
Issued Date: APRIL 11, 2024**From:** Deputy Director Bonnie Glenn on Behalf of Director Gino Betts, Jr.

Office of Police Accountability

Case Number: 2023OPA-0475

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional

Finding: Not Sustained - Unfounded (Expedited)

2. **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)

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) arrested the Complainant for violating an antiharassment protection order (AHPO). The Complainant alleged that NE#1 lacked probable cause to arrest him. The Complainant also alleged that NE#1 was unprofessional by documenting in her police report as a joke to her supervisor.

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 November 27, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of Investigation:

On October 20, 2023, the Complainant submitted an online OPA complaint, writing that NE#1 arrested him based on a law that was repealed. He wrote that after his release from jail, he called

9-1-1 for a civil standby. He wrote that NE#1 refused to provide a civil standby and “noted on her incident report that she had reported this as a joke to her supervisor.”

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), incident and supplement reports, Seattle City Attorney’s Office memo, and email correspondence. The Complainant did not respond to OPA’s request for an interview.

On August 27, 2023, at 4:55 PM, CAD call remarks noted, “VIA VOIANCE CANTONESE, [REPORTING PARTY] HAS RESTRAINING ORDER AGAINST TENANTS, AND THEY ARE CURRENTLY ON SITE TAKING PHOTO’S. NO [WEAPONS] SEEN.”

NE#1 responded to the incident location and activated her BWV, capturing the following:

Two community members approached NE#1 and reported that the Complainant violated an AHPO. They said the Complainant was a tenant in their basement and continued residing there despite being served with the AHPO a few days ago. They said the Complainant stood outside and photographed the house. NE#1 reviewed the AHPO paperwork with the community members and verified it over radio. NE#1 told other officers at the scene that the AHPO required the Complainant to stay 1,000 feet from the residence. NE#1 approached and handcuffed the Complainant, who was outside. The Complainant invoked his right to counsel after NE#1 Mirandized him. NE#1 told the Complainant he was arrested for violating the AHPO. NE#1 screened the arrest with a sergeant, telling him that the Complainant was within 1,000 feet from the protected parties, photographed the protected parties’ residence, and texted the protected parties.

NE#1’s incident report was consistent with the events captured on BWV. NE#1 wrote a supplement report, documenting that she told the Complainant to call 9-1-1 for a civil standby to retrieve his belongings. NE#1 wrote that she told the Complainant he would be arrested if he returned to the residence for violating the AHPO, despite the Complainant insisting he needed to retrieve his laptop. NE#1 concluded her supplement report with the following: “I called [a sergeant] to notify him of the incident.” Neither report referenced that she reported this incident as a joke to her supervisor.

The Seattle City Attorney’s Office (SCAO) wrote a memo declining to pursue criminal charges against the Complainant based on service of the AHPO being defective.

On November 3, 2023, OPA contacted the Complainant to request an interview. The Complainant responded via email, writing that the SCAO declined to file criminal charges against him. He also wrote that he filed a formal complaint against NE#1 in case she changed her report.

Analysis and Conclusions:

Named Employee #1 – Allegation #1

5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional

The Complainant alleged that NE#1 was unprofessional by documenting in her incident report that she reported this incident as a joke to her supervisor.

SPD employees must “strive to be professional.” SPD Policy 5.001-POL-10. Further, “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers,” whether on or off duty. *Id.*

NE#1’s incident and supplement reports were complete, thorough, and accurate. Neither report referenced any “joke” that NE#1 reported to her supervisor. NE#1’s supplement report concluded with the following: “I called [a sergeant] to notify him of the incident.” There is no evidence in the record to corroborate the Complainant’s allegation.

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.

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).

NE#1 reviewed the protected parties’ AHPO paperwork. NE#1 verified the AHPO over radio. The Complainant was within 1,000 feet of the protected parties and their residence. The protected parties also reported that the Complainant texted them in violation of the AHPO. Under these circumstances, NE#1 had sufficient probable cause to arrest the Complainant for violating the AHPO. Although the Complainant alleged that NE#1 arrested him based on RCW 10.14.170, which was repealed on July 1, 2022, RCW 7.105.455 was effective on the day of the Complainant’s arrest. RCW 7.105.455 provides for AHPO enforcement and penalties. Even though NE#1’s incident report cited a repealed law, it did not negate her probable cause to arrest the Complainant for violating the AHPO under RCW 7.105.455.

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

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