




CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 25, 2024

FROM: DIRECTOR GINO BETTS, JR. 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0136

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)

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:

Named Employee #1 (NE#1) detained the Complainant while investigating a domestic violence (DV) call. The Complainant alleged NE#1 detained him without reasonable suspicion.

ADMINISTRATIVE NOTE:

During the intake investigation, OPA identified that NE#1 failed to screen the Complainant's handcuffing with a supervisor, as required under SPD Policy 6.220-POL-2(8) (requiring supervisors to screen all incidents in person where an officer places a person in handcuffs). OPA referred this allegation to NE#1's chain of command to process as a supervisor action.¹

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 employee. As such, OPA did not interview the named employee in this case.

On June 10, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

The Complainant filed a web-based complaint with OPA. The Complainant wrote he and his girlfriend (Community Member #1 or CM#1) had a "loud fight" with "alcohol involved." The Complainant denied anything physical occurred but stated the fight "sounded pretty bad, and so our neighbors called the cops." The Complainant wrote that SPD officers responded and that he "did everything they asked." The Complainant said the officers told him he was not being detained but would not allow him to use his cell phone and, when he tried to walk back to his apartment, grabbed his shoulder "forcefully" and put him in handcuffs. The Complainant concluded, "I am just confused how I can be held against my will like that when I am told I'm not being detained."

¹ A Supervisor Action generally involves a minor policy violation or performance issue that is best addressed through training, communication, or coaching by the employee's supervisor. See OPA Internal Operations and Training Manual section 5.4(B)(ii).



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

The CAD call report showed NE#1 and three other officers responded to a 9-1-1 call for an assault. The 9-1-1 caller reported “sounds of people being thrown around and screaming” and that a female told the 9-1-1 caller she was “getting beat up.” NE#1 was assigned as the primary officer of the call.

NE#1 documented the following in an incident report. NE#1 arrived at the call location and met with the Complainant and CM#1. The Complainant showed signs of intoxication and appeared “agitated,” and “kept asking why police were speaking to him.” Officers told the Complainant several times they were there to investigate a reported assault between the Complainant and CM#1. The Complainant denied assaulting CM#1 but admitted there was a verbal argument. The Complainant had a small cut visible on his hand, but the Complainant stated he could not remember how it got there. NE#1 met with CM#1, who was crying. CM#1 said she and the Complainant had an argument but denied there was any physical assault. Officers provided both parties with pamphlets about DV.

BWV was consistent with the CAD call report and NE#1’s incident report. BWV also showed NE#1, informing the Complainant that he was not free to go. Another officer placed his hand out and physically prevented the Complainant from walking away. Officers explained to the Complainant that they were investigating, and, at one point, the Complainant asked, “Am I being detained?” NE#1 responded, “Yeah, we’re still doing an investigation.” The Complainant asked officers if they were going to handcuff him, and when NE#1 explained handcuffs were not necessary, the Complainant stated, “Then I’m free to go.” NE#1 responded, “No, you’re not.” About a minute later, the Complainant tried to walk away. NE#1 grabbed the Complainant’s left arm and put the Complainant in handcuffs.

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 that NE#1 detained him without reasonable suspicion.

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 to be lawful. 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. 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 “[information 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.*

NE#1 and detained the Complainant based on reasonable suspicion. Here, NE#1 and other officers were investigating a 9-1-1 call that reported screaming, the sounds of “people being thrown around,” and CM#1 allegedly telling the 9-1-1 caller she was being assaulted. On arrival at the scene, NE#1 found the Complainant agitated, intoxicated, and with a cut on his hand. CM#1 was crying. While NE#1 was investigating the incident by speaking to the Complainant



and CM#1, the Complainant appeared to mistakenly believe that, so long as he was not in handcuffs, he was free to leave. NE#1 told the Complainant at least twice that he was being detained and was not free to leave. When the Complainant attempted to walk away from NE#1, NE#1 used de minimis force² to restrain the Complainant and place him in handcuffs. This was appropriate and within policy.

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

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

² De minimis force is a physical interaction to control or guide that is unlikely to cause pain or injury. See SPD Interim Policy 8.050.