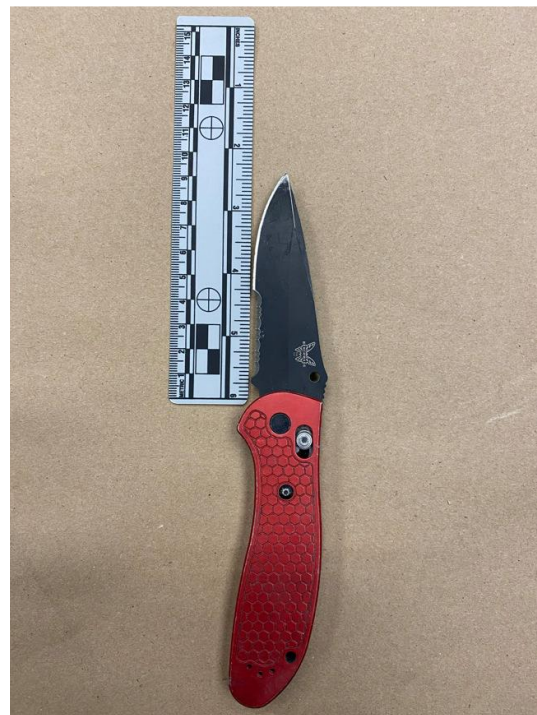
Comparison: Gold-Colored Glock 19



OPA also reviewed a photograph of the folding hatchets:



OPA also retrieved the Complainant's knives from evidence and took the following photographs with a ruler for scale:





OPA interviewed the Complainant, whose statement was consistent with his complaint.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged NE#1 stopped him for “no reason.”

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.*

Here, NE#1 stopped the Complainant based on reasonable suspicion. The stop was lawful and proper.

NE#1 was responding to multiple 9-1-1 calls that reported male was pointing guns at himself and vehicles. NE#1 observed the Complainant in the vicinity of the call location. The Complainant matched the description of the suspect¹ and was holding what appeared to be three real or “Nerf” guns.

NE#1 reasonably suspected the Complainant was engaged in criminal activity—pointing firearms at vehicles or possessing a weapon in a public space—and lawfully stopped him.

Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

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

Named Employee #1 - Allegation #2

6.220 - Voluntary Contacts, Terry Stops, & Definitions, 6.220-POL-2 6. Officers May Conduct a Frisk of Stopped Subject(s) ...

The Complainant alleged that NE#1 unlawfully searched him and seized his property.

SPD Policy 6.220-POL-2(6) states that: “Officers may conduct a frisk or a pat-down of a stopped subject only if they reasonably suspect that the subject may be armed and presently dangerous.” The policy explains that: “The decision to conduct a frisk or pat-down is based upon the totality of the circumstances and the reasonable conclusions drawn

¹ The suspect description provided to 9-1-1 was a white male, mid-thirties, five feet eight inches tall, thin, shaved head, black coat, and black pants. The incident report showed the Complainant was a white male, twenty-eight years old, five feet ten inches tall, one hundred sixty pounds. BWV showed the Complainant had very short-cropped hair and was wearing a long black coat and black pants.



from the officer's training and experience." SPD Policy 6.220-POL-2(6). The policy provides a non-exclusive list of factors supporting such a search. *See id.*

NE#1 lawfully frisked the Complainant and seized contraband from him. NE#1 stopped the Complainant on suspicion of pointing firearms at vehicles. When NE#1 first contacted the Complainant, the Complainant was holding what appeared to be three firearms, which NE#1 ordered the Complainant to drop. NE#1 then asked the Complainant, "Do you have any other weapons on you?" The Complainant responded, "Yeah, I have a few hatchets there and a couple knives in my pockets." Under these circumstances, it was reasonable for NE#1 to suspect the Complainant was armed and presently dangerous. Accordingly, NE#1 was lawfully permitted to frisk the Complainant and recover any weapons.

The Complainant also alleged NE#1 wrongfully confiscated his property: four air guns, two knives, and two hatchets. All these items were illegal as used by the Complainant. Spring guns are illegal to carry in public spaces in Seattle.² When carried concealed, both the knives and hatchets were illegal deadly weapons.³ Because the blades of the knives appeared longer than three and a half inches, they were illegal whether carried concealed or unconcealed.⁴ It was lawful and proper for NE#1 to confiscate these items.

Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

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

Named Employee #2 - Allegation #1

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

The Complainant alleged that NE#2 was unprofessional by telling him to go home like the Complainant was a little child.

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.

This allegation is unfounded. In review of the evidence provided, NE#2 did not tell the Complainant to "go home." Instead, the Complainant asked NE#2 if he was going to jail. NE#2 responded, "Yeah, we're not gonna do that today. We've got this nice winter day, the sun's out, how bout you just go enjoy it?" Based on the evidence provided and in review of the totality of the circumstances, OPA finds this reply was not unprofessional. Also, the allegation did not occur as alleged.

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

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

² See SMC 12A.14.083 and 12A.14.010.

³ See SMC 12A.14.080(B).

⁴ See *id.* See also SMC 12A.14.010 (defining "dangerous knife" to mean any knife having "a blade more than 3 ½ inches in length").