


Issued Date: JANUARY 21, 2024

From: Director Gino Betts, Office of Police Accountability 

Case Number: 2023OPA-0295

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing
 - a. **Finding:** Not Sustained - Unfounded (Expedited)
2. **Allegation #2:** 6.010 – Arrests, 6.010-POL-1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest (Effective July 26, 2019)
 - a. **Finding:** Not Sustained - Lawful and Proper (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) responded to an assault call and arrested the Complainant. The Complainant alleged that NE#1 arrested him based on his race. The Complainant further alleged that NE#1 lacked probable cause to arrest him.

Administrative Note:

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employee. As such, OPA did not interview the named employee involved in this case.

On August 11, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of the Investigation:

On July 9, 2023, Witness Supervisor #1 (WS#1)—then an acting sergeant—submitted a Blue Team complaint to OPA on the Complainant's behalf. WS#1 wrote that NE#1 and two witness officers responded to an assault call and arrested the Complainant. WS#1 wrote that the Complainant alleged that officers treated him differently based on his race and lacked probable cause to arrest him because the victim's claim was unreliable.

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), and incident report. OPA could not reach the Complainant for an interview.

On July 4, 2023, at 3:06 PM, CAD call remarks noted, "3 MINS AGO, [REPORTING PARTY] STATED HE WAS [ASSAULTED]... PHONE CONNECTION IS POOR, INFO COMING IN SLOWLY."

The witness officers, WS#1, and NE#1 responded to the location and activated their BWV, which captured the following events. Community Member #1 (CM#1)—the assault victim—met the witness officers in an apartment lobby and reported that the Complainant punched his face. CM#1 had fresh lacerations near his forehead. CM#1 said the Complainant stayed at his apartment for a few days and invited Community Member #2 (CM#2). CM#2 entered the lobby, alleged—but later recanted—that the Complainant sexually assaulted her, and expressed concern about not getting paid \$100.00 by the Complainant for "services." CM#2 corroborated CM#1's claim that the Complainant punched CM#1.

The witness officers, WS#1, and NE#1 went to CM#1's apartment, knocked, and announced that the Complainant was under arrest. The Complainant opened the door but refused to exit, prompting a witness officer to pull him out. NE#1 handcuffed the Complainant. The Complainant denied assaulting CM#1, saying he was asleep. The Complainant said CM#1 invited CM#2 and that CM#2 assaulted CM#1. The Complainant said CM#2 was unreliable and alleged unfair treatment for being a Black man in a white neighborhood. WS#1 replied that he would refer this incident to OPA.

NE#1 wrote an incident report consistent with the events captured on BWV.

Analysis and Conclusions:

Named Employee #1 – Allegation #1 5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#1 engaged in biased-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. This includes different treatment based on the subject’s race. See *id.* Officers are forbidden from both (a) making decisions or taking actions influenced by bias, and (b) expressing any prejudice or derogatory comments concerning personal characteristics. See SPD Policy 5.140-POL-2.

Here, the Complainant alleged unfair treatment for being a Black man in a white neighborhood. However, there is no evidence to support his allegation. The decision to arrest was made before NE#1 or the other responding officers saw the Complainant. The circumstances strongly indicate that the Complainant’s arrest was based on the evidence—two consistent witness accounts and fresh lacerations on CM#1’s face—not on his race.

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

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

Named Employee #1 – Allegation #2

6.010 – Arrests, 6.010-POL-1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest (Effective July 26, 2019)

The Complainant alleged that NE#1 lacked probable cause to arrest him for assault.

Officers must have probable cause to believe that a suspect committed a crime when effecting an arrest. SPD Policy 6.010-POL-1 (effective July 26, 2019). 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).

Here, NE#1 arrested the Complainant based on probable cause that he assaulted CM#1. This belief was predicated on two consistent witness accounts and fresh lacerations on the alleged victim’s face. Thus, based on the evidence provided, OPA finds more likely than not, NE#1 had sufficient probable cause to arrest the Complainant in review of the totality of the circumstances. Also, the unreliability of CM#1’s or CM#2’s claim, alleged by the Complainant, is a factor to consider in a legal defense against the Complainant’s charges.

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

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