



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 31, 2020

CASE NUMBER: 2019OPA-0827

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 (Training Referral)

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 Employee may have arrested two female juveniles without sufficient probable cause.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the review and approval of the Office of Inspector General for Public Safety, 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.

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

Named Employee #1 (NE#1) responded to a call concerning a shoplift of beer from a grocery store. He located three juveniles, one male and two females, that matched the descriptions of the suspects. He detained them asked whether they were in the grocery store. They denied that they were there. NE#1 released the juveniles and drove to the store.

At the store, he spoke with the complaining victim. The victim gave the direction of travel of the juveniles. NE#1 asked the victim if he saw them take the beer and the victim said yes. NE#1 asked the victim if he saw where the juveniles put the beer, and the victim responded: "Yeah, it was in his hoodie." The victim clarified that the beer was hanging out of the male juvenile's hooded sweatshirt.

NE#1 left the store, located the juveniles, and detained them for a second time. NE#1 was with another officer. He again explained the reason for the stop. None of the juveniles would tell him what occurred. NE#1 informed all of the juveniles that they were under arrest and read them Miranda warnings.



NE#1 then spoke to one of the female juveniles separately. He asked her if they stole the beer and she responded in the affirmative. She immediately clarified that she and the other female – who she identified as her sister – did not participate in the theft and that the male juvenile was the one who stole the beer. She told NE#1 that she and her sister told the male juvenile not to steal the beer and they all left the store together. She stated that the male juvenile then went back inside the store and committed the theft but, at this time, she and her sister remained outside. She said that they then left. When NE#1 asked her where the beer was, she informed him that it was back at the store.

NE#1 made the decision to continue the arrest of all of the juveniles and to transport them to the precinct. He informed the female juvenile that he had been speaking with that she was under arrest for shoplifting. While at the precinct, NE#1 spoke with his supervisor. It was determined that there was not probable cause supporting the arrest of the female juveniles and they were released from custody. The officers and their supervisor concluded that probable cause still existed for the arrest of the male juvenile.

NE#1 and the other officer were counseled by their chain of command for effectuating the arrests of the female juveniles in the absence of probable cause. Given that this was deemed to be a potential legally unsupported arrest, this matter was referred to OPA and this investigation ensued.

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.

Based on the totality of the evidence, OPA agrees with NE#1's chain of command and finds that there was not sufficient probable cause warranting the arrests of the female juveniles. While the female juveniles were initially potential suspects – most notably, when the victim identified that "they" engaged in the theft – the victim disclosed that the male juvenile was the only one of them that had actually been seen possessing the beer. Moreover, even though none of the juveniles were initially forthcoming about what occurred, one of the female juveniles very quickly told NE#1 that she and her sister had no involvement in the theft and, moreover, that they were not in the store when the male juvenile stole the beer. This coupled with the officers' knowledge that only the male juvenile was identified as possessing the beer, vitiated any probable cause that may have previously existed for the female juveniles' arrests. As such, NE#1 should have un-arrested them at that time and should have released them at the scene. Instead, he continued to effectuate the arrests of the female juveniles and transported them to the precinct in handcuffs where they were held in custody.

When he continues the arrests of the female juveniles in the absence of probable cause, NE#1 acted contrary to policy. The above being said, OPA believes that this matter is better addressed with retraining rather than through discipline. First, from OPA's review of the Body Worn Video for this incident, NE#1 clearly did not intend to violate policy and was trying to make the best decision he could under the circumstances. Second, at the time of this incident, NE#1 was a newer officer and it was reasonable that he would make mistakes. Third, NE#1 did arguably have probable cause to arrest the female juveniles at the beginning of their second contact and, while he did not articulate this, he likely could still have taken them into custody after this probable cause dissipated under RCW 43.185C.260, which governs taking juveniles into protective custody. Fourth, and last, NE#1's chain of command already identified the issues in this case and thoroughly and thoughtfully retrained and counseled him. OPA expects that NE#1 has learned from this incident and will apply these lessons to future incidents in order to continually evolve and improve his decision-making.



For the above reasons, OPA recommends that this allegation be Not Sustained – Training Referral.

- **Training Referral:** From OPA’s perspective, NE#1’s chain of command has already thoughtfully and thoroughly counseled and retrained NE#1. As such, no further counseling or retraining is required by OPA and any additional action concerning this matter is within the discretion of the chain of command.

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