
Issued Date: FEBRUARY 16, 2024

From: Director Gino Betts, Office of Police Accountability



Case Number: 2023OPA-0370

Allegations of Misconduct & Director's Findings

Named Employee #1

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
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)
2. **Allegation #2:** 6.010 Arrests POL 1. Officers Must Have Probable Cause That a Suspect
Committed a Crime to Effect an Arrest
 - a. **Finding:** 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 Named Employee #1 (NE#1) unlawfully detained and arrested Community Member #1 (CM#1) and Community Member #2 (CM#2)

Administrative Note:

This case was designated as an Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG's) agreement, believed it could reach and issue recommended findings based solely on its intake investigation without interviewing the involved employee. OPA did not interview the involved employee.

On September 25, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of the Investigation:

OPA received an anonymous complaint. The Complainant wrote that CM#1 and CM#2 were in a "verbal and physical altercation." The Complainant wrote that CM#1—a woman—accused CM#2—a man— of stealing from her, and they argued about it. The Complainant wrote that CM#2 threatened CM#1. The Complainant wrote that the police arrived and arrested CM#1 and CM#2.

Based on the incident's approximate time and location, OPA identified NE#1 as the arresting officer. OPA opened an intake investigation, reviewing the OPA complaint, computer-aided dispatch (CAD) call report, incident report and supplements, and body-worn video (BWV). OPA attempted to contact CM#1, but her phone number was disconnected.

CAD records showed that officers responded to a 9-1-1 call concerning a "male and female strangling each other." Initially, CAD remarks indicated they were "punching each other" and "fighting equally," but a later update reported, "female now hitting male with an object." The caller provided the incident location and CM#1 and CM#2 descriptions.

NE#1 and Witness Officer #1's (WO#1) statements stated they arrived and contacted CM#1, who reported arguing with CM#2. Officers saw no injuries on CM#1. Two nearby witnesses stated CM#1 and CM#2 fought and strangled each other, and CM#1 hit CM#2 with an unknown object. Officers located CM#2 and saw wounds near his neck. CM#2 declined to discuss the confrontation, stating, "I plead the fifth." CM#1 and CM#2 admitted they were in a romantic relationship. CM#1 was arrested for domestic violence (DV) assault. During the investigation, officers determined CM#2 had an outstanding warrant. CM#2 was arrested for the warrant.

BWV was consistent with the officers' reports. NE#1 arrived at the location and detained CM#1, who matched the provided description. CM#1 gave NE#1 an updated description of CM#2, which NE#1 provided to dispatch. After speaking with CM#1, NE#1 initially told her, "Have a good night," and walked off. NE#1 then spoke with a sergeant and witnesses, who reported CM#1 hit CM#2 with an object resembling a crowbar. Witnesses then identified CM#2. NE#1 detained CM#2, and WO#1 detained CM#1. An officer photographed CM#2's injuries. CM#1 and CM#2 were arrested.

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 detained CM#1 and CM#2 without reasonable suspicion. *Terry* stops are seizures and must be based on reasonable suspicion. SPD Policy 6.220-POL-2(1). A *Terry* stop is "A brief, minimally invasive seizure of a suspect based upon articulable reasonable suspicion to investigate possible criminal activity." 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.* Reasonableness is determined by "the totality of the circumstances, the officer's training and experience, and what the officer knew before the stop." *Id.* "Information learned during the stop can lead to additional reasonable suspicion or probable cause that a crime has occurred," but it "cannot provide the justification for the original stop." *Id.*

CM#1 and CM#2 were lawfully detained. NE#1 responded to a 9-1-1 call concerning a violent altercation between a man and a woman. NE#1 located CM#1, who matched the involved woman's description. A witness later identified CM#2 as the involved male. Therefore, NE#1 had reasonable suspicion to detain CM#1 and CM#2 while they investigated.

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

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