



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 7, 2024

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

CASE NUMBER: 2024OPA-0182

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	15.180 – Primary Investigations, 15.180-POL-1. Officers Shall Conduct a Thorough and Complete Search for Evidence	Not Sustained - Lawful and Proper (Expedited)
# 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	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 a domestic violence (DV) disturbance call involving the Complainant and Community Member #1 (CM#1), the Complainant's ex-husband. NE#1 arrested the Complainant for violating a no-contact order (NCO) protecting CM#1. The Complainant alleged that NE#1 did not conduct a thorough investigation and lacked probable cause to arrest him.

ADMINISTRATIVE NOTE:

During its intake investigation, OPA identified NE#1's body-worn video (BWV) deactivated during his investigation. OPA sent NE#1's potential violation of SPD Policy 16.090-POL-2(2) (effective July 1, 2023) (When Sworn Employees Record Activity) to his chain of command for Supervisor Action.¹

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 May 23, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

On March 28, 2024, the Complainant filed an OPA complaint, alleging that he was arrested for violating an NCO protecting CM#1, even though CM#1 harassed him, broke into his truck to take items, struck his truck with a vehicle,

¹ Supervisor Actions generally involve a minor policy violation or performance issue the employee's supervisor addresses through training, communication, or coaching. See OPA Internal Operations and Training Manual section 5.4(B)(ii).



and attempted to run him over. The Complainant wrote that CM#1 was uninvited to the location. The Complainant alleged that NE#1 did not conduct a thorough investigation and lacked probable cause for his arrest.

OPA investigated the complaint by reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), photos, and incident and supplemental reports. The Complainant did not respond to OPA's repeated requests for an interview.

On November 9, 2023, at 7:43 PM, CAD call remarks noted, "[REPORTING PARTY'S] HUSBAND IS DESTROYING [REPORTING PARTY'S] VEH[ICLE], NO [WEAPONS]."

NE#1 responded to the incident location with his BWV activated, capturing the following:

The Complainant was on a sidewalk with two officers next to him. NE#1 approached and asked the Complainant what happened. The Complainant said his truck broke down, and CM#1 parked behind his truck, took items from it, and accelerated into it. The Complainant said he avoided CM#1 because of an NCO protecting CM#1. NE#1 and an officer looked at the Complainant's truck.² The Complainant said CM#1 used his vehicle to try to hit him. The Complainant pointed out a rock that CM#1 used to throw at his truck. The Complainant denied knowing how CM#1 knew about the truck's location but theorized that CM#1 placed a tracker in it. NE#1 asked the Complainant why CM#1 called 911 first, but the Complainant said he was unsure. NE#1 handcuffed the Complainant, told him he was detained, and placed him in the back of a patrol vehicle. The Complainant insisted that CM#1 had no reason to be at his location.

NE#1 drove to CM#1, who sat on a sidewalk with two officers next to him. NE#1 asked CM#1 what happened. CM#1 said he and the Complainant arranged to meet at the location so CM#1 could retrieve his dog. CM#1 said he went through the unlocked truck to retrieve his belongings, but the Complainant appeared, became escalated, and started banging on CM#1's vehicle. CM#1 denied striking the Complainant's truck with his vehicle but acknowledged his vehicle may have brushed against the Complainant's truck as CM#1 drove away. CM#1 denied throwing a rock at the Complainant's truck and claimed that the Complainant threw rocks at his vehicle. CM#1 showed NE#1 his phone, which displayed text messages between the Complainant and himself.



Rock Found at the Scene that was photographed by NE#1

² NE#1's incident report stated that he did not observe obvious signs of damage to the Complainant's truck.



NE#1 reapproached the Complainant and told him he saw text messages on CM#1's phone about their arrangement to meet. NE#1 told the Complainant he was arrested for violating the NCO.³

NE#1's incident report was consistent with BWV observations.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

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

The Complainant alleged that NE#1's investigation was unthorough.

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's investigation consisted of his observations, statements from the relevant parties, reviewing prior incidents involving the parties, locating and verifying the NCO with dispatch, and reviewing text messages from CM#1's phone. A preponderance of the evidence shows NE#1 conducted a thorough search for evidence.

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

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

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

Officers must have probable cause that a suspect committed a crime when effectuating an arrest. SPD Policy 6.010-POL-1. 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 sufficiently 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).

As noted above, NE#1 established sufficient probable cause to arrest the Complainant based on the evidence he collected. NE#1 arrested the Complainant based on his violation of an NCO, which NE#1 verified with dispatch. The NCO prohibited the Complainant from communicating with CM#1, who showed NE#1 text messages between the Complainant and himself regarding arrangements to retrieve the dog. As such, the totality of NE#1's investigation established sufficient probable cause to arrest the Complainant for an NCO violation.

³ NE#1's incident report stated that he saw an NCO between the Complainant and CM#1, with CM#1 as the protected party, and that dispatch verified the NCO. NE#1 noted that the NCO prohibited the Complainant from communicating with CM#1.



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

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