



## CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 5, 2025

FROM: INTERIM DIRECTOR BONNIE GLENN  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0298

### Allegations of Misconduct & Director's Findings

#### Named Employee #1

Allegation(s):		Director's Findings
# 1	8.200 – Using Force, 8.200-POL-1. Use of Force: When Authorized (Effective April 24, 2023)	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 - Lawful and Proper (Expedited)

#### Named Employee #2

Allegation(s):		Director's Findings
# 1	8.200 – Using Force, 8.200-POL-1. Use of Force: When Authorized (Effective April 24, 2023)	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 - 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) and Named Employee #2 (NE#2) responded to a collision incident where the Complainant reportedly threatened the other driver, Community Member #1 (CM#1). The named employees handcuffed the Complainant twice—once to frisk for weapons and again when they believed he had a warrant. The Complainant alleged that the named employees used unauthorized force when they unlawfully detained him.

### ADMINISTRATIVE NOTE:

This case was approved for Expedited Investigation. That means 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 in this case.

On August 16, 2024, OIG certified OPA's investigation as thorough, timely, and objective.



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**SUMMARY OF INVESTIGATION:**

On July 9, 2024, the Complainant left OPA a voicemail, seeking to file an OPA complaint. On July 16, 2024, OPA contacted the Complainant. He alleged that officers “roughed” him up when they unlawfully handcuffed him, causing arm pain the following day. He denied threatening CM#1. He said officers unlawfully detained him again based on a mistaken belief that he had a warrant.

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

On July 5, 2024, at 10:21 PM, CAD call remarks noted, “2 VEH[ICLE] ACCIDENT IN PARKING LOT, MALE BEING AGGRESSIVE, MALE MENTIONED HE DOES HAVE A [WEAPON].” At 10:22 PM, the call taker noted hearing the Complainant yell in the background. At 10:23 PM, the call taker noted that the Complainant blocked CM#1 and told her he would “BLOW HER BRAINS OUT.”

BWV captured the named employees responding to a Safeway parking lot. CM#1 was reversed parked in a handicapped spot. The Complainant’s car was parked perpendicularly in front of CM#1’s car. The Complainant stood near the front of CM#1’s car, pointed at CM#1, and shouted, “This dumb dumb hit my fucking car!” CM#1 briefly exited her car and said, “I did. I hit him.” The Complainant refused to relocate with NE#2, saying he was “very upset.” He denied having weapons. He articulated his first, middle, and last names and birthdate after NE#2 asked for his name. NE#2 asked for his birthdate again, but he refused to provide it. He denied having warrants and exclaimed, “If she was a man, I’m gonna tell you the truth, I would’ve knocked her fucking teeth in her mouth.”

BWV captured the named employees handcuffing the Complainant. NE#1 told him he was being detained, not arrested, for telling CM#1 that he had a gun. He denied having a gun and protested his detainment, demanding he be uncuffed. NE#2 contacted CM#1, who said the Complainant threatened her with a gun but denied seeing one. NE#1 uncuffed the Complainant after frisking him. NE#1 explained that he was handcuffed for reportedly threatening CM#1 with a gun. The Complainant shouted at CM#1 and the named employees. He demanded CM#1 be handcuffed for having a gun. He refused to provide his information despite NE#1’s repeated requests for it.

BWV captured NE#1 asking NE#2 for the Complainant’s name. NE#2 articulated the Complainant’s first, middle, and last names. NE#1 said the Complainant may have a felony warrant.<sup>1</sup> The named employees handcuffed the Complainant, and NE#1 explained that he had a “possible warrant,” requiring verification. The Complainant insisted they had the wrong person. NE#2 Mirandized the Complainant and placed him in the back of a patrol car. NE#2 told NE#1 that he did not know the Complainant’s birthdate but articulated his middle name. NE#1 reviewed the warrant details on his computer and told NE#2 that they had the wrong person. The named employees removed the Complainant from the patrol car and uncuffed him. A sergeant responded to the scene and screened the incident.

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<sup>1</sup> NE#2’s field contact report stated that, after running the Complainant’s license plate and registered owner, NE#1 received a felony warrant hit for a person whose first and last names matched those of the Complainant. However, the middle names differed.



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**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 – Allegation #1**

***8.200 – Using Force, 8.200-POL-1. Use of Force: When Authorized (Effective April 24, 2023)***

The Complainant alleged that the named employees used unauthorized force by roughing him up during handcuffing.

Officers will only use objectively reasonable, necessary, and proportional force to the threat or urgency of the situation to achieve a law enforcement objective while protecting the life and safety of all persons. SPD Interim Policy 8.200(1) (effective April 24, 2023). Reasonability must consider that officers are often forced to make split-second decisions about the force necessary in a particular situation in tense, uncertain, dynamic, and rapidly evolving circumstances. *Id.* The question is whether the officers' actions were objectively reasonable considering the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Id.* Several factors should be weighed when evaluating reasonableness. *See id.* Force is necessary under the totality of the circumstances when there is no reasonably effective alternative to using physical or deadly force, and the type and amount of physical or deadly force used is a reasonable and proportional response to effect the legal purpose intended or to protect against the threat posed to the officer or others. SPD Interim Policy 8.050 (effective May 19, 2023). Proportional force must reflect the totality of circumstances of the situation, including the nature and immediacy of any threats posed to officers and others. *Id.* Officers must rely on training, experience, and circumstances to decide an appropriate level of force. *Id.*

BWV captured the named employees using, at most, *de minimis* force to handcuff the Complainant twice. *See* SPD Interim Policy 8.050 (effective May 19, 2023) (defining *de minimis* force as a physical interaction meant to separate, guide, and/or control without using control techniques that are intended to, or are reasonably likely to, cause pain or injury). Their force involved positioning the Complainant's arms behind his back and handcuffing him. The Complainant never expressed pain throughout his contact with the named employees. Video evidence dispelled the Complainant's claim that the named employees roughed him up during handcuffing.

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

The Complainant alleged that the named employees unlawfully detained him twice.

*Terry* stops are seizures of an individual and, as such, must be based on reasonable suspicion to be lawful. SPD Policy 6.220-POL-2(1). A *Terry* stop is a brief, minimally intrusive seizure of a subject based on reasonable articulable suspicion to investigate possible criminal activity. SPD Policy 6.220-POL-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 reasonableness of a *Terry* stop is based on 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 justify the original stop. *Id.*

Based on the 911 call, the named employees had sufficient reasonable suspicion to detain the Complainant for threatening CM#1 with a weapon. The Complainant's confrontational disposition, combined with reported threats of harm, further warranted limiting his freedom. Thus, the named employees justifiably handcuffed the Complainant to frisk him for weapons. See SPD Policy 6.220-POL-2(6) (allowing officers to frisk a stopped person only if they have an articulable and reasonable safety concern that the person is armed and presently dangerous).

The named employees' reasonable suspicion to handcuff the Complainant a second time was predicated on a good faith but mistaken belief that he had a felony warrant. The Complainant and the warrant suspect had matching first and last names. Although their birthdates and middle names differed, the Complainant was uncooperative in articulating his information to the named employees, hindering their identification process. NE#1 acknowledged that he should have verified the DOB and middle name with the Complainant and took responsibility for the mistake. Under the circumstances, handcuffing the Complainant for a "possible warrant" during their verification process was not unreasonable. After NE#1 realized the error, his reasonable suspicion was dispelled. NE#1 immediately released the Complainant and requested a sergeant for further review.

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**

***8.200 – Using Force, 8.200-POL-1. Use of Force: When Authorized (Effective April 24, 2023)***

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

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

**Named Employee #2 – Allegation #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***

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

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