



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 6, 2019

CASE NUMBER: 2019OPA-0146

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Training Referral)
# 2	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Allegation Removed

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Training Referral)
# 2	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Allegation Removed

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 failed to document multiple stops and detentions.

ADMINISTRATIVE NOTE:

OPA initially recommended that both of the Named Employee receive Sustained findings for failing to document a number of Terry stops. The chain of command agreed, and, subsequently, the Named Employees took part in a Loudermill hearing before the Chief of Police. At that hearing, both officers took full ownership for their actions. While not initially disclosed by the officers to OPA, they indicated at the hearing that they logged the stops on a document that they kept and provided a version of that document for review. They recognized, however, that this document did not excuse them from completing the paperwork required by the Department and admitted that they had repeatedly violated policy in this respect. Importantly, both officers independently described how this investigation caused them to understand what they had done wrong and to come up with strategies to ensure compliance with policy moving forward. They were sincere and had clearly learned from this incident. OPA, and the chain of command present at the hearing, came away with the firm belief that the Named Employees would not repeat this behavior in the future. As such, OPA concludes that it is appropriate to reverse its findings. OPA now recommends that this allegation be Not Sustained – Training Referral for both Named Employees.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

While reviewing a *Terry* Template generated by Named Employee #1 (NE#1), a Sergeant determined that NE#1 may have failed to log to or document another stop that occurred on the same day. The Sergeant, with a Lieutenant present, counseled NE#1 concerning properly documenting stops. Given the issues flagged by the Sergeant, the Lieutenant conducted a further preliminary inquiry, including watching video, to determine whether this was part of a broader pattern of not logging to or documenting stops. The Lieutenant determined that there were a number of stops effectuated by both NE#1 and his partner, Named Employee #2 (NE#2), that they did not document. While the stops appeared to the Lieutenant to have been lawful, the lack of paperwork over multiple incidents prompted the Lieutenant to refer this matter to OPA. This investigation ensued.

OPA determined that NE#1 and NE#2 regularly worked in conjunction with a DOC officer. NE#1 and NE#2 documented the duties they performed in conjunction with the DOC officer as follows: “The team’s mission combines fugitive apprehension, street interdiction, drug enforcement and anti-crime patrol with a focus on monitoring DOC active offenders in the Downtown Seattle Metro area.” OPA randomly selected ten shifts for NE#1 and NE#2 between December 1, 2018 and February 9, 2019. OPA determined that, during those shifts, the Named Employees logged to around 60 calls, with approximately 40 as the primary officers. Of those 40 calls on which they were the primary officers, OPA found that at least nine incidents – nearly a fourth of the calls – had no documentation (two others had no documentation but, based on the policy at the time, it is unclear whether it was actually required).

At their OPA interviews, the Named Employees acknowledged failing to complete required documentation. NE#1 told OPA that he had “no excuse” for not following policy. He stated that he often observed people commit citable offenses and that he was being a “human being” by “not wasting their time writing a little warning” and letting them “go on their way.” NE#2 stated that, for some of the undocumented stops, he “just blew it” or “just blew past it.” For other stops, he explained that they were “education stops” during which he was “basically letting them know what the violation is, why we stopped them and what they should do in the future.” When asked whether additional failures to document would be discovered were OPA to expand its search, NE#1 said “after being counseled we’ve been trying very hard not to do that” and NE#2 stated “I hope not, but there could be.”

As discussed above, at their Loudermill hearings, both Named Employees took full ownership for their failure to comply with policy. They explained what they had learned from this incident and detailed how they would ensure compliance with the requirement of documentation of stops moving forward.

The purpose of the disciplinary system is not to punish. It is to correct behavior to ensure adherence to the policies and laws that govern the work of police officers. Where officers have shown that they have learned from an incident and demonstrated that they will not repeat the same conduct again, the disciplinary system has worked. OPA believes this to be the case here. OPA also believes in NE#1 and NE#2 – two excellent officers are among the most proactive and productive officers in the entire Department. OPA has confidence that they will not act inconsistent with this policy again and that training, not discipline, is the appropriate resolution of this case. Accordingly, OPA recommends that this allegation be Not Sustained – Training Referral as against both Named Employees.

- **Training Referral:** The Named Employees should be reminded by their chain of command of the requirement of SPD Policy 6.220-POL-4(1) and of the importance of completing documentation when required. The chain of command should work with the Named Employees to come up with strategies that allow them to timely complete paperwork while maintaining their high level of productivity. This retraining and associated counseling should be documented, and this documentation should be maintained in an appropriate database.

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

Named Employee #1 - Allegation #2

5.001 – Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

Based on OPA's review of the evidence, there is no indication that the Named Employees' conduct rose to the level of a violation of law. This is the case even though City ordinance requires that all *Terry* stops be documented in order to monitor potential disparate impacts. I find that the Named Employees' conduct is better captured by Allegation #1 and, as such, I recommend that this allegation be removed. In removing this finding, I note that future failures to document *Terry* stops will result in another investigation and a potential sustained finding on this allegation.

Recommended Finding: **Allegation Removed**

Named Employee #2 - Allegations #1

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 #1.)

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

Named Employee #2 - Allegation #2

5.001 – Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be removed.

Recommended Finding: **Allegation Removed**