



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 26, 2019

CASE NUMBER: 2019OPA-0282

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	6.010 – Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	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:

The Complainant alleged that officers arrested him without probable cause after he indicated to witnesses and officers that he had a “bomb” or “unexpected device” in his backpack.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

The Complainant initially alleged that his property was disposed of by SPD contrary to policy. OPA’s intake investigation determined that the Complainant’s property was handled consistent with policy, as well as that the Complainant was advised that his property would be disposed of within 60 days unless he requested otherwise. As OPA did not identify a potential policy violation with regard to the disposal of the Complainant’s proper, that allegation was not addressed in this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

6.010 – Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest

On August 26, 2018, officers, including Named Employee (NE#1), responded to a call at the International Plaza Light Rail Station regarding an individual who had reportedly stated that he had a bomb in his backpack. After locating this individual – who is the Complainant in this case, NE#1 and other officers arrested him for making a bomb threat. The Complainant later alleged that he did not tell anyone he had a bomb, but rather that he disclosed his possession of an “unexpected device.” He stated that he told witnesses that the device was not a bomb.



The Complainant asserted to OPA that, because he did not actually possess a bomb, NE#1 lacked probable cause to arrest him for making a bomb threat. This OPA investigation ensued.

As part of its investigation, OPA analyzed Body Worn Video (BWV), as well as the CAD Call Report and General Offense Report (GOR) associated with the incident. The CAD and GOR reflected that SPD received a witness report of a “male yelling that he has a bomb in his backpack.” When NE#1 and the other officers arrived at the scene, BWV showed that they spoke to the 911 caller, who confirmed the report of the bomb threat. The BWV indicated that the officers also spoke to other witnesses who stated that they heard the Complainant make threatening statements. NE#1 and other officers located the Complainant on a train and removed him from the train to speak with him. The Complainant was carrying multiple bags, including a large military-style duffel bag that could plausibly have contained a bomb.

The BWV showed the officers’ interactions with the Complainant. Officers explained to him that witnesses had reported that he said that he had a bomb. The Complainant denied that he had a bomb or that he told people he did, but informed officers that he told people “a bomb is any unexpected device. There is a bomb in my backpack.” Officers searched the Complainant’s bags and determined that he had no weapons or explosives. Another officer asked if the Complainant told anyone that he had a bomb. The Complainant reiterated that a bomb was “any unexpected device,” and that, if he had a house or a job, he would not need to say things in order to give himself something to do. The Complainant also indicated to officers that his statements to witnesses about a bomb occurred when he set his bag down in a Starbucks. Based on the information established during their investigation, NE#1 and other officers placed the Complainant under arrest.

NE#1 screened the arrest with a supervisor. The supervisor recommended that the officers review the Revised Code of Washington (RCW) to determine whether the Complainant’s conduct was a felony. NE#1 did so and identified RCW 9.61.160, which proscribes threats to bomb or injure property. The statute, in relevant part, makes it a felony: “to bomb or otherwise injure any...building, common carrier, or structure, or any place used for human occupancy; or to communicate or repeat any information concerning such a threatened bombing or injury, knowing such information to be false[.]” Given this, NE#1 effectuated the Complainant’s arrest and transported him to jail.

SPD Policy 6.010-POL-1 requires that officers have probable cause to believe that a suspect committed a crime when effectuating an arrest. Stated differently, where an arrest is not supported by probable cause, it violates law and Department policy. Probable cause exists when the facts and circumstances within an officer’s knowledge are sufficient in themselves to support a reasonable belief that an offense has been or is being committed.

Based on the evidence above, there was sufficient probable cause to arrest the Complainant for violating RCW 9.61.160. This was based on the statements by the witnesses, which established that the Complainant referenced possessing a bomb. Moreover, probable cause was based on the Complainant’s own admissions that he set his backpack down, walked away from it, and subsequently told individuals present that he had a “bomb” or an “unexpected device” inside. As such, NE#1 acted consistent with policy and the law when he placed the Complainant under arrest and, for these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper.

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