

**Seattle Police Department  
DISCIPLINARY ACTION REPORT**

FILE NUMBER  
**OPA Case 15-0117**

RANK/TITLE  
**Officer**

NAME  
**Cynthia Whitlatch**

SERIAL NUMBER  
**6229**

UNIT  
**C020X**

SUSTAINED ALLEGATION(S):

**Violation of Seattle Police Department Policy & Procedure Manual Sections:**

- **Standards & Duties: Exercise of Discretion 5.001 (VII) (A) issued 8/15/2012**
- **Use of Force Core Principles: When Time, Circumstances, and Safety Permit, Officers Will Take Steps to Gain Compliance and De-Escalate Conflict without Using Physical Force 8.000 (2) Issued 01/120/14**
- **Bias-Free Policing - Employees Will Not Engage in Bias-Based Policing 5.140 (2) issued 1/30/2014**

**Specification:**

This discipline is based on your interaction with an individual on July 9, 2014 which began while you were on-duty, driving a patrol car near Cal Anderson Park. You initiated a *Terry* stop with the individual based on your stated observation that, as you were driving near a stop sign, you saw a blur of motion out of the corner of your eye and heard a sound you interpreted as metal on metal, and then (as you were in your police vehicle, driving away) you saw a look on his face that you described as “angry, you know, furrowed brow.” You drove your car around the block. Although you observed no additional conduct that might be troublesome, you decided to approach and detain the individual pursuant to *Terry*. In contrast to your OPA and *Loudermill* statements, the police report you assisted with incorrectly states that you observed the man try to hit your car with a golf club, which sheds light on why your chain of command’s initial review of the incident did not discover the depth of the misconduct discovered through the full OPA review.

In your *Loudermill* meeting, you indicated that a *Terry* stop was justified because the individual may have assaulted a police officer (you) by swinging his golf club in the direction of your vehicle. When you initiated the stop, the 69-year-old man was holding the golf club against the ground. He showed no recognition of you, initially saying “huh?” when you spoke to him, noting that he could not hear you, and asking “what’s going on” and “this is my golf club” when you demanded that he to drop the club. You raised your voice and repeatedly ordered him to drop his golf club, told him the golf club was a weapon, and accused him of swinging the golf club at you, which he adamantly denied. He repeatedly asked you to call someone else, noted that he’d been using the golf club for twenty years, and at no point acted in an aggressive or threatening manner towards you or anyone else.

Your behavior towards him during the stop was inappropriately aggressive and unnecessarily escalated the interaction. There were numerous opportunities to assess different tactics and take a softer approach to resolve the incident. This is particularly true once you had observed the individual’s lack of threatening demeanor. Despite his non-threatening behavior, you repeatedly chose confrontational options, continuing to make accusations regarding what you claimed to have seen him do, threatening him with arrest, and holding your nightstick in your hand, further escalating the interaction.

You never asked the individual any questions during the *Terry* stop to determine if he had, in fact, swung the golf club towards you and/or into a stop sign. Despite that, and despite never actually seeing him swing a golf club toward your car or hitting a stop sign, you actively participated in moving forward with an arrest for obstruction and even called the prosecutor days later to push for prosecution of the individual.

**Policy Violations:**

As noted by Department Policy 5.001 (VII), “sworn police officers are the most conspicuous representatives of government, and are legally granted significant authority to enforce the law and ensure public order and safety. The standards that govern this authority include conduct that is respectful, neutral, objective and unbiased. Specific rules and guidelines that relate to this standard” require that officers “apply reason, professional expertise and judgment” in making law enforcement decisions and that discretion is “proportional to the severity of the crime or public safety issue being addressed.” Further, the Department’s de-escalation policy requires that you undertake tactics to de-escalate the situation where safe to do so.

Department policies and training should have made clear to you that confronting this 69-year-old man in the manner used in these circumstances was impermissible. In this case, especially in light of the fact that you did not see the civilian swing at your car or actually cause damage to any property, an appropriate choice would have been to start this as a social contact and then proportionally escalate if your suspicion of a threat had proved accurate or if the civilian behaved in an aggressive or threatening manner. Instead, you interpreted his refusal to immediately follow your commands as obstructive and were inflexible in your approach to obtain compliance. The unreasonableness of your actions is highlighted by their contrast with that of another officer, who arrived after you confronted the individual, spoke to him, and immediately obtained the golf club and compliance from the individual. Officers are required to treat members of the public considerately and respectfully, and not behave, as you did, in a confrontational and unreasonable fashion, out of compliance with Department policies on both exercise of discretion and de-escalation.

Further, your actions towards the individual violated Department Manual Section 5.140(2), which states that “Employees shall not make decisions or take actions that are influenced by bias, prejudice or discriminatory intent.” Your actions in this case were far from trained expectations and policies. Notably, the day before your confrontation with the individual, you received training on Biased Free Policing and Voluntary Contacts and *Terry* Stops, yet apparently did not utilize that contemporaneous training or what your years of experience should have taught you about acceptable behavior. Considerable circumstantial evidence indicates that these deviations and your approach to the civilian were motivated by bias. During your interviews with OPA, you indicated that your perception of the race, sex, and age of others influenced how you interacted with and reacted to events regarding this individual and, more generally, events in the workplace. You discussed your view that the individual’s age and sex contributed to his reaction towards you as a female officer, and stated that you would not be investigated were you not white. Without prompting, you described how you viewed the resolution of his charges as an example of racial bias because “guess who” – a black judge and black chief were not, in your view, supporting white officers. Even during your *Loudermill* hearing, you continued to blame minorities for your perceived mistreatment on account of your race (white). Your perceptions of race and other protected categories appear to be so deeply seated that they likely impacted the authoritarian manner in which you treated this man and your refusal to deviate from that approach towards an individual whose actions did not warrant such treatment.

**Employee Statement:**

During your *Loudermill* hearing, you and your representatives stated that your stop of this individual was appropriate and lawful. You noted that you believed you acted professionally and in compliance with Department policy, and stated that you would not do anything differently if the same situation occurred again. You denied that your actions were impacted by bias.

**Determination of the Chief:**

I was disappointed by your failure during your *Loudermill* hearing to take any responsibility, or show any understanding that your conduct at issue here was inappropriate. In particular, when I asked you what if anything you would do differently in retrospect, you stated that you would do *nothing* differently. Your inability to understand that the confrontational manner in which you handled a non-threatening situation undermines public confidence in the fairness of this Department and leaves me convinced that a similar interaction with a member of the public will occur again should I permit you to continue working as a police officer. This is reinforced by the fact that you have twice been previously disciplined and counseled for unprofessional conduct, and seem to have learned little from those corrective actions.

I was also troubled by your comments in the *Loudermill* about the race of a judge and deputy chief involved in expunging the civilian's criminal record related to your arrest of him; you expressed a strong belief that these actions were taken because the judge and deputy chief are black, and that race drove the decision-making of a high ranking Department official and a long-serving Municipal Court Judge, not the legitimate factual and legal analysis by thoughtful and dedicated public servants. Such statements further indicate that your biased views prevent you from being able to honestly reflect on your own job performance and successfully receive constructive criticism of your policing techniques because you view the critiques as racially motivated.

While the violation of Section 5.140(2) is serious enough that, on its own, the allegation would warrant the recommended discipline, I gave serious consideration to a lengthy suspension and disciplinary transfer to a unit that does not interact with the public, as well as removal from the sergeant's promotional registry. However, your inability to understand, even in hindsight, that your behavior was unnecessarily aggressive, an abuse of discretion, and negatively impacted the community's confidence in this police service, offers me no pathway to confidence that your behavior will improve or change. Without this ability to learn from your mistakes, understand how you can improve and do better, and recognize your own errors, you are unable to effectively function as an officer.

In analyzing your culpability for a potential violation of Department Policy 6.220(1), I have also given careful consideration to the Constitutional principles underlying that policy. I believe that reasonable minds could find, in the totality of the circumstances, that the stop was lawful. I therefore conclude that this charge is "inconclusive" rather than "sustained." In doing so, however, I rely on the fact that determination of lawful authority to stop is an objective standard, not a subjective standard. The fact that I conclude that we should not sustain a violation of the stops and detention policy does not mean that I support your use of your authority in this circumstance. This incident likely could have been resolved without a seizure of any level.

For the reasons summarized above, and while giving careful consideration to your full employment history as well as the facts of this case, your employment is terminated.

Final Disposition	
<b>Termination</b>	
DATE 9/15/15	BY ORDER OF <i>Kathleen M. O'Toole</i> CHIEF OF POLICE

APPEAL OF FINAL DISPOSITION

Appeals to a Commission:

**SWORN EMPLOYEES :** Public Safety Civil Service Commission

Employee must file written demand within ten (10) calendar days of a suspension, demotion or discharge for a hearing to determine whether the decision to suspend, demote or discharge was made in good faith for cause. SMC 4.08.100

**CIVILIAN EMPLOYEES:** Civil Service Commission

Before filing an appeal with the Civil Service Commission regarding suspension, demotion, or termination an employee must first go through the Employee Grievance Procedure provided by Personnel Rule 1.4. In order to comply with Rule 1.4, the employee must file the grievance within 20 calendar days of receiving the notice of the appointing authority's decision to impose discipline. After exhausting the Employee Grievance Procedure, if the employee is still dissatisfied, the employee must file his/her appeal with the Civil Service Commission within 20 calendar days of the delivery of the Step Three grievance response. See also SMC 4.04.240, 4.04.260, and Personnel Rules 1.4.

Alternative Appeal Options for Represented Employees:

**SPOG Members:** For employees represented by SPOG, the Disciplinary Review Board (DRB) may be an alternative appeal process for suspensions, demotions, terminations, or transfers, identified by the City as disciplinary in nature. Consult your collective bargaining agreement or SPOG representative to determine eligibility, notice periods, and details of the process. The DRB is available as an alternative only, and not in addition to an appeal to the Public Safety Civil Service Commission.

**SPMA Members:** For employees represented by SPMA, the grievance process may be an alternative appeal process for suspensions, demotions, or terminations. Consult your collective bargaining agreement or SPMA representative to determine eligibility, notice periods, and details of the process. The grievance process is available as an alternative only, and not in addition to an appeal to the Public Safety Civil Service Commission.

**Represented Civilian Employees:** Grievance and arbitration may be an alternative appeal process. Consult the applicable contract or a union representative to determine availability, notice periods, and details of process. Binding arbitration is available as an alternative only and not in addition to an appeal to the Civil Service Commission. SMC 4.04.260C