



CLOSED CASE SUMMARY

ISSUED DATE: MAY 23, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0410

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	6.010 Arrests POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Lawful and Proper (Expedited)
# 2	5.001-POL 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained - Unfounded (Expedited)

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:

Named Employee #1 (NE#1) and Witness Employees #1 and #2 (WE#1, WE#2) responded to a Domestic Violence (DV) call. The Complainant (Community Member #1 or CM#1) alleged NE#1 arrested her without probable cause. CM#1 also alleged NE#1 leaned her over an SPD patrol vehicle to look at her and coerce her into offering sex.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

SUMMARY OF INVESTIGATION:

OPA reviewed the Complaint, Computer Aided Dispatch (CAD) data, Body Worn Video (BWV), In Car Video (ICV), and Incident Reports. OPA contacted CM#1 multiple times by different methods. She did not respond to OPA.

A. Initial Complaint

CM#1 filed a Web Complaint with OPA. CM#1 alleged she was falsely arrested for a crime and that she was, in fact, the victim. CM#1 further alleged NE#1 made her lean on the hood of his police vehicle to look at her inappropriately. Finally, CM#1 alleged that NE#1 made her lean on the police vehicle with the intent of coercing her to offer him sex.



B. Computer Aided Dispatch Call Report and Incident Report

NE#1, WE#1, and WE#2 responded to a crisis call. The call remarks were, "RP'S [...] DAUGHTER IS IN MENTAL CRISIS, DIAGNOSED SCHIZOPHERNIC, HITTING HERSELF, HITTING RP AND RP'S HUSBAND, NO WPNS IN HOME."

NE#1's incident report narrative was consistent with BWV (see section C below). NE#1 listed the factors present for a mandatory arrest such as the DV relationship, the assault occurring within the past four hours, and CM#1's DV history.

C. Body-Worn Video (BWV) and In-Car Video (ICV)

OPA reviewed BWV from tNE#1 and the Witness Employees. BWV showed the following:

NE#1 and WE#1 arrived at the call and contacted CM#1's parents, the reporting parties, who invited the Officers into their home. NE#1 contacted CM#1 who was separated from her parents. CM#1 stated that she feared her parents. CM#1 was observed on BWV with bruising on her right eye. NE#1 questioned CM#1 about the nature and cause of her injury. CM#1 replied that her boyfriend, who was not present, struck her in the past. She further stated that she suffers from severe schizophrenia and frequently had physical fights with her boyfriend.

WE#2 interviewed CM#1's father, CM#2. CM#2 stated CM#1 bit his right arm and scratched his left hand and finger. BWV showed that CM#2 had a bruising and his hand had missing skin and dried blood on it. CM#2 denied striking CM#1 and stated that CM#1 had likely self-injured. WE#2 advised NE#1 of CM#2's injuries and stated that a mandatory arrest had to occur per SPD Domestic Violence policy.¹ NE#1 asked WE#2 if CM#1 should be involuntarily committed. WE#2 reiterated that it was a mandatory arrest. NE#1 replied, "because of the DV relationship?" WE#2 responded affirmatively. CM#2 also showed Officers cellphone video of CM#1 hitting herself in the face.

NE#1 and WE#2 told CM#1 that she was under arrest and would be transported to King County Jail. NE#1 and WE#2 handcuffed CM#1, escorted CM#1 out of the residence, and stood CM#1 in front of a SPD patrol vehicle. WE#2 advised CM#1 that Officers had to search her prior to transport to jail. Without a direction given by any Officer, CM#1 leaned her upper body onto the hood of the vehicle. WE#2 requested over the radio a female Officer to perform the search. WE#2 indicated to NE#1 that no female Officers were available. NE#1 advised CM#1 that he was going to pat her down for weapons. He stated, "I do apologize if this is a little uncomfortable. This is procedure." BWV showed NE#1 pat down CM#1's clothing and explain the purpose for his actions. NE#1 then sat CM#1 in the back of the patrol vehicle.

In-Car Video (ICV) of NE#1's search showed NE#1 conduct a search of CM#1's clothing. ICV captured WE#2 request a female Officer to perform the search and Dispatch responding that no reply was received for WE#2's request.

¹ See SPD Policy 15.410-POL-2 ("Officers Make Arrests with Probable Cause"). See also RCW 10.31.100.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

6.010 Arrests POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest

CM#1 alleged NE#1 lacked probable cause to arrest her.

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. *See State v. Fricks*, 91 Wash.2d 391, 588 P.2d 1328 (1979); *State v. Gluck*, 83 Wash.2d 424, 426–27, 518 P.2d 703 (1974).

BWV showed that the Officers separated and interviewed both halves of the domestic violence call. CM#1 stated that she "feared" her parents but made no allegation that CM#2 assaulted her. When NE#1 questioned CM#1 about the cause of her visible injuries, she reported that they were caused by her boyfriend. CM#2 informed WE#2 that CM#1 bit and scratched him. CM#2's reported injuries were consistent with what was observed on WE#2's BWV.

WE#2 advised NE#1 that due to CM#2's report of an assault a mandatory arrest must be made. SPD Policy 15.140-POL-2 requires that, "Officers Make Arrests with Probable Cause." The policy further instructs that mandatory arrests is required under RCW 10.31.100(c) when, among other things, an Officer has probable cause to believe "[a]n assault has occurred which has resulted in bodily injury to the victim." The Policy instructs that, in making the determination of the primary aggressor, an Officer may consider the history of DV of the involved people.

NE#1 established probable cause through WE#2's interview of CM#2 who reported his visible injuries were caused by CM#1. CM#2 provided video footage for the Officers' which indicated that CM#1's injuries were likely to have been self-inflicted. Moreover, CM#1 reported her injuries were caused by her boyfriend, not CM#2. Additionally, NE#1 reviewed CM#1's history of police interactions and saw that she had a history of domestic violence.

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

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

Named Employee #1 - Allegation #2

5.001-POL 2. Employees Must Adhere to Laws, City Policy and Department Policy

CM#1 alleged that NE#1 made her lean on the hood of his police vehicle to look at her inappropriately. CM#1 further alleged that NE#1 made her lean on the police vehicle with the intent of coercing her to offer him sex.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

OPA reviewed relevant BWV and ICV which showed NE#1's search of CM#1. Video footage showed that NE#1's search of CM#1 was consistent with SPD Policy 6.180-POL-7 governing custodial searches. The policy further instructs Officers to conduct a custodial search as soon as possible prior to transporting a prisoner. The policy also states that "generally,



Officers will not search suspects of the opposite gender,” unless “[t]here is no officer of the same gender readily available to conduct the search.” SPD Policy 8.180-POL-7(2).

WE#2 requested any available female Officers to perform a search of CM#1. No female Officers were available. NE#1 conducted what amounted to a brief pat-frisk of CM#1. During the search, NE#1 utilized an SPD recommended protocol called “LEED (Listen, Explain with Equity and Dignity)” by explaining each action he took during the search. NE#1 was not observed making any inappropriate comments or actions towards CM#1. Furthermore, NE#1 did not instruct CM#1 to lean on the front of his patrol vehicle; CM#1 appeared to do this on her own. When NE#1 searched CM#1, he ordered her to stand up for the duration of the search.

Accordingly, OPA recommends that this allegation be Not Sustained - Unfounded (Expedited)

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