



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 26, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0371

Allegations of Misconduct and the 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	Not Sustained - Lawful and Proper
# 2	15.180 – Primary Investigations 5. Officers Shall Document all Primary Investigations on a Report	Not Sustained - Training Referral
# 3	5.001 - Standards and Duties 6. Employees May Use Discretion	Allegation Removed

EXECUTIVE SUMMARY:

The Complainant alleged that he was arrested without probable cause based on inaccurate statements from a previous report made by Named Employee #1 (NE#1).

SUMMARY OF INVESTIGATION:

The Complainant alleged that an inaccurate police report was written and was used in a probable cause determination for his subsequent arrest. The police report, authored for an incident on September 26, 2020, stated that the Complainant was part of a “car brigade” when an arson occurred near the East Precinct. The Complainant was arrested on October 3, 2020, as a result of the information contained in that report. The Complainant alleged that he was nowhere near the events and stated that he had independent evidence, namely a credit card receipt, which could verify his location. The Complainant provided OPA with a copy of a credit card transaction for September 26, 2020.

On receipt of the complaint, OPA initiated an investigation. During its investigation, OPA reviewed the complaint, Computer Aided Dispatch (CAD) Call, SPD In-Car Video, and Incident Report and Supplement. OPA also interviewed a Witness Employee (WE#1), the Complainant, and the Named Employee (NE#1). OPA accessed Tweets made by the Complainant.

WE#1 wrote the original report made on September 26, 2020 and was interviewed by OPA. WE#1 stated that he recalled the Complainant being present on the date and being part of the car brigade. WE#1 had no independent recollection of the Complainant being present throughout all the events which unfolded, namely the burglary of an Amazon GO store or the fires which occurred. WE#1 explained that officers who were involved in escorting the march and car brigade created a live log of incidents in order to create a sequence of events for that day. This log was then used by police for any subsequent actions required and acted as a reference for the day’s events.



On review of the available evidence, OPA determined that on September 26, 2020, the Complainant was identified as being part of a car brigade. Six incidents of note were identified in the report regarding the car brigade and a march on September 26, 2020. The first incident related to Graffiti and Property Damage at a Starbucks.

The CAD for this incident was updated between 16:53 and 17:10 with multiple “tagging” complaints and windows being broken. Multiple windows had been broken and damage estimated to exceed \$1,000. The Complainant was noted in his vehicle as a part of the car brigade 16:18 hours.

The second incident related to Burglary at a construction site. In the report it was noted that, “The marchers continued to the area of Yesler Avenue and 8 Avenue. At this location the group paused. Two marchers entered the construction zone located at the northwest corner by removing fencing which was secured for the purpose of protecting the sight. One of the marchers picked up large rocks from the sight and smashed the windows of a piece of heavy equipment at the construction site. Damage at this location was estimated to be in excess of \$1,000. Additionally, the crime committed by these individuals fits the definition of Burglary, a felony in the State of Washington.” There is no indication that the Complainant was present for this incident.

The third incident related to property damage at City Hall. The report noted that the march and car brigade continued to 4th Avenue and proceeded northbound into the commercial district and governmental center of Seattle. Multiple windows of cars and buildings were broken along the way. The group paused at Seattle City Hall where at least four large windows on the City Hall Façade were broken. Damage at this location was estimated at \$5,000. From review of footage along the route the Complainant’s vehicle is depicted as being at this location.

The fourth and Fifth incidents related to Property Damage at Amazon GO stores. The report indicated that “The march and car brigade continued Madison Street and proceeded East, stopping at the Amazon Go Store at 920 5 Avenue. The Amazon Go Store was closed for business, locked and secured at the time. At this location marchers removed boarding and broke the store windows. At least one individual was observed entering the store and exiting with Amazon Go Shopping Bags filled with merchandise.” For the fifth incident the report stated, “The march and car brigade continued east on Madison Street stopping at the Amazon Go Store at 1122 Madison Street. Again, the car brigade and marchers provided shielding while individuals tore at the boarding and broke windows. Investigators did not observe individuals entering the store, but damage to the windows is estimated to be in excess of \$1,000.” A review of available footage indicated that the Complainant’s vehicle, was moving in concert with the marchers on the route for these incidents.

The sixth incident concerned arson and an unlawful assembly (riot) near the East Precinct building. WE#1 had no recollection of seeing the Complainant at 11 and East Pine when an unlawful assembly order was declared. WE#1 was not part of the arrest team of the Complainant on October 3, 2020.

On review of the September 26, 2020 CAD report, it was apparent that at 18:52 hour, two small fires had been lit near the East Precinct building. At 18:53 hours, more fires were noted. At 19:02, unknown officers started moving toward the location. At 19:05 a dispersal order was given. The Complainant provided OPA with a credit card receipt. This receipt was not independently verified but suggest that the Complainant’s credit card was used at a pizza restaurant on E Madison St at 19:01 hours. A review of another, unrelated, incident by OPA that occurred at E Madison St and 25 Ave E possibly shows the Complainant’s vehicle pass that location at 18:56 hours. According to Google Maps, it would take 5 minutes to drive from Madison/25 Ave E to 11 Ave/E Pine St using the quickest route.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime

The Complainant alleged that NE#1 did not have probable cause to arrest him on October 3, 2020 for an incident which occurred on September 26th, 2020. The Complainant alleged that the underlying incident report was inaccurate and that he was not in the locale when an unlawful assembly was declared by SPD.

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.

The CAD indicates that the fires were set at approximately 18:52 hours. The dispersal order was given at approximately 19:05 hours. The Complainant provided a receipt that showed that his credit card was used to purchase an item approximately 1.5 miles away at 19:01 hrs. Video from a nearby traffic stop also showed a vehicle resembling the Complainant's vehicle at E Madison St and 25 Ave E at about 18:56 hours. According to GPS, the Complainant would have had to leave just before the first fire was recorded to make it to the traffic stop location. WE#1 did not recall when the Complainant's car left the area.

NE#1 was not present at the events on September 26, 2020, when the Complainant was alleged to have been involved numerous incidents. On that day, a log of incidents was created in which the Complaint was depicted as being present. The Complainant denied being present when an unlawful assembly was called, and fires were lit.

NE#1 explained that, prior to October 3, 2020, a list of photographs of potential subjects had been compiled from the September 26, 2020 events. Photographs individuals who were part of the car brigade were identified. The Complainant was alleged to have been one of these individuals. OPA asked NE#1 how she was aware of the Complainant's presence that day. NE#1 state that she "was going off good faith and that [she] personally went through photographs and established probable cause for his arrest."

NE#1 wrote a report stating, "car brigade marchers continue to the area of 11th and—11th Ave East and East Pine Street at this location a barricade was formed, and individuals created a bonfire of overturned garbage dumpsters and other materials stolen from the surrounding area at this location an unlawful assembly order was declared. [Complainant] remained in the car brigade defiant of police orders until officers were required to use crowd control techniques to disperse the crowd." NE#1 stated that she "was operating under the knowledge" that the Complainant was part of the car brigade. NE#1 stated that she established probable cause for the Complainant as being part of the brigade.

During interview, NE#1 indicated that her report had been copied from another report which other police members had contributed to and referred to it as a "living document." NE#1 stated that she had probable cause to arrest as the Complainant had been at one of the 6 noted events. OPA identified the Complainant as being in the car brigade at at least three of the six events. Although the Complainant's car was not identified as being at the Unlawful Assembly/Riot as was written in the report, this was not the sole factor in deciding probable cause.



Taken together, these facts and observations of the Complainant's actions are sufficient to establish probable cause that the Complainant, at minimum, rendered criminal assistance. For this reason, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained - Lawful and Proper**

Named Employee #1 - Allegation #2

15.180 – Primary Investigations 5. Officers Shall Document all Primary Investigations on a Report

The Complainant alleged that NE#1 used inaccurate “cut and paste” information from a prior report written by WE#1 without writing a unique recitation of the facts.

SPD Policy 15.180-POL-5 requires that officers document all primary investigations on a General Offense Report. All reports must be complete, thorough, and accurate. (SPD Policy 15.180-POL-5.)

On review of the two reports written, they appear to be the same report with the Complainant's name inserted in place of another individual. Both WE#1 and NE#1 stated that a “running log” of the day's events were kept as a master copy and that individual statements were then generated from this master report.

This is a matter of concern for OPA. While it is understood that it can be difficult to document large scale events in sequential and coherent manner, the lack of a recording of who identified and witnessed events lead to a gap in the use and credibility of this document thereafter. NE#1 stated that the September 26 and October 3 reports were “the same, essentially other than the Complainant's name, probably dates and times and also the snippet at the very end [concerning the October 3 arrest].” While creating a “template” for use in reporting an event is not a policy violation in itself, the best practice would be for each report to be edited so that it was specific to each arrestee. The failure to tailor the report in this instance damaged this investigation's credibility.

OPA recognizes the complexity of the situation NE#1 was investigating as well as the need to create efficiencies and rely on information provided by fellow officers. But the practice of “cutting and pasting” information in an offense report, without thoroughly checking the accuracy of each report, creates situations in which honest but avoidable errors can be made. It is poor practice and cannot continue. In this instance, OPA believes that NE#1's actions constituted a potential, but not willful, violation of policy that do not amount to misconduct. Accordingly, OPA recommends that this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with NE#1. The Training Referral should incorporate counseling and training on relevant sections of SPD Policy 15.180-POL-5. In addition to this, NE#1's chain of command should provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**



Named Employee #1 - Allegation #3

5.001 - Standards and Duties 6. Employees May Use Discretion

The Complainant alleged that NE#1 “copied-and-pasted the same sentences between the two probable cause statements, without regard for whether the accusations were true or not.”

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.)

NE#1 stated that she personally went through photographs of the events on September 26, 2020 and, as a result, was aware that the Complainant was part of a car brigade on the day on question. In her report, NE#1 placed the Complainant at all six events on September 26, 2020. While it is not clear whether the Complainant was at all six events, he was present at some and there was probable cause for the Complainant’s arrest.

As discussed above at Named Employee #1, Allegation #2, OPA is not impressed by the quality of NE#1’s report. But this misstep is most appropriately addressed as a failure to adequately review the report in order to ensure that it was complete, thorough, and accurate. This allegation is duplicative of Allegation #2.

Accordingly, OPA recommends that this allegation be removed.

Recommended Finding: **Allegation Removed**