



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 18, 2019

CASE NUMBER: 2018OPA-0948

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	6.220 – Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures and Must be Based on Reasonable Suspicion in Order to be Lawful	Not Sustained (Lawful and Proper)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	6.220 – Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures and Must be Based on Reasonable Suspicion in Order to be Lawful	Not Sustained (Lawful and Proper)

Named Employee #3

Allegation(s):		Director’s Findings
# 1	6.220 – Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures and Must be Based on Reasonable Suspicion in Order to be Lawful	Not Sustained (Lawful and Proper)

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 detained an individual without reasonable suspicion.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

6.220 – Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures and Must be Based on Reasonable Suspicion in Order to be Lawful

The Named Employees responded to a call concerning a person who was brandishing a knife. This person – who is referred to herein as the subject – was described as Black male with dreadlocks, wearing a red shirt, and with a black backpack. The subject’s location was also given. When the officers arrived there, they observed a person who matched the subject’s description. They also saw another male with the subject who was also wearing a red shirt.

The officers ordered both the subject and the other individual to stop. When they did so, both of them were seized. The officers ordered both individuals down to the ground. The subject did not initially do so; however, the other individual did go down to the ground. The officers then began to take the subject down to the ground and started to handcuff him. The other individual quickly got back up and faced the officers. The other individual then took him



down to the ground. The other individual appeared to physically resist the officers while on the ground, but was ultimately taken into custody.

This investigation was initiated based on the possibility that, while the seizure of the subject was indisputably justified, there may not have been reasonable suspicion supporting the detention of the other individual.

All of the Named Employees asserted to OPA that the situation was dangerous given that they knew the subject was armed with a knife. They all further stated that the other individual's behavior concerned them when he quickly stood up and that they believed that he could be planning to un-arrest the subject.

In explaining why he believed the detention of the other individual was justified, Named Employee #2 (NE#2) also cited to *State v. Flores*. In that decision, the Washington Court of Appeals held that officers could seize the companions of an arrestee if they could "articulate an objective rationale predicated specifically on safety concerns for the officers, the arrestee, his or her companions, or other citizens." NE#2 contended that, given the safety concerns described above, the seizure of the other individual was thus legally permissible.

Based on my review of *Flores* and my application of its holding to the facts of this case, I agree with NE#2 that the seizure of the other individual was justified. I find that there was an articulable safety risk to the officers and that, by seizing the other individual, this risk was lessened. For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper as against all of the Named Employees.

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

Named Employee #2 - Allegation #1

6.220 – Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures and Must be Based on Reasonable Suspicion in Order to be Lawful

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

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

Named Employee #3 - Allegation #1

6.220 – Voluntary Contacts, Terry Stops & Detentions 1. Terry Stops are Seizures and Must be Based on Reasonable Suspicion in Order to be Lawful

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

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