



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 26, 2020

CASE NUMBER: 2019OPA-0912

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)
# 2	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 3	15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a Report - All reports must be complete, thorough and accurate	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 the Named Employee falsely arrested him for DUI. The Complainant contended that his arrest was improperly based on his race. The Complainant further asserted that the Named Employee inaccurately documented this incident in his report.

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 Employee. As such, the Named Employee was 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

The Complainant alleged to OPA that he was improperly arrested for DUI. He contended that Named Employee #1 (NE#1), who effectuated the traffic stop, inaccurately documented what occurred. He stated that a witness officer later told the "truth" in court. The Complainant further asserted his belief that he was racially profiled. He stated that his purported false arrest was negatively affecting his employment prospects and indicated that he wanted his driving record cleared. This OPA investigation ensued.

As part of its investigation, OPA reviewed the In-Car Video (ICV) from NE#1's patrol vehicle. The ICV indicated that the Complainant's vehicle was driving in the turn lane for a sustained period of time. One of the officers in the patrol



vehicle could be heard asking what the Complainant was doing. NE#1 then made a U-turn and began following the Complainant. NE#1 subsequently activated his patrol vehicle's emergency equipment and pulled the Complainant over. NE#1 made contact with the Complainant and ultimately requested that he exit his vehicle. NE#1 later reported that he smelled alcohol emanating from the vehicle. The Complainant acknowledged consuming alcohol but denied that he was intoxicated. NE#1 asked the Complainant if he would consent to Field Sobriety Tests and the Complainant agreed to do so. Ultimately, based on the results of those tests and his other observations, NE#1 placed the Complainant under arrest for DUI. The Complainant was transported to the precinct where he twice took a BAC test. The results were .064 and .073. He was provided with a notice of a hearing date and was released from custody. The Complainant later stood trial in Seattle Municipal Court. He was convicted of negligent driving and DUI.

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.

The ICV conclusively established that the Complainant was driving in an improper lane of travel. As such, NE#1 had a legal basis to pull him over. Moreover, NE#1 articulated that the Complainant's vehicle smelled of alcohol and that his performance on the Field Sobriety Tests indicated that he was intoxicated. While the Complainant denied that this was the case, OPA finds it dispositive that he was convicted of DUI and reckless driving. As such, OPA concludes that, as a matter of law, his arrest was supported by probable cause.

For these reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #1 - Allegations #2

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

SPD policy prohibits biased policing, which it defines as "the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual." (SPD Policy 5.140.) This includes different treatment based on the race of the subject. (*See id.*)

OPA's investigation yielded no evidence supporting the Complainant's allegation of biased policing. To the contrary, OPA determined that there was a lawful basis to detain the Complainant and then probable cause to place him under arrest. Moreover, at the time the Complainant's vehicle was stopped, it would have been difficult, if not impossible, for NE#1 to have known what the Complainant's race was. As such, OPA finds that the law enforcement action taken against the Complainant was based on his conduct, not his race.

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

Recommended Finding: **Not Sustained (Unfounded)**



Named Employee #1 - Allegations #3

15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a Report - All reports must be complete, thorough and accurate

SPD Policy 15.180-POL-5 requires officers to document all primary investigations in a report. The report must be complete, thorough, and accurate.

Based on OPA's review of the reports generated by NE#1, they appeared complete, thorough, and accurate. There was no indication that NE#1 included any false or inaccurate information in his documentation. Moreover, the reports appeared consistent with what OPA viewed on the ICV.

Accordingly, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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