



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 24, 2020

CASE NUMBER: 2020OPA-0090

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 she was falsely arrested by the Named Employee.

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 Employees 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

Officers, including Named Employee #1 (NE#1), were dispatched to a possible domestic violence (DV) assault. The 911 call reporting the assault was placed by a male who lived at the residence. The male indicated that he shared a child with the female suspect. When the officers responded, they spoke with the male. He confirmed that he was struck by the female suspect – who the officers later identified as the Complainant. He stated that she became violent towards him while he was holding their child. He indicated that he put her in a “half-nelson” to prevent her from further assaulting him. He said that he was recording her, but she was able to grab his phone and throw it across the street, which permanently damaged the screen. The male had a visible scratch to his chest, which was bleeding. He further had an abrasion on the back of his arm.

While the officers were speaking with the male, the Complainant approached them. One of the officers asked the Complainant to back up. She disclosed to the officers that the male had also assaulted her when he choked her. She admitted throwing the male’s phone. Officers did not detect any signs of injury to the Complainant’s neck and this was corroborated by the Body Worn Video (BWV) that recorded their response to this incident.



In addition to interviewing the male and the Complainant, the officers also interviewed the male's mother and observed the child for injuries. The male's mother, who was present for the incident and who was also identified as a witness by the Complainant, corroborated the male's account of what occurred.

After obtaining all of this information, NE#1 and another officer discussed the incident. They determined that, based on the totality of the evidence, the Complainant was the primary aggressor. Given this belief, they placed the Complainant under arrest. The Complainant subsequently asserted that she should not have been arrested and that the male was the primary aggressor. The Complainant's false arrest allegation 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.

Given the information available to NE#1, his determination that the Complainant was the primary aggressor was reasonable and his decision to arrest her was supported by probable cause. OPA reaches this conclusion for a number of reasons. First, the male called 911 and reported that he was the victim of a DV assault. The Complainant did not do so and only alleged that she had been assaulted when she observed the officers interviewing the male. Second, the female had no injuries consistent with being choked by the male. In comparison, the male had two visible injuries. Third, the grandmother, who even the Complainant cited as being a witness to the incident, corroborated the account of the male. Fourth, the Complainant admitted throwing the male's phone, which further supports a finding that she was the primary aggressor.

Due to the above and based on OPA's own review of the evidence and the BWV, OPA finds that NE#1 acted consistent with policy when he arrested the Complainant. Moreover, as he had probable cause to arrest her for DV assault, he was required by law to take her into custody. Accordingly, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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