



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 23, 2024

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

CASE NUMBER: 2024OPA-0163

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, & Definitions, 6.220-POL-2 Conducting a Terry Stop, 1. Terry Stops are Seizures Based Upon Reasonable Suspicion	Not Sustained - Lawful and Proper (Expedited)

Named Employee #2

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, & 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:

The Complainant alleged the named employees unlawfully detained him based on his race.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that with the Office of Inspector General's (OIG) agreement, OPA believed it could issue recommended findings based on its intake investigation. As such, OPA did not interview the named employees.

On May 8, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) detained the Complainant to investigate a felony harassment report. During his detention, the Complainant alleged that the officers only stopped him because he was Black and his accuser was white. The named employees requested a supervisor to investigate the bias allegation, but the Complainant—who was free to leave—declined to speak with the supervisor. The supervisor referred the Complainant's allegation to OPA.



OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, incident report, and body-worn video (BWV). OPA attempted to contact the Complainant by calling two phone numbers associated with him on three dates and mailing a letter to his last known address. Still, OPA has yet to hear from the Complainant.

The named employees responded to a 9-1-1 call, reporting that a male threatened to stab the 9-1-1 caller. The suspect was described as a Black male in his fifties, medium build, wearing a black jacket and blue jeans.

BWV showed the named employees' actions at the incident location. They spoke with the 9-1-1 caller, who stated he was in line to enter a church when a man behind him—later identified as the Complainant—entered his personal space. The 9-1-1 caller told the Complainant to back up, and the Complainant allegedly responded, “I’m going to pull out this knife, and you’re going to die. I’m going to stab you a bunch of times.” The 9-1-1 caller said he did not see a knife and pointed officers to the church where he last saw the Complainant. The named employees relocated to the church, where a security officer identified the Complainant. The named employees stopped the Complainant—matching the offender’s description—telling him he was not free to go and that they needed to talk to him. NE#2 asked the Complainant whether he had any knives, which the Complainant denied. The Complainant consented to NE#2 patting him down, which did not reveal a weapon. The Complainant acknowledged a confrontation but described the 9-1-1 caller as the primary aggressor. When NE#1 asked the Complainant whether he “implied” he had a knife during the confrontation, the Complainant said, “Whether I did or not, I wanted him to get off of me.” He then denied implying he had a knife. The named employees then spoke to a witness, who denied seeing a knife and was unclear about whether he heard the Complainant threaten the 9-1-1 caller. The Complainant alleged that his detainment was “...a racial thing. He’s white. I’m Black. . . I know how this works. He’s white. I’m Black. I’m the one getting detained.” NE#1 told the Complainant he was free to go.

NE#1 wrote an incident report consistent with the information above.

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 the named employees stopped him because of his race.

SPD 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. This includes different treatments based on someone’s race. *See id.* Officers may not (i) make decisions or take actions influenced by bias and (ii) express prejudice or derogatory comments concerning personal characteristics. *See* SPD Policy 5.140-POL-2.

The evidence established that the named employees had reasonable suspicion to briefly detain the Complainant for their felony harassment investigation. They took statements from 9-1-1, the Complainant, and a witness. They relatively quickly determined there was no probable cause for an arrest and told the Complainant he was free to leave. Both named employees were courteous, explained their actions, and sought consent to frisk the Complainant for weapons. There was no indication that that stop was racially motivated.

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



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

Named Employee #1 - Allegation #2

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 the named employees unlawfully detained him.

A *Terry* stop is “A brief, minimally invasive seizure of a suspect based upon articulable reasonable suspicion to investigate possible criminal activity.” SPD Policy 6.220-POL-1. *Terry* stops must be based on reasonable suspicion to be lawful. SPD Policy 6.220-POL-2(1). Reasonable suspicion means “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.* “The totality of the circumstances, the officer’s training and experience, and what the officer knew before the stop” determines whether a *Terry* stop was reasonable. *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.*

The named employees had reasonable suspicion that the Complainant committed a felony offense based on his matching the offender’s description provided by the purported victim. As articulated above at Named Employee #1 – Allegation #1, the 9-1-1 caller provided a detailed physical description and the offender’s location. A security guard identified the Complainant to the named employees.

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

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

For the reasons outlined at Named Employee #1—Allegation #1, OPA recommends that this allegation be Not Sustained—Unfounded (Expedited).

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

Named Employee #2 - Allegation #2

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

For the reasons outlined at Named Employee #1 – Allegation #2, OPA recommends that this allegation be Not Sustained – Lawful and Proper (Expedited).

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