



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 26, 2022

FROM: DIRECTOR GINO BETTS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0203

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	6.010 - Arrests 6.010-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Unfounded
# 2	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded

Named Employee #2

Allegation(s):		Director’s Findings
# 1	6.010 - Arrests 6.010-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Unfounded
# 2	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded

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:

On June 26, 2022, during a Pride event at Seattle Center, in counterdemonstration, the Complainant read religious passages aloud at attendees. The Complainant’s actions apparently incited several attendees into confrontationally surrounding him. Named Employees #1 and #2 (NE#1 and NE#2) ordered the Complainant to relocate due to concerns for his safety. The Complainant refused. Officers repeatedly explained their rationale for ordering the Complainant to relocate and the consequences for noncompliance. The Complainant repeatedly refused. NE#1 and NE#2 ordered the Complainant’s arrest for Obstructing a Public Officer.

ADMINISTRATIVE NOTE:

This investigation, as with all OPA investigations, was reviewed by the Office of Inspector General (OIG). OIG certified it as timely, objective, and thorough.

SUMMARY OF INVESTIGATION:



After receiving several complaints about this incident, OPA opened an investigation. That investigation included reviewing complaints, CAD call reports, BWVs, GO reports, emails, and Seattle Center documents. OPA also reviewed related SPD training materials and NE#1's training records. OPA also interviewed Seattle Center staff, a witness officer, NE#1, and NE#2. Evidence summaries are below:¹

A. OPA Complaints

OPA received seven separate community member complaints and one from the Complainant. Five were anonymous online complaints, the Complainant's was submitted online, one was an anonymous voicemail, and one was emailed:

i. Online complaints

- a) On July 9, 2022, an anonymous community member submitted the following:
If you seriously arrested a man for reading the Bible in public you all need to be chastised. I am an avid supporter of police but I am a bigger supporter of God and you should all be ashamed of yourselves.
- b) On July 1, 2022, an anonymous community member's complaint stated SPD's treatment of the Complainant caused her and her partner to reconsider a move to Seattle:
Arresting that preacher for simply reading the Bible in the park is a violation of this mans [sic] constitutional rights and your departments actions are disgusting ... You make me sick and you are communists. True Nazis.
- c) On July 2, 2022, an anonymous community member submitted the following:
arrest of street preacher exercising first amendment protected speech. violation of civil rights. failure to investigate hate crime and robbery of street preacher [the Complainant].²
- d) On June 30, 2022, the Complainant submitted the following:
I was unlawfully arrested at seattle center while reading my religious material. Blatant and clear violation of my 1st amenent [sic] rights.
- e) On June 29, 2022, an anonymous community member's complaint stated:
[The Complainant] was unlawfully arrested while exercising his Constitutional right to speech while reading aloud from the Bible. [The Complainant] had been attacked and assaulted by a number of Pride attendees due to this, which is without any doubt a bias crime. Internet video shows Pride attendees with his stolen bible, kicking it, stomping on it, and then it was thrown into a portable toilet. None of them were arrested.

The anonymous community member also stated the Complainant was "arrested for the previously often abused, and rarely enforced or prosecuted offense of "obstructing."

¹ Evidence summaries aim to objectively reflect the evidence as present to OPA, rather than OPA's assessment or evaluation of evidence. OPA's assessment of evidence is reflected in the "Analysis and Conclusions" section.

² This complaint included a hyperlink to a news story about the incident. That news story included a 45 second video posted to Twitter capturing a portion of SPD's interaction with the Complainant, including his arrest.



- f) On June 29, 2022, an anonymous community member's complaint stated "Antifa criminals" "knocked [the Complainant] unconscious and then [NE#1] illegally ordered him to be arrested for inciting the bigots." Further:

[NE#1] showed extreme bias in violation of the department's bias free policing policy against a religious sect. His failure of leadership to protect the rights that are explicitly laid out in both the federal and state constitutions is egregious. How can any Christian feel that their expressly granted rights will be protected by SPD employees when the commanders on the street show such disregard?

ii. Emailed complaint

On July 16, 2022, a community member emailed OPA in support of the Complainant. The sender alleged Seattle Police Department (SPD) officers arrested the Complainant after allowing others to threaten, attack, and steal from him. The email also included a hyperlink to a YouTube video³ capturing portions of SPD's interaction with the Complainant and commentary about the incident.

iii. Voicemail complaint

On July 2, 2022, an anonymous community member left a voicemail suggesting SPD arrested "a guy for reading his Bible in the park peacefully." The community member further stated "the whole nation's watching it. It's absolutely ridiculous. You guy ought to be ashamed."

B. General Offense (GO)/Incident reports

There were three GO reports involving the Complainant:

i. 2022-161773

On June 24, 2022 around 7:03 PM, the Complainant was "involved in a disturbance at 2 Av / Marion St." Specifically, the Complainant engaged in "first amendment activities" that riled several Pride event attendees. Officers ordered the Complainant to relocate "due to time, place, and manner restrictions by SPD officers." The Complainant repeatedly refused and was arrested for "Obstruction SMC 12A.16.010."

ii. 2022-162701

On June 25, 2022 around 5:41 PM, officers responded to a Pride event at Cal Anderson Park after a 911 caller reported:

[A] MALE WHO WAS BEATEN UP AND WAS BRIEFLY UNCONSCIOUS, [SUSPECT] IS NO LONGER ON SITE.⁴

Officers found the Complainant "alert and conscious," but on the ground. The Complainant, "a self-proclaimed street preacher," and "unidentified people in the park" got into a tug-of-war struggle for the Complainant's sign. "[The

³ As of December 26, 2022, when this DCM was issued, that video had over 26, 000 views.

⁴ This note was captured in the related CAD report.



Complainant] was assaulted by several individuals.” The Complainant reported a kick to the head caused him to lose consciousness. He refused medical treatment.

iii. 2022-163609

Witness Officer #1 (WO#1) wrote a GO report for SPD’s June 26, 2022 interaction with the Complainant, the subject of this DCM. In summary, around 3:18 PM, officers were at “a large pride-festival demonstration with thousands in attendance.” Prior to that event, SPD commanders briefed officers at roll call on “the first amendment and when/where time, place, and manner restrictions can be placed.” “The demonstration was largely made up of peaceful attendees who were celebrating in nature.” At “the [southeast] corner of 3 Av N and Harrison St there was a disturbance involving approximately 20 members of the crowd surrounding a self-proclaimed ‘street preacher’ identified from previous encounters as [the Complainant].” Both prior encounters resulted in the Complainant’s injury and one in his arrest. As officers approached, those surrounding the Complainant yelled “get him out of here” and “appeared ready to fight.” To quell escalation, NE#2 ordered the Complainant to relocate:

[NE#2] wanted to place a time and manner restriction on [the Complainant]. Meaning that [the Complainant] could read from his book and exercise his first amendment rights, but he would need to do so a safe distance away from the 5000+ person crowd. This was due to the fact that the governmental interest and the police role at that point was to restore public order and prevent violence and criminal activity.

The Complainant repeatedly refused to leave, even after NE#1 and NE#2 “explained to him continuing his activity created a risk of injury to himself and the crowd at large.” The Complainant also ignored several warnings that noncompliance would result in his arrest. The Complainant was arrested for Obstructing a Public Officer.

C. Training records

NE#1’s relevant training history for the past two years, include:

Trainer	Course	Date
SPD	2022 Tactical Response to Edged Weapons and Crowd Management	4/5/2022
SPD	2022 3-Day Patrol Tactics Course	3/9/2022
SPD	2021 Crowd Management, Intervention, and Control	2/28/2021
SPD	2020 Demonstration Management for Supervisors	11/6/2020
SPD	2020 Crowd Management – Refresher	11/2/2020

D. Training materials

In relevant part, SPD’s 2020 Crowd Management & Special Events presentation trained officers, when handling opposing groups, to remain content neutral. It also outlined permissible limitations on free speech and distinguished demonstrations from civil disturbances:



i. Content Neutral (slide #12)

- i. We are there to enforce the Law and Protect all Citizens, regardless of their reason for being there.
- ii. SPD does not take sides and should not be seen as doing so. You will be asked by either side to comment about the legitimacy of their point of view and it will be on video.

ii. 1st Amendment (slide #17)

- i. The right to assemble is not absolute...the government can impose restrictions on the time, place, and manner of peaceful assembly, provided that constitutional safeguards are met...
- ii. Speech and assembly are generally protected unless they present a clear danger to the community.
- iii. Speech is protected unless it rises to the level of advocating imminent lawless action.

iii. Washington State & The City of Seattle (slide #18)

- i. Marches and demonstrations are protected up to the point where they become civil disturbances.
- ii. In general, Seattle and Washington State have accepted and supported all demonstrations provided they do not result in a substantial risk to public safety.

E. Seattle Center

i. Manager

Seattle Center Campus Event Booking and Contracts Manager (Manger#1) told OPA the June 26, 2022 Pride event “was licensed for a large portion of the Seattle Center campus (for event use, we issue licenses rather than permits).” Manager#1 stated the Pride event was the only licensed event that day. She also gave OPA a copy of the issued license and related invoice. Manager#1 further noted:

Had we been approached about a protected speech event, we would have worked with the organizer to license an area of the campus not in use by [the Pride event]; however, I am not aware of any protected speech inquiries for that date.

ii. Map

Manager#1 provide OPA with the parameters for the licensed Pride event. The orange dot represents the Complainant’s approximate location of arrest, according to police reports:



F. BWV

OPA reviewed five witness officers' and NE#2's BWV. Officers approach the Complainant and another community member who read the Bible aloud to the Pride event attendees. The Complainant immediately stated, "Nobodies hurt." NE#1 introduced himself and stated:

So, you have the right to freedom of speech. These folks have the right to freedom of speech. Everybody has that. The problem that we encounter is when there's potential for assaults and there's a time, place and manner restriction that can be placed upon that. So, what that is...is we're trying to keep them safe. We're trying to keep you safe. My concern is that if we walk away from here there is a potential that there may be an assault. That could be on you or it could be on a situation where we're responding to umm...something that's in progress, right? And, I want to avoid that.

The Complainant referenced Supreme Court of the United States cases addressing "Heckler's veto:"

When somebody comes up and threatens you or even does an assault against you, that does not give the right for the police to remove you from a public area. If you are lawfully in that area.

NE#1 indicated familiarity with the law and that officers were only concerned with maintaining peace. The Complainant repeatedly denied being at-risk of physical harm. NE#1 replied, "I am telling you to leave." The Complainant refused. Several community members surrounding the Complainant stated he read "hate speech" and that he should relocate. NE#1 told the Complainant:

This is not about...this is not about the message. This is content neutral. The problem that we have...the problem that we have is that the situation that this presents is...there's potential for an assault. Just two days ago, there were two assaults that occurred regarding his...this expression within? So, we can dictate time and manner to mitigate that risk. Public safety risk. That's all we're trying to do.

The Complainant replied, "Stand there and make sure nobody hurts me. That's your job. Your job's to protect me, not silence me." Someone, apparently with the Complainant's group, told NE#1 an attendee tried to kick the Complainant's face, but that community member prevented it. NE#1 replied, "That's what we are trying to avoid." The Complainant denied he was almost being kicked, insisted he was safe and had done nothing wrong. An attendee, with others surrounding the Complainant, yelled, "You're causing a commotion." And



“Yes you are. You’re fucking here. That’s a problem.” NE#2 arrived and told the Complainant, “Here’s what’s happening today. Ok? We’re putting time, place and manner restrictions on you again, [the Complainant].” The Complainant asked why, and NE#2 replied, “Because the exact same reason we did the other day.” NE#2 told the Complainant “You being here is creating an issue, right” The Complainant answered, “That’s their problem.” NE#2 suggested the Complainant created “a likelihood of bodily injury,” and told him to leave or face arrest. NE#2 told NE#1, “As soon as we have the wagon, we’re going to make the arrest.” NE#1 told the Complainant, it was his “last chance” to leave “Seattle Center grounds.” The Complainant stayed and was arrested.

G. Manager#1 interview

On October 11, 2022, OPA interviewed Manager#1. She reiterated the Pride event was licensed, but the licensed area is open to the public. Manager#1 stated barricades could have been set up if the licensed group wanted restricted access. Manager#1 showed OPA where the Complainant was arrested, the westside of the Seattle Center Armory. Manager#1 stated the location was “technically” outside the licensed area but described it as an “impacted area.”

H. WO#1 interview

On September 6, 2022, OPA interviewed WO#1. WO#1 recounted roll call training directing officers to ensure a peaceful event by “community policing as much as possible prior to making any law enforcement action.” WO#1 estimated roughly 50,000 attendees. WO#1 saw the Complainant read the Bible at attendees with “several people surrounding him.” NE#1 tried to get the Complainant “to relocate to a reasonable location to ensure the safety of all.” The Complainant refused, ignoring NE#1’s attempts to explain and reason. NE#1 made the call to arrest the Complainant and directed WO#1 to complete the paperwork.

I. NE#2’s interview

On August 11, 2022, OPA interviewed NE#2. NE#2 was SPD’s Community Response Group’s crowd management commander for the Pride event. Officers were there “to respond to any acts of violence, mass casualty events, any demonstrations, any things like that.” NE#2 first encountered the Complainant during officers’ June 24, 2022 response, which reportedly left the Complainant unconscious. NE#2 stated “there were thousands and thousands of people” at the June 26, 2022 Pride event.⁵ NE#2 responded to a radioed disturbance and saw NE#1 engaging the Complainant. Officers formed “a protective circle” around the Complainant. Several Pride event attendees yelled at the Complainant, whose group included people with signs reflecting “anti LGBTQI+ sentiments.” NE#1 tried explaining to the Complainant’s group the “time, place, and manner” restriction he sought to impose. After repeated noncompliance, NE#2 was arrested for Obstructing a Public Officer.

J. NE#1’s interview

On August 15, 2022, OPA interviewed NE#1. NE#1 was “in charge of the Seattle Center” for the June 26, 2022 Pride event. Officers were there “for purposes of public safety, keeping the peace, protecting peoples’ rights.” Prior to that day, NE#1 knew the Complainant as a “street preacher.” That day, NE#1 responded to an ongoing assault at the event.

⁵ NE#2 participated in briefing officers on “time, place, and manner” restrictions at the June 26, 2022 roll call. Prior to that presentation, NE#2 screened the information with an assistant city attorney, who also supported prosecuting time, place, and manner violations.



NE#1 found a “very antagonistic” group surrounding the Complainant. The Complainant “seemed a little bit discombobulated,” so NE#1 feared he was attacked. The Complainant denied being assaulted. NE#1 recalled from the roll call training that morning that time, place, and manner restrictions could be used to mitigate a “risk to public safety that’s presented by having two groups that are confrontational and commingled.” NE#1 told the Complainant he was free to express his views, just off Seattle Center grounds during the licensed Pride event. The Complainant repeatedly refused and was ultimately arrested.

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 NE#1 lacked probable cause for his arrest.

A person is guilty of obstructing a public officer if, with knowledge that the person obstructed is a public officer, he intentionally refuses to cease an activity or behavior that creates a risk of injury to any person when ordered to do so by a public officer. *See* RCW 12A. 16.010(3). Probable cause exists where the facts and circumstances within the arresting officer's knowledge and of which the officer has reasonably trustworthy information are sufficient to warrant a person of reasonable caution in a belief that an offense has been committed. *State v. Avery*, 103 Wash. App. 527, 13 P.3d 226 (2000).

Here, NE#1 was in full uniform when he approached the Complainant, along with several other uniformed officers. There is no suggestion the Complainant did not recognize NE#1 as an officer. NE#1 repeatedly ordered the Complainant to cease reading a Bible aloud at attendees of a Pride event. NE#1 determined the Complainant’s activity created risk of injury to the Complainant and the event attendees. That determination was formed by 1) a large group of attendees, some angry and yelling expletives, surrounding the Complainant, 2) that same behavior resulting in the Complainant being knocked unconscious the day before, 3) the same behavior resulting in the Complainant’s reported injury on June 24, 2022, and 4) someone in the Complainant’s group telling NE#1 an attendee tried to kick the Complainant’s head that day. Safety concerns led NE#1 to order the Complainant to relocate off Seattle Center grounds. Nevertheless, the Complainant intentionally refused that order and elected to remain put continuing that activity. Those facts at minimum established probable cause the Complainant violated RCW 12A. 16.010(3).

While some of the OPA complaints related to this incident suggested RCW 12A. 16.010 violations are rarely enforced or prosecuted, it is nevertheless an active law and an assistant city attorney represented to NE#2 an inclination to prosecute those cases.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

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-POL. That includes different treatment based on someone’s religion. *See id.*

Here, the Complainant suggested NE#1 treated him differently based on the Complainant’s religious beliefs. However, there is no evidence supporting that contention. The available evidence indicates NE#1 was motivated by an intent to maintain peace. Rather than ordering the Complainant to cease reading aloud from a Bible, NE#1 directed him to relocate off Seattle Center grounds to prevent inciting attendees, a group of several thousand. There were roughly 30-35 officers working that event, so electing to relocate the Complainant rather than the growing group of agitated attendees was objectively reasonable under the circumstances. Overall, the evidence suggests NE#1 was not motivated by bias, particularly where NE#1 continuously urged the Complainant to relocate in lieu of arrest and those in the Complainant’s group were allowed to leave without incident.

Accordingly, OPA recommends this allegation be Not Sustained- Unfounded.

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

Named Employee #2 - 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 NE#2 lacked probable cause for his arrest.

For the reasons outlined at Named Employee #1 - Allegation #1, OPA recommends this allegation be Not Sustained- Unfounded.

Named Employee #2 - Allegation #2

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

The Complainant alleged NE#2 engaged in bias-based policing.

For the reasons outlined at Named Employee #1 - Allegation #2, OPA recommends this allegation be Not Sustained- Unfounded.

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