



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 6, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0612

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 (Inconclusive)

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 Named Employee #1 falsely arrested him for trespass and, as a result, his car was towed and sold.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #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 that, on October 17, 2019, he was falsely arrested by Named Employee #1 (NE#1) for trespass. He stated that this charge was dismissed after he was held in jail for "nearly 32 days." He asserted that, while in jail, his car was towed and sold and that he had been unable to recover his personal property that was within. He felt that all of this happened to him based on NE#1's negligence.

OPA's investigation indicated that NE#1 was dispatched to a trespass call. It was reported that the suspect – who was later identified as the Complainant – was trespassing on the 58th Floor of the Seattle Municipal Tower. The CAD Call Report documented that the Complainant was the respondent in an order of protection and that the protected party worked in the building. The CAD also indicated that the Complainant had been previously criminally trespassed from the building.

When NE#1 and his partner arrived, a building employee verified that the Complainant, who was sitting in the lobby, had been trespassing and identified him for the officers. The officers confirmed that the order of protection prohibited the Complainant from being at the protected party's place of employment. The officers lastly spoke to the protected party who said that she was not at work at the time, but who was aware that the Complainant was at her place of employment. Based on the totality of the evidence, NE#1 placed the Complainant under arrest.



OPA verified that probable cause was found for the Complainant's arrest by the Seattle Municipal Court. OPA further confirmed that the charges against the Complainant were dismissed without prejudice by "reason of incompetency."

OPA also looked for evidence that SPD impounded the Complainant's vehicle or caused it to be impounded. No such records existed.

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 OPA's review of the totality of the evidence, it is clear that there was probable cause to arrest the Complainant. He was present in a place that he was previously criminally trespassed from and where he was prohibited from being pursuant to the order of protection. He was further identified as the perpetrator by building security, who was an independent witness to the trespass. Moreover, and while irrelevant to whether there was probable cause to arrest, OPA could find no evidence indicating that NE#1 or any SPD officer caused the Complainant's vehicle to be impounded.

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

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