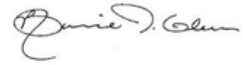

Issued Date: JUNE 25, 2024

From: Deputy Director Bonnie Glenn on Behalf of Director Gino Betts, Jr.
Office of Police Accountability



Case Number: 2024OPA-0010

Allegations of Misconduct & Director's Findings

Named Employee #1

- 1. Allegation #1:** 6.010 – Arrests, 6.010-POL-1. Sworn Employees Must Have Probable Cause That a Subject has Committed a Crime to Effect an Arrest
Finding: Not Sustained - Lawful and Proper (Expedited)
- 2. Allegation #2:** 15.180 – Primary Investigations, 15.180-POL-1. Officers Shall Conduct a Thorough and Complete Search for Evidence
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 may be written in the first person.

Executive Summary:

Named Employee #1 (NE#1) responded to a fight incident and arrested the Complainant for assault and trespass. The Complainant alleged that NE#1 lacked probable cause for the arrest and failed to conduct a thorough investigation.

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 in this case.

On February 6, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of Investigation:

On January 2, 2024, the Complainant provided a verbal OPA complaint, alleging he was falsely arrested and that NE#1 failed to conduct a thorough investigation. The Complainant said he was unlawfully trespassed from an alcoholics anonymous (AA) meeting and that officers failed to explain the reason for his arrest.

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), and incident report.

On December 25, 2023, at 6:52 PM, CAD call remarks noted, “2 SUSP[ECTS] PHYSICALLY FIGHTING.”

NE#1, two witness officers, and a sergeant responded to the incident location and activated their BWV, capturing the following:

NE#1 and the witness officers approached the Complainant, who denied committing a crime and claimed six men assaulted and removed him from an AA meeting. The Complainant said he was exercising his religious rights, so he claimed his removal was unlawful. A witness officer handcuffed the Complainant and told him he was detained. The Complainant was agitated and disputed his arrest.

NE#1 spoke with multiple community members. One community member said the Complainant was informally trespassed from the property because he caused disturbances and threatened others with a firearm. A second community member reported that the Complainant grabbed Community Member #1 (CM#1) and went on top of CM#1 on the ground. NE#1 spoke with CM#1, who reported that the Complainant refused to leave the AA meeting. CM#1 described a physical altercation in which the Complainant grabbed CM#1, pressed CM#1’s back against a door, and fell on top of CM#1. CM#1 said community members pulled the Complainant off him. CM#1 expressed pain in his right shoulder. Multiple community members corroborated CM#1’s account.

NE#1 screened the incident with a sergeant, who previously told the Complainant he was arrested for criminal trespass and assault. NE#1 told the Complainant he was officially trespassed from the property.

NE#1’s incident report was consistent with the events captured on BWV.

Analysis and Conclusions:

Named Employee #1 – Allegation #1

6.010 – Arrests, 6.010-POL-1. Sworn Employees Must Have Probable Cause That a Subject has Committed a Crime to Effect an Arrest

The Complainant alleged that NE#1 lacked probable cause for his arrest.

Sworn employees must have probable cause that a subject has committed a crime to effect an arrest. SPD Policy 6.010-POL-1. Arrests without probable cause violate law and Department policy. Probable cause exists when the facts and circumstances within a sworn employee’s knowledge 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’s probable cause for trespass and assault was predicated on multiple witnesses providing consistent accounts. They reported that the Complainant was informally trespassed because he

previously caused disturbances and threatened others with a firearm. They said he refused to leave despite being told to leave. Based on these facts, NE#1 had sufficient probable cause to arrest the Complainant for trespass. Additionally, those witnesses, including CM#1, provided consistent accounts about the physical altercation between CM#1 and the Complainant. They said the Complainant grabbed CM#1 and landed on top of CM#1 when they fell through a door. Based on these facts, NE#1 had sufficient probable cause to arrest the Complainant for assault.

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

15.180 – Primary Investigations, 15.180-POL-1. Officers Shall Conduct a Thorough and Complete Search for Evidence

The Complainant alleged that NE#1 failed to conduct a thorough investigation.

In primary investigations, officers must conduct a thorough and complete search for evidence. SPD Policy 15.180-POL-1. Sworn personnel must know how to collect the most common physical evidence that might be encountered in a primary investigation. Id. Only evidence that is impractical to collect or submit to the Evidence Unit shall be retained by the owner. Id. Officers shall photograph all evidence retained by the owner. Id.

NE#1 investigated the incident for about an hour. During that investigation, NE#1 interviewed the Complainant, multiple witnesses, and CM#1. All witnesses provided consistent accounts indicating that the Complainant was trespassed from the property. Additionally, they corroborated CM#1's account of the physical altercation. The responding sergeant screened the incident with NE#1 and concluded that there was sufficient probable cause for the Complainant's arrest. OPA found no evidence that NE#1's investigation was unthorough.

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

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