



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 13, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0278

Allegations of Misconduct & Director's Findings

Named Employee #1

| Allegation(s): | | Director's Findings |
|----------------|--|-----------------------------------|
| # 1 | 5.001 Standards and Duties, 6. Employees May Use Discretion | Not Sustained (Lawful and Proper) |
| # 2 | 15.410 Domestic Violence Investigation, 2. Officers Make Arrests with Probable Cause | Not Sustained (Lawful and Proper) |

Named Employee #2

| Allegation(s): | | Director's Findings |
|----------------|--|-----------------------------------|
| # 1 | 5.001 Standards and Duties, 6. Employees May Use Discretion | Not Sustained (Lawful and Proper) |
| # 2 | 15.410 Domestic Violence Investigation, 2. Officers Make Arrests with Probable Cause | 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:

An anonymous Complainant alleged that the Named Employees used improper discretion and failed to make an arrest despite having probable cause.

SUMMARY OF INVESTIGATION:

The Named Employees responded to a domestic disturbance after the Subject reported that her husband threw a glass at her and chipped her tooth. On the 911 call, the Subject was heard saying: "Don't hit me again."

After responding to the scene of the domestic disturbance, the Subject admitted to lying to the 911 operator about being assaulted so that officers would arrive more quickly. The Subject denied having been assaulted or threatened and told officers that she only wanted officers to stand by while she gathered her belongings and left the scene. The Named Employees informed the Subject that false reporting is a crime, but that she would not be arrested in this instance. The Subject's admission of the crime, and the Named Employees' response, were fully recorded on Body Worn Video (BWV).



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 Standards and Duties, 6. Employees May Use Discretion

The Complainant alleged that the Named Employees used improper discretion when they did not arrest the Subject after she admitted that she lied in a 911 call to receive faster police service.

As indicated in SPD Policy 5.001-POL-6, “[e]mployees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the department and duties of their office and assignment.” This policy further states that “[D]iscretion is proportional to the severity of the crime or public safety issue being addressed.” (SPD Policy 5.001-POL-6.)

Although false reporting is a violation of Seattle Municipal Code section 12A.16.040, it is a misdemeanor and does not fall under the mandatory arrest requirements defined in RCW 10.31.100. Also, there are significant law enforcement interests in not discouraging possible victims of domestic violence from calling 911. Lastly, the Named Employees documented the situation appropriately and in accordance with policy and warned the Subject that false reporting was a crime. Here, weighing the severity of the crime at issue, the Named Employees exercised reasonable discretion in not arresting the Subject for false reporting.

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

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

Named Employee #1 - Allegation #2

15.410 Domestic Violence Investigation, 2. Officers Make Arrests with Probable Cause

The Complainant alleged that the Named Employees failed to make an arrest despite having probable cause when they did not arrest the Subject after she admitted that she lied in a 911 call to receive faster police service.

SPD Policy 15.410-POL-2 directs that officers must make an arrest in a domestic violence incident where there is probable cause that the subject committed an assault or violated a court order within the past four hours. The policy further provides that arrests are otherwise discretionary. (SPD Policy 15.410-POL-2.)

Here, there was no allegation that the Subject committed an assault or violated a court order. Accordingly, SPD Policy 15.410-POL-2 did not mandate that an arrest occur in this situation. Moreover, For the same reasons articulated above (see Named Employee #1 – Allegation #1), OPA concludes that the Named Employees’ discretionary determination that an arrest was unwarranted did not violate policy.

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

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



Named Employee #2 - Allegation #1

5.001 Standards and Duties, 6. Employees May Use Discretion

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #2 - Allegation #2

15.410 Domestic Violence Investigation, 2. Officers Make Arrests with Probable Cause

For the same reasons as stated above (see Named Employee #1 – Allegation #2), OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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