



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 26, 2024

FROM: DEPUTY DIRECTOR BONNIE GLENN ON BEHALF OF DIRECTOR GINO BETTS, JR.
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0114

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	15.180 – Primary Investigations, 15.180-POL-5. Officers Shall Document all Primary Investigations on a Report	Not Sustained - Training Referral
# 2	When Taking a Suspect Into Custody, Officers Must Identify Themselves, Inform the Suspect that He or She is Under Arrest, and State the Reason for the Arrest As Early as Practical (Effective July 26, 2019)	Not Sustained - Unfounded

Named Employee #2

Allegation(s):		Director's Findings
# 1	15.180 – Primary Investigations, 15.180-POL-5. Officers Shall Document all Primary Investigations on a Report	Not Sustained - Unfounded
# 2	When Taking a Suspect Into Custody, Officers Must Identify Themselves, Inform the Suspect that He or She is Under Arrest, and State the Reason for the Arrest As Early as Practical (Effective July 26, 2019)	Not Sustained - Unfounded

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) and Named Employee #2 (NE#2) attempted to arrest Community Member #1 (CM#1) for outstanding warrants when she entered the passenger side of a vehicle. The driver drove away despite being ordered to exit the vehicle. NE#1 determined that the vehicle was registered to the Complainant and identified the driver as the Complainant. The Complainant alleged that the named employees misidentified him, resulting in his being charged with obstruction. It was alleged that the named employees failed to document how they determined CM#1 had warrants and how they identified the driver as the Complainant. It was also alleged that the named employees failed to identify themselves, inform CM#1 that she was under arrest, and state the reason for the arrest.

ADMINISTRATIVE NOTE:

The Complainant also alleged that officers went to his residence and threatened to charge him with obstruction. After learning an attorney represented the Complainant, OPA repeatedly sought permission from that attorney to interview



the Complainant for further information, but OPA received no response.¹ OPA originally processed this allegation as a Contact Log because OPA could not immediately locate records regarding this alleged contact.² OPA later re-evaluated this allegation under 2024OPA-0292 before, again, determining the allegation should be closed as a contact log.³

On August 6, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

A. OPA Complaint

On March 2, 2024, the Complainant filed an OPA complaint, writing that an officer accused him of obstruction. The Complainant also wrote that he was facing charges because a vehicle was registered in his name. On March 6, 2024, OPA contacted the Complainant, who said officers stopped his ex-girlfriend and a driver in a vehicle registered to him, but he claimed he was not the driver because he was working in a different city at the time. The Complainant alleged that the officers misidentified him, leading to his being wrongfully charged with a crime.⁴

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), in-car video (ICV), and incident report. OPA also interviewed the named employees. The Complainant's attorney did not respond to OPA's multiple requests to interview the Complainant.

B. Computer-Aided Dispatch (CAD) Call Report

On April 6, 2023, at 2:48 PM, "WARRANT - FELONY PICKUP" was coded into CAD. "191-Warrant Services – Felony".

C. Body-Worn Video (BWV) and In-Car Video (ICV)

BWV and ICV captured the following:

NE#2 drove a patrol vehicle. NE#1 was in the passenger seat reviewing information on a computer. NE#2 turned right at an intersection and stopped. A vehicle was parked facing in (red arrow), other vehicles were parked facing out:

¹ See OPA Internal Operations and Training Manual section 4.4 (requiring OPA to receive permission from both a complainant and attorney before contacting a represented complainant).

² An allegation may be classified as a Contact Log if, among other things, there is insufficient information to proceed with the investigation. See OPA Internal Operations and Training Manual section 5.4(B)(i).

³ See *id.* (allowing contact log where the "complaint does not involve a potential policy violation by an SPD employee.").

⁴ The Complainant sent OPA an article that, according to him, discussed another person who was the driver. That article discussed CM#1 and another person reportedly being involved in a series of crimes in July 2023.



NE#2 pulled into the parking spot to the left of the vehicle. The named employees exited the marked patrol vehicle. NE#1 approached the driver side and said, “Hey. Unlock the car.” NE#1 tried to open the door. The driver looked at NE#1 but did not comply. NE#1 drew his firearm in the sul (low ready) position. Standing at the vehicle’s rear, NE#2 radioed their location. The vehicle’s engine started. NE#2 went to the passenger side door and tried to open it. NE#1 ordered the driver to unlock the door, but the driver refused to comply. NE#1 holstered his firearm and removed a firearm magazine. NE#1 said, “I’ll break it” and tried to open the door using the handle. NE#1 repeatedly struck the driver’s side window using the magazine, the window broke slightly but did not shatter. The driver drove forward, striking the curb. The driver then reversed and fled the area, away from the named employees. NE#2 radioed the vehicle’s direction of travel and conducted an area check for the vehicle, which was not successful.

D. Incident Report

NE#1’s incident report was consistent with BWV observations. NE#1 wrote that CM#1 stood next to the passenger seat of a suspicious vehicle. NE#1 wrote, “[CM#1] had an outstanding \$60,000 felony SPD warrant for failing to register as a kidnapping offender, as well as a [Department of Corrections] warrant for eluding a pursuing police vehicle.” NE#1 also wrote, “I immediately recognized the driver as [the Complainant] and confirmed the passenger was [CM#1].”

E. OPA Interviews

Named Employee #1

On May 9, 2024, OPA interviewed NE#1. NE#1 said NE#2—his partner on the incident date—usually drove while they alternated report writing. NE#1 accepted equal responsibility with NE#2 for the way they handled this call. NE#1 said he was on routine patrol with NE#2 when they saw a suspicious vehicle. NE#1 said a male was in the driver’s seat while CM#1, standing next to the vehicle, became startled after seeing the police and quickly entered the passenger seat, possibly to avoid detection. NE#1 said such behavior suggested criminal activity. NE#1 said he thought the vehicle may have been stolen or CM#1 may have had a warrant. NE#1 said he conducted a records check on the vehicle, which showed that it was registered to the Complainant. NE#1 said he saw the Complainant’s profile and photograph through a King County Jail (KCJ) database search. NE#1 said he used SPD’s report management system (RMS) to locate people associated with the Complainant and saw CM#1’s name. NE#1 said he conducted a records check on CM#1 and saw two felony warrants. NE#1 said he saw CM#1’s profile and photograph through a KCJ database search, giving him probable cause to arrest CM#1. NE#1 said he approached the vehicle and saw the person he believed to be the Complainant looking directly at him. NE#1 believed the driver was the Complainant because the driver’s appearance matched the photograph he saw in the KCJ database. NE#1 said an indisputable identification was not required for probable cause purposes. NE#1’s description of his attempt to stop the fleeing vehicle was consistent with BWV observations.



NE#1 believed he did not misidentify the Complainant for someone else and suggested that a follow-up investigation would be necessary to prove identity. OPA asked why NE#1's report did not document his determination that CM#1 had warrants and how he identified the Complainant. First, NE#1 said his documentation of CM#1's warrant information included details like the bail amount, offense, and originating agency, which "heavily implied" that he conducted a records check on CM#1. NE#1 suggested a reasonable person reading his report would assume that his report was accurate, thorough, and complete because it documented probable cause for CM#1's arrest based on her warrant and its details. NE#1 noted that SPD policy did not require an officer to document how he knew a subject had a warrant. Second, NE#1 said he documented that the Complainant refused to comply with an order to exit his vehicle by driving away. NE#1 cited Seattle Municipal Code (SMC) 16.20.115,⁵ which he claimed did not require him to document how he identified the Complainant to establish probable cause for the crime. NE#1 claimed his documentation of the elements of the crime was sufficient. NE#1 said he wrote the incident report, not NE#2.

NE#1 acknowledged that he did not identify himself as a Seattle police officer, advise CM#1 that she was under arrest, or state the reason for her arrest, citing the rapidly evolving situation of the occupants taking steps to flee within seconds after police contact. NE#1 said it was more practical to order the occupants to stop than to give these advisements. NE#1 also noted that he and NE#2 were at risk of being struck by the fleeing vehicle. NE#1 said the occupants were aware that officers contacted them based on the officers' uniforms and marked patrol vehicle.

Named Employee #2

On June 3, 2024, OPA interviewed NE#2. NE#2's statements were consistent with NE#1's statements. NE#2 denied knowing how NE#1 identified the male driver. NE#2 denied seeing the male driver because NE#2 approached the passenger side of the vehicle. NE#2 said CM#1 turned to the driver's side when he approached, heightening his concern that she was reaching for a firearm. NE#2 said he moved away when the driver fled.

NE#2 said NE#1 wrote the incident report and did not discuss it with him. NE#2 denied adding anything to the incident report. NE#2 believed NE#1's incident report was accurate, thorough, and complete. NE#2 acknowledged that he did not identify himself as a Seattle police officer, advise CM#1 that she was under arrest, or state the reason for her arrest, citing the dynamic situation of a fleeing vehicle. NE#2 also said providing these advisements was infeasible because he did not want to get struck by the fleeing vehicle.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

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

It was alleged that the incident report was incomplete or unthorough.

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

⁵ SMC 16.20.115 provides, "Any operator of a vessel who wilfully fails to stop when requested or signaled to do so by a person reasonably identifiable as a law enforcement officer is guilty of a gross misdemeanor."



SPD Policy 15.180-POL-5 does not provide any objective criteria to determine whether a report is “complete” or “thorough.” Although OPA did not observe anything in NE#1’s report that was inaccurate, additional information regarding the identification of the Complainant and CM#1 would have been useful and relevant here. Specifically, NE#1 did not describe how he determined that CM#1 had warrants or how he identified the driver as the Complainant. Instead of relying on implication that he conducted a records check on CM#1, NE#1 could have explicitly documented how he learned of CM#1’s outstanding warrants. Also, NE#1’s documentation that he “immediately recognized the driver as [the Complainant]” —without explaining how he recognized the driver—could suggest to a reader that NE#1 was independently familiar with the Complainant. NE#1 that neither SPD policy nor the SMC explicitly require this information to be documented in an incident report, this information would be useful to other police officers or prosecutors reviewing the case, or for refreshing NE#1’s recollection after the fact. Due to the ambiguity of the policy in this circumstance, OPA finds that there was a potential, but not willful, violation of policy that did not amount to serious misconduct. A training referral is warranted under the circumstances.

Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1’s chain of command should discuss OPA’s findings with NE#1, review SPD Policy 15.180-POL-5 with NE#1, and provide any other retraining and counseling it deems necessary. Any retraining and counseling should be documented and maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**

Named Employee #1 – Allegation #2

6.010 – Arrests, 6.010-POL-2. When Taking a Suspect Into Custody, Officers Must Identify Themselves, Inform the Suspect that He or She is Under Arrest, and State the Reason for the Arrest As Early as Practical (Effective July 26, 2019)

It was alleged that the named employees failed to identify themselves, inform CM#1 that she was under arrest, and state the reason for the arrest.

When taking a suspect into custody, officers must identify themselves, inform the suspect that he or she is under arrest, and state the reason for the arrest as early as practical. SPD Policy 6.010-POL-2 (effective July 26, 2019).

While there was a short window during which the named employees could have identified themselves and informed CM#1 that she was under arrest, OPA recognizes that the SPD-required advisements were difficult to deliver under the circumstances. The situation was rapidly evolving when the named employees approached the occupants, who locked their doors, closed their windows, and elected to flee. Additionally, the driver could have struck the named employees using the vehicle, and, according to NE#2, CM#1 could have reached for a firearm. Also, NE#1 and NE#2 were in SPD uniform and in a marked patrol car. Policy provides that these SPD-required advisements be delivered “as early as practical.” Had the occupants complied and exited the vehicle, there is no reason to believe that the named employees would not have delivered such advisements.

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

Recommended Finding: **Not Sustained - Unfounded**



Named Employee #2 – Allegation #1

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

It was alleged that the incident report was incomplete or unthorough.

NE#1 wrote the incident report, not NE#2. NE#1 acknowledged that he was responsible for the incident report.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #2 – Allegation #2

6.010 – Arrests, 6.010-POL-2. When Taking a Suspect Into Custody, Officers Must Identify Themselves, Inform the Suspect that He or She is Under Arrest, and State the Reason for the Arrest As Early as Practical (Effective July 26, 2019)

For the reasons at Named Employee #1 – Allegation #2, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**