



CLOSED CASE SUMMARY

ISSUED DATE: MAY 28, 2025

FROM: INTERIM DEPUTY DIRECTOR NELSON R. LEESE (ON BEHALF OF INTERIM DIRECTOR BONNIE GLENN)
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2025OPA-0010

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	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) stopped the Complainant for speeding. NE#1 administered a horizontal gaze nystagmus (HGN) test on the Complainant, determined that he was not impaired, and released him with a warning. The Complainant alleged NE#1 lacked reasonable suspicion to administer the HGN test for a speeding infraction.

ADMINISTRATIVE NOTE:

During the intake, OPA identified NE#1 failed to document the warning he issued to the Complainant for speeding, potentially violating SPD Policy 16.230-TSK-7 (Issuing a Traffic Warning). OPA processed this as a Supervisor Action.¹

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue a recommended finding based solely on its intake investigation without interviewing the named employee. As such, OPA did not interview the named employee in this case.

On January 28, 2025, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

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

On January 2, 2025, ICV captured NE#1 in a patrol vehicle stopped at a left turn lane with a red light. The Complainant drove through a green light and passed NE#1, who subsequently followed the Complainant and initiated a traffic stop. The Complainant pulled over. BWV captured NE#1's interaction with the Complainant. NE#1 said the reason for the

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



stop was speeding and asked whether the Complainant drank alcohol or smoked, which the Complainant denied doing. NE#1 explained his primary concern for the night was drunk drivers. The Complainant consented to NE#1's request to examine his eyes and exited his vehicle. NE#1 said he did not have a radar device but estimated the Complainant's speed to be 35 MPH, which the Complainant acknowledged. NE#1 said his sole intention was to determine whether the Complainant was impaired, and he subsequently administered the HGN test. NE#1 asked the Complainant to reduce his speed and then released him.

During the Complainant's OPA interview, he said NE#1 lacked probable cause to administer the HGN test, as he was not driving in a manner indicative of impairment. He said NE#1's stated reason for pulling him over was for speeding.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

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 NE#1 lacked reasonable suspicion to administer the HGN test for a speeding infraction.

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.

NE#1 had adequate reasonable suspicion to execute a *Terry stop* on the Complainant for speeding. After the Complainant drove through a green-light intersection in a 25-MPH zone, ICV showed NE#1 traveling at speeds between 34 and 46 MPH to close the distance. The Complainant also admitted to driving around 35 MPH, which justified the traffic stop. NE#1 was primarily motivated to determine whether the Complainant was impaired and, accordingly, requested the Complainant's consent to perform the HGN test, which the Complainant could have declined. Although the Complainant may have been correct in stating that NE#1 lacked reasonable suspicion for impaired driving, this conclusion did not invalidate the traffic stop for speeding. The Complainant's participation in the HGN test was voluntary.

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

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