



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 1, 2020

CASE NUMBER: 2019OPA-0691

Allegations of Misconduct & Director's Findings

Named Employee #1

| Allegation(s): | | Director's Findings |
|----------------|--|-----------------------------------|
| # 1 | 5.100 - Operations Bureau Individual Responsibilities 2. Monitor and take appropriate action regarding criminal activity in assigned area. | Not Sustained (Training Referral) |
| # 2 | 6.220 - POL – 4 Documenting a Terry Stop 1. Officers Will Document All Terry Stops | Not Sustained (Training Referral) |

Named Employee #2

| Allegation(s): | | Director's Findings |
|----------------|--|-----------------------------------|
| # 1 | 5.100 - Operations Bureau Individual Responsibilities 2. Monitor and take appropriate action regarding criminal activity in assigned area. | Not Sustained (Training Referral) |
| # 2 | 6.220 - POL – 4 Documenting a Terry Stop 1. Officers Will Document All Terry Stops | Not Sustained (Training Referral) |

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:

It was alleged that the Named Employees conducted an inadequate investigation and that they failed to properly document a Terry stop.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

5.100 - Operations Bureau Individual Responsibilities 2. Monitor and take appropriate action regarding criminal activity in assigned area

The Named Employees were dispatched to a priority one call concerning a male suspect who was alleged to be waving a knife around. The caller indicated that the suspect was not pointing the knife at anyone and did not make any threats. The call was updated to reflect that the suspect was harassing customers at a business and it “seems” as if the individual wanted to fight. The 911 caller requested in-person contact by the officers. The CAD Call Report noted that a “another business owner,” who may or may not have been the initial 911 caller, was following the suspect on foot and then disconnected the 911 call.

Named Employee #1 (NE#1) drove to the location and, while doing so, observed an individual that matched the description of the suspect. NE#1 stopped and detained the suspect and, soon thereafter, Named Employee #2 (NE#2) arrived at their location. NE#1 asked the suspect if he was waving a knife in public. The suspect denied doing

so but had an opened knife in his pocket. NE#1 removed the knife from the suspect's front pant pocket and placed it into a bag that was slung over the suspect's shoulder. NE#1 noted that, based on the suspect having an open knife in his pocket, NE#1 believed that the suspect was waving it around. NE#1 remarked that the suspect was intoxicated and told the suspect that he could go but that NE#1 did not want to receive another report that the suspect was waving a knife around.

NE#1 and NE#2, who was the primary officer on the call, cleared the incident without writing a report. In addition, neither officer completed a Terry Template documenting the detention of the suspect. Lastly, the officers did not make contact with the initial 911 caller or go to the scene of where the waving of the knife allegedly occurred to identify victims and/or witnesses.

A community member later posted about this incident on Reddit and raised concerns with the sufficiency of the Named Employees' handling of this case. A third party viewed the Reddit posting and forwarded it to OPA. OPA subsequently initiated this investigation.

SPD Policy 5.100-POL-2 governs the general responsibilities of patrol officers. It specifically requires that patrol officers "monitor and take appropriate action regarding criminal activity in assigned area."

OPA finds that, in this case, the Named Employees failed to comply with this policy. Most notably, neither officer returned to the scene of the crime to make contact with the reporting party and to identify other possible victims or witnesses. Instead, they released the suspect at the scene and completed no documentation.

At his OPA interview, NE#1 stated that he did not take any further action aside from detaining and speaking with the suspect because the officers "didn't have a crime," a "complainant," or a "victim." NE#2 provided a similar account, asserting that "at the time, there was not a crime being alleged to have taken place" and stating that he "didn't think the caller wanted contact anymore." NE#2 stated his belief that the incident was fully investigated.

OPA struggles to understand why the officers believed that there was no crime. The suspect was reported to have been waving a knife at community members, while making harassing statements and engaging in actions that made it appear as if he wanted to fight. Moreover, there was a complainant, as well as a number of other potential victims and witnesses. It is unclear why the officers thought that this was not the case. Indeed, there is nothing in the CAD Call Report indicating that the reporting party rescinded the request for contact. Ultimately, OPA disagrees with NE#2's contention that this case was fully investigated. It was not. OPA notes that NE#1 seemed to recognize this at his interview when he told OPA that, if he could do this incident again, he would go to the scene to conduct further investigation prior to clearing the call.

Based on OPA's review, this is NE#1's first time acting contrary to this policy or otherwise conducting an inadequate investigation. NE#2 received a Sustained finding in another case for failing to conduct a sufficient domestic violence investigation; however, he was not on notice of that Sustained finding at the time of this incident. If NE#2 had such notice, he would have also received a recommended Sustained finding in this case. Given this, OPA recommends that both officers receive a Training Referral. Both Named Employees should be aware that future inadequate investigations will result in a recommended Sustained finding and the likely imposition of discipline.

- **Training Referral:** The Named Employees' chain of command should discuss this incident with them and, specifically, go over the adequacy of their investigation into this incident. The chain of command should retrain the Named Employees on the Department's expectation of the investigatory steps that they are required to take before clearing a case with no report being written. This counseling and retraining should be documented, and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #1 - Allegation #2

6.220 - POL – 4 Documenting a Terry Stop 1. Officers Will Document All Terry Stops

SPD Policy 6.220-POL-4(1) requires that officers document all Terry stops using a Terry Template. Within the Terry Template, officers are instructed to “clearly articulate the objective facts they rely upon in determining reasonable suspicion.” (SPD Policy 6.220-POL-4(1).)

From OPA’s review of the BWV and given the Named Employees’ interviews, it is clear that they effectuated a Terry stop of the suspect. However, neither officer completed a Terry Template as was required by policy.

NE#1 took responsibility for failing to complete the Terry Template. He stated that it was a busy night and he just forgot to do so.

NE#2 told OPA that he did not complete a Terry Template because he did not actually effectuate the stop. He asserted his belief that NE#1 was going to complete it. While NE#2 is correct that he did not effectuate the stop, as the primary officer on the call, he was technically responsible for ensuring that all required paperwork was completed.

Based on the above, OPA finds that both Named Employees technically violated policy when they failed to ensure that a Terry Template was completed. However, OPA verified that neither had violated this policy before. As such, OPA concludes that retraining, rather than a Sustained finding, is the appropriate result. However, and as with Allegation #1, the Named Employees should be on notice that a future failure to complete a Terry Template may result in a recommended Sustained finding and the likely imposition of discipline.

- **Training Referral:** The Named Employees’ chain of command should remind them of the requirement that they complete a Terry Template when required by policy and counsel them concerning their failure to do so here. This counseling and retraining should be documented, and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #2 - Allegations #1

5.100 - Operations Bureau Individual Responsibilities 2. Monitor and take appropriate action regarding criminal activity in assigned area

OPA recommends that this allegation be Not Sustained and refers to the above Training Referral (see Named Employee #1 – Allegation #1).

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #2 - Allegation #2

6.220 - POL – 4 Documenting a Terry Stop 1. Officers Will Document All Terry Stops

OPA recommends that this allegation be Not Sustained and refers to the above Training Referral (see Named Employee #1 – Allegation #2).

Recommended Finding: **Not Sustained (Training Referral)**