
Issued Date: MARCH 6, 2024

From: Director Gino Betts, Office of Police Accountability



Case Number: 2023OPA-0427

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #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 (Effective July 26, 2019)
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)
2. **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)

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 a single collision involving a reportedly stolen vehicle. NE#1 arrested the Complainant for obstruction after she attempted to retrieve her belongings from that vehicle. The Complainant alleged that NE#1 lacked probable cause to arrest her. The Complainant also alleged that her arrest was “racist.”

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 October 31, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of the Investigation:

On September 25, 2023, Witness Supervisor #1 (WS#1) submitted an OPA complaint on the Complainant's behalf, writing that SPD officers responded to a single vehicular collision and

discovered the vehicle was reported stolen. He wrote that several witnesses said Community Member #1 (CM#1) was the driver and the Complainant was the passenger. He wrote that the Complainant denied being inside the vehicle yet attempted to retrieve her belongings from the vehicle when ordered to stop. He wrote that NE#1 arrested the Complainant for refusing NE#1's order to stop and for possessing a stolen vehicle. He wrote that the Complainant said, "This is racist."

OPA investigated the complaint, reviewed the computer-aided dispatch (CAD) call report, body-worn video (BWV), and police reports. OPA attempted to contact the Complainant's father to arrange an interview with the Complainant, a minor. The Complainant's father did not return OPA's voicemails.

On September 11, 2023, at 11:54 PM, CAD call remarks noted, "1 VEH[ICLE] [MOTOR VEHICLE COLLISION INVESTIGATION], POSS[IBLE] INJ[URY], SCREENING FIRE."

NE#1 responded to a street and activated his BWV, which captured the following events. A car appeared to have struck a tree and the side of a building. Seattle Fire Department (SFD) employees were treating CM#1 and the Complainant. NE#1 spoke to a witness, who said community members attempted to pull CM#1 and the Complainant out of the vehicle. NE#1 told officers that CM#1 and the Complainant were in custody for being in a stolen vehicle. The Complainant said she needed an item from the vehicle, but NE#1 asked her to sit so SFD employees could treat her.

NE#1 contacted another witness, who showed NE#1 a video on his laptop. NE#1 radioed seeing a single vehicle collision and that CM#1 and the Complainant were occupants of the stolen vehicle. The Complainant entered the backseat of the vehicle, prompting an officer to tell her to step out. NE#1 reapproached the Complainant, who said she wanted to get her phone. NE#1 said it was likely inside the vehicle. She replied, "It wasn't us driving." She denied knowing the driver, saying she was walking on the street. NE#1 said he had video of her inside the vehicle and her belongings were also inside the vehicle, which she denied. The Complainant opened the backseat door of the vehicle. NE#1 asked what she was looking for, and she replied, "I don't know. You could watch me. My head hurts." NE#1 directed her not to go into the car; however, she kept returning to the vehicle. She reached inside the vehicle. NE#1 ordered her to step away but she refused. NE#1 placed her in handcuffs after she refused to comply. The Complainant claimed, "This is racist."

An officer told WS#1 that the Complainant was a minor. Officers determined that CM#1 was the driver, and the Complainant was the passenger. NE#1 screened the incident with WS#1. NE#1 uncuffed the Complainant, who was placed on a gurney. She asked about her belongings, but NE#1 said everything in the vehicle was evidence. WS#1 screened the incident with the Complainant. She claimed she was walking when a vehicle struck her, but WS#1 disputed her claim. SFD employees transported the Complainant to Harborview Medical Center.

NE#1 and multiple witness officers wrote police reports consistent with the evidence summarized above.

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 in Order to Effect an Arrest (Effective July 26, 2019)

The Complainant alleged that NE#1 lacked probable cause to arrest her.

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 ordered the Complainant to stay away from the vehicle because it was reportedly stolen, and its contents were evidence. The Complainant refused to comply with NE#1's order, opened the backseat, and reached inside. Her noncompliance constituted obstruction. *See RCW 9A.76.020* (defining obstruction as a person willfully hindering, delaying, or obstructing a law enforcement officer's official powers or duties). NE#1 had probable cause to arrest the Complainant for obstruction.

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

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

Named Employee #1 – Allegation #2

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

The Complainant alleged that her arrest was “racist.”

Biased policing means “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well as other discernible personal characteristics of an individual.” SPD Policy 5.140-POL. It includes different treatments based on race. *See id.* Officers are forbidden from making decisions or taking actions influenced by bias and expressing prejudice or derogatory comments concerning personal characteristics. *See SPD Policy 5.140-POL-2.*

Here, NE#1 arrested the Complainant for obstruction based on the reasons cited in Named Employee #1 – Allegation #1. She refused to comply with NE#1's order to stay away from the

reportedly stolen vehicle. Although the Complainant said her arrest was “racist,” there is no evidence in the record to corroborate her allegation.

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

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