



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 22, 2018

CASE NUMBER: 2017OPA-1105

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Inconclusive)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Inconclusive)
# 3	8.400 - Use of Force Reporting and Investigation 1. Officers Shall Report All Uses of Force Except De Minimis Force	Not Sustained (Inconclusive)
# 4	6.220 - Voluntary Contacts, Terry Stops & Detentions 3. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope	Not Sustained (Inconclusive)
# 5	6.220 - Voluntary Contacts, Terry Stops & Detentions 4. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Amount of Time	Not Sustained (Inconclusive)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Inconclusive)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Inconclusive)
# 3	8.400 - Use of Force Reporting and Investigation 1. Officers Shall Report All Uses of Force Except De Minimis Force	Not Sustained (Inconclusive)
# 4	6.220 - Voluntary Contacts, Terry Stops & Detentions 3. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope	Not Sustained (Inconclusive)
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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 that two Unknown Employees pulled him over at gunpoint, did not initially tell him why he was being pulled over, handcuffed him "extremely tightly," and kept him in the handcuffs for over ten minutes until his hands began going numb. The Complainant further alleged that he informed the Unknown Employees that the handcuffs were cutting into his skin, but that the Unknown Employees would not remove them. Finally, the



Complainant alleged that he should not have been kept in handcuffs after the Unknown Employees established that his license plates matched his vehicle.

STATEMENT OF FACTS:

The Complainant alleged that he was driving when he was pulled over by a “Seattle police cruiser” that was occupied by two individuals. The Complainant stated that one of those individuals was a uniformed officer and the other was in plainclothes. He said that he saw the officers exit their vehicle and crouch behind the doors with their guns drawn. The Complainant told OPA that he was ordered to turn off his car and to drop his keys out of his window. He did so. He was asked to keep his hands out of the window, but also to take off his seatbelt and open the door with his left hand. The Complainant reported feeling afraid that he would be shot. He stated that he moved backwards to the officers with his hands up and while they had their guns pointed towards him. He got on his knees where he was “handcuffed extremely tightly.” The Complainant was seated in the rear of the patrol vehicle and was informed that there were no cameras inside.

The Complainant stated that, while he was seated in the back of the patrol vehicle, the officers, who were joined by a Washington State Patrol trooper, searched his vehicle for other occupants. No other occupants were found therein. During this time, the Complainant remained in the patrol vehicle. He stated that he was uncomfortable, his handcuffs were tight, and he felt claustrophobic.

He was finally told by one of the officers that his license plates had been reported stolen. The Complainant told the officers that he had never reported his license plates stolen but, at one point, had reported his vehicle stolen (about a year prior). He told the officers that the license plates matched the vehicle, which they agreed with. He asked why he had been pulled over in the first place and an officer told him that it was because he had his cellphone in his hand while he was driving. The Complainant stated that he was not using his cellphone and simply had it in his hand because he was listening to music. The officer told him that it was still illegal. The Complainant was surprised that he had been handcuffed at gunpoint and detained solely for a cellphone violation and said that to the officer. The officer responded that his plate was also stolen, providing a further justification for the stop.

In his emailed complaint to OPA, the Complainant asserted that the stop was unnecessary and unwarranted. He contended that, as a result, he suffered humiliation and anxiety both before and after the fact. He also stated that he suffered injuries to his wrist that were still bothering him hours after the incident.

In his emailed complaint, the Complainant did not provide an incident number for the stop or the names of any of the officers involved in the incident.

OPA initiated an investigation into the Complainant’s allegations. As part of that investigation, OPA conducted CAD and GPS searches for any activity that could match that described by the Complainant – namely stops of vehicles with potentially stolen license plates – from the date in question. This search yielded no results. OPA also ran all of the vehicles owned by the Complainant through the Department’s Versadex system to determine whether there was any record of SPD officers coming into contact with those vehicles on the date in question. This also yielded no results. OPA made numerous attempts to contact the Complainant, including by email, phone, and letter. The Complainant responded only once to OPA via email. In that email, he told the assigned OPA investigator that he would call; however, the Complainant never did so. As such, OPA was unable to interview him to learn any details as to the location of the



incident and the descriptions of the officers that were involved. Lastly, OPA notes that all marked SPD vehicles are equipped with In-Car Video.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times

SPD Policy 5.001-POL-9 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-9.)

The Complainant contended that the Unknown Employees’ conduct was unprofessional. Specifically, OPA interpreted him as alleging that the officers’ failure to timely provide him with information as to why he was stopped and the egregiousness of their purported conduct violated this policy.

As indicated above, OPA could not determine whether this incident ever occurred or who the involved officers might have been. Accordingly, I am unable to reach a conclusive determination as to this allegation and I recommend that it be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**

Named Employee #1 - Allegation #2

8.200 - Using Force 1. Use of Force: When Authorized

SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary and proportional. Whether force is reasonable depends “on the totality of the circumstances” known to the officers at the time of the force and must be balanced against “the rights of the subject, in light of the circumstances surrounding the event.” (8.200(1).) The policy lists a number of factors that should be weighed when evaluating reasonableness. (*See id.*) Force is necessary where “no reasonably effective alternative appears to exist, and only then to the degree which is reasonable to effect a lawful purpose.” (*Id.*) Lastly, the force used must be proportional to the threat posed to the officer. (*Id.*)

There were two main applications of force here. First, the officers were alleged to have pointed their firearms at the Complainant, which constituted a Type I use of force. Second, the Complainant asserted that the officers tightly handcuffed him, left him that way, did not check the handcuffs, and that this resulted in more than transient pain. This also would have constituted a Type I use of force.

As with the above allegation, OPA could not determine whether the alleged conduct ever occurred and, if so, who the involved officers were. Moreover, without having more information concerning the incident, OPA was unable to locate any documentation, including use of force reports that would have provided the officers’ description of and explanation for the force used. For these reasons, I cannot reach a determinative finding as to this allegation and I recommend that it be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**



Named Employee #1 - Allegation #3

8.400 - Use of Force Reporting and Investigation 1. Officers Shall Report All Uses of Force Except De Minimis Force

SPD Policy 8.400-POL-1 requires that officers report all uses of force except de minimis force. Both of the alleged applications of force in this case would have constituted Type I force that would have needed to be reported.

Here, OPA could not verify whether this incident occurred and, similarly, could not locate any use of force reports related to the incident. If SPD officers used force and did not report it, that would constitute a violation of policy. However, given the dearth of evidence, I recommend that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**

Named Employee #1 - Allegations #4

6.220 - Voluntary Contacts, Terry Stops & Detentions 3. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope

SPD Policy 6.200-POL-3 requires officers to limit Terry stops, including vehicular stops, to a reasonable scope. It was alleged by the Complainant that the officers exceeded a reasonable scope when they kept him handcuffed and secured in the rear of the patrol vehicle, even after determining that his plates matched his vehicle and that there was no one else in the car.

While I agree that, if it could be proved that this occurred, the reasonable scope of the Terry stop would have likely been exceeded, the evidence is inconclusive. As such, I recommend that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**

Named Employee #1 - Allegation #5

6.220 - Voluntary Contacts, Terry Stops & Detentions 4. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Amount of Time

SPD Policy 6.220-POL-4 states that officers must limit a Terry stop to a reasonable amount of time. Here, the Complainant alleged that he was held in handcuffs for a significant amount of time (the exact amount is unclear). He contends that this violated SPD policy.

As the Complainant did not respond to OPA's request for an interview and as it is unclear from his written complaint, OPA could not determine how long the stop lasted for. As such, OPA cannot reach a conclusive determination as to this allegation and I recommend that it be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**



Named Employee #2 - Allegations #1

5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**

Named Employee #2 - Allegation #2

8.200 - Using Force 1. Use of Force: When Authorized

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**

Named Employee #2 - Allegation #3

8.400 - Use of Force Reporting and Investigation 1. Officers Shall Report All Uses of Force Except De Minimis Force

For the same reasons as stated above (see Named Employee #1, Allegation #3), I recommend that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**

Named Employee #2 - Allegations #4

6.220 - Voluntary Contacts, Terry Stops & Detentions 3. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope

For the same reasons as stated above (see Named Employee #1, Allegation #4), I recommend that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**

Named Employee #2 - Allegation #5

6.220 - Voluntary Contacts, Terry Stops & Detentions 4. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Amount of Time

For the same reasons as stated above (see Named Employee #1, Allegation #5), I recommend that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**