



## ***CLOSED CASE SUMMARY***

ISSUED DATE: JUNE 26, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0445

### **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 to Effect an Arrest	Not Sustained - Lawful and Proper (Expedited)
# 2	15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.	Not Sustained - Unfounded (Expedited)

#### **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 to Effect an Arrest	Not Sustained - Lawful and Proper (Expedited)
# 2	15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.	Not Sustained - Unfounded (Expedited)

#### **Named Employee #3**

Allegation(s):		Director's Findings
# 1	6.010 Arrests 6.010-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime to Effect an Arrest	Not Sustained - Lawful and Proper (Expedited)
# 2	15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.	Not Sustained - Unfounded (Expedited)

#### **Named Employee #4**

Allegation(s):		Director's Findings
# 1	6.010 Arrests 6.010-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime to Effect an Arrest	Not Sustained - Lawful and Proper (Expedited)
# 2	15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.	Not Sustained - Unfounded (Expedited)

#### **Named Employee #5**

Allegation(s):		Director's Findings
# 1	6.010 Arrests 6.010-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime to Effect an Arrest	Not Sustained - Lawful and Proper (Expedited)
# 2	15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.	Not Sustained - Unfounded (Expedited)



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***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 September 12, 2022, a bar security officer told the named employees that the Complainant assaulted another security officer. Following a preliminary investigation, the Complainant was arrested. The Complainant alleged he was falsely arrested, and the named employees fabricated a police report.

**ADMINISTRATIVE NOTE:**

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

**SUMMARY OF INVESTIGATION:**

**A. OPA Complaint**

The Complainant alleged that the Seattle Police Department falsely arrested him and that the named employees "[fabricated] the police report under penalty of perjury." OPA unsuccessfully tried to contact the Complainant.

**B. Body-Worn Video (BWV)**

OPA reviewed relevant BWV, showing the interaction between the named employees and the Complainant. In summary, it showed:

A security guard flagged Named Employee #4 (NE#4) and reported that someone pepper-sprayed his colleague. The security guard described the offender as wearing what appeared to be a bullet-proof vest with "flat earthers" on it. The Complainant—matching the description—approached the named employees. He briefly mentioned a disturbance and walked off.

NE#4 interviewed Community Member #1 (CM#1)—an uninvolved witness—inside the bar. CM#1 said Community Member #2 (CM#2)—a security guard—confronted the Complainant, who left the bar with a beer. CM#1 said the Complainant shoved CM#2 to the ground. CM#2 got up, knocked the Complainant's beer over, and ordered the Complainant to leave or be pepper-sprayed. CM#1 said the Complainant retrieved his pepper spray, sprayed CM#2, and left.

Named Employee #3 (NE#3) interviewed CM#2. CM#2's statement was consistent with CM#1's account. Additionally, CM#2 said the Complainant returned to the bar and pepper-sprayed him a second time. CM#2 identified the Complainant to a co-worker, who flagged NE#4.



NE#3 told NE#4 there was probable cause to arrest the Complainant for assault. NE#3 and NE#4 found the Complainant in a crowd and arrested him.

**C. General Offense (GO) Incident Report**

NE#4 was the primary officer and wrote the related incident report. NE#4's report was consistent with OPA's BWV observations. Additionally, NE#4 noted that NE#2 screened the arrest and that NE#4 recovered a can of pepper spray from the Complainant's pant pocket.

NE#1 completed a supplemental report, consistent with NE#4's report and BWV.

NE#2 completed a "sergeant's arrest screening," documenting the officers and involved parties, the reason for the arrest, any injuries, and whether officers used force.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

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

The Complainant alleged he was unlawfully arrested.

For the reasons at Named Employee #4 - Allegation #1, OPA recommends this allegation be Not Sustained - Lawful and Proper (Expedited)

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

**Named Employee #1 - Allegation #2**

***15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.***

The Complainant alleged that NE#1 lied in his report.

Officers must document all primary investigations in a report. SPD Policy 15.180-POL-5. Reports must be complete, thorough, and accurate. *Id.*

OPA reviewed NE#1's report. NE#1's statement appeared complete, thorough, and accurate compared to BWV observations.

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

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



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**Named Employee #2 - Allegation #1**

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

The Complainant alleged he was unlawfully arrested.

For the reasons at Named Employee #4 - Allegation #1, OPA recommends this allegation be Not Sustained - Lawful and Proper (Expedited)

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

**Named Employee #2 - Allegation #2**

***15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.***

The Complainant alleged that NE#2 lied in his report.

NE#2's sergeant's arrest screening form was complete, thorough, and accurate.

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

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

**Named Employee #3 - Allegation #1**

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

The Complainant alleged he was unlawfully arrested.

For the reasons at Named Employee #4 - Allegation #1, OPA recommends this allegation be Not Sustained - Lawful and Proper (Expedited)

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

**Named Employee #3 - Allegation #2**

***15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.***

The Complainant alleged that NE#3 failed to complete a required report.

NE#3 was a backing officer and unrequired to write a supplementary incident report, mainly where NE#4's incident report covered all material facts.

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

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



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**Named Employee #4 - Allegation #1**

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

The Complainant alleged he was unlawfully arrested.

Officers must have probable cause that a suspect committed a crime when effectuating an arrest. SPD Policy 6.010-POL-1. An arrest unsupported by probable cause violates the law and Department policy. Probable cause exists when the facts and circumstances within an officer's knowledge are sufficient 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). "A person is guilty of assault in the fourth degree if, under circumstances not amounting to assault in the first, second, or third degree, or custodial assault, he or she assaults another." RCW 9A.31.041.

Here, a security officer told NE#4 that someone pepper-sprayed CM#2. NE#4 interviewed an independent witness, CM#1, who corroborated the report. NE#4's belief that the Complainant assaulted CM#2 with pepper spray was reasonable, particularly when NE#4 recovered pepper spray from the Complainant.

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

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

**Named Employee #4 - Allegation #2**

***15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.***

The Anonymous Complainant alleged that NE#2 lied in his report.

Here, OPA reviewed NE#4's report, which was complete, thorough, and accurate compared to BWV.

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

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

**Named Employee #5 - Allegation #1**

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

For the reasons at Named Employee #4 - Allegation #1, OPA recommends this allegation be Not Sustained - Lawful and Proper (Expedited)

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



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**Named Employee #5 - Allegation #2**

***15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.***

NE#5 was not required to write a supplementary incident report.

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

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