



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 8, 2024

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

CASE NUMBER: 2024OPA-0195

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) |
| # 3 | 5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing | Not Sustained - Unfounded (Expedited) |

Named Employee #2

| 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) |
| # 3 | 5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing | 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:

While on routine patrol, Named Employee #1 (NE#1) and Named Employee #2 (NE#2) were flagged down by Community Member #1 (CM#1) and Community Member #2 (CM#2). They reported that the Complainant—CM#2's ex-boyfriend and father to CM#2's children—threatened them with a gun and then followed them. The named employees arrested the Complainant for felony harassment. The Complainant alleged that the named employees inadequately investigated the incident, lacked probable cause to arrest him, and were racially biased.

ADMINISTRATIVE NOTE:

This case was approved for Expedited Investigation. This 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 employees. As such, OPA did not interview the named employees.



On October 1, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

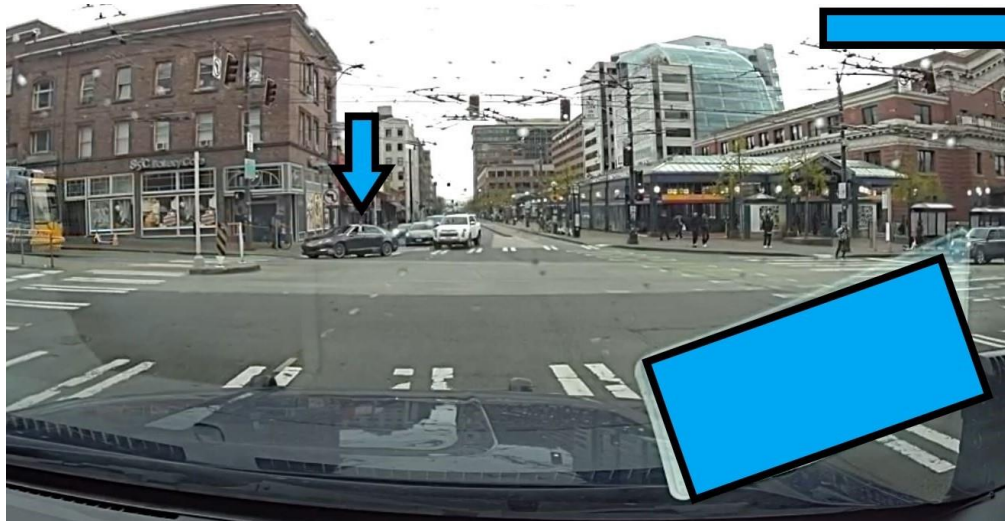
SUMMARY OF INVESTIGATION:

On April 24, 2024, Witness Supervisor #1 (WS#1)—a sergeant—submitted a Blue Team complaint on the Complainant's behalf, writing that CM#1 and CM#2 flagged down the named employees and reported that the Complainant waved a gun at them and then followed them. WS#1 wrote that the named employees found and stopped the Complainant's vehicle and searched it with consent but found no gun. WS#1 wrote that the named employees arrested the Complainant after establishing probable cause for felony harassment. According to WS#1, the Complainant alleged that the named employees inadequately investigated the incident and believed CM#1's and CM#2's account based on skin color.

OPA investigated the complaint by reviewing body-worn video (BWV), in-car video (ICV), and the incident and supplemental report. OPA was unable to reach the Complainant for an interview based on his available contact information.

BWV and ICV captured the following:

On April 6, 2024, NE#2 drove a patrol vehicle, with NE#1 in the passenger seat. The named employees were stopped at a red light when a gray vehicle across the street went in the opposite travel lane, with a white vehicle following it. As the gray vehicle turned right, the driver (CM#1) waved at the named employees:



The gray vehicle stopped after turning right. The white vehicle turned right and left the area. NE#2 stopped behind the gray vehicle. The named employees approached, finding CM#1 in the driver's seat and CM#2 in the passenger's seat. CM#1 claimed the Complainant—CM#2's ex-boyfriend driving the white vehicle—threatened them with a gun and then chased them. The named employees reentered their patrol vehicle, searched for the Complainant's vehicle, and pulled it over.



The Complainant exited his vehicle, was frisked, and denied carrying a gun. The Complainant claimed CM#1 cut him off and flashed a gun at him. After obtaining the Complainant's consent, NE#1 searched the vehicle but found no gun. During NE#1's search, NE#2 returned to CM#1 and CM#2. NE#1 Mirandized the Complainant but told him he was detained, not under arrest. The Complainant denied knowing the other vehicle's occupants. The Complainant said he was grocery shopping and spotted the other vehicle in the parking lot but could not see who was inside due to the vehicle's tint. The Complainant said CM#1 pulled out and cut him off.

NE#2 spoke with CM#1 and CM#2. CM#2 said the Complainant was her children's father. CM#1 and CM#2 said the Complainant threatened to shoot by threatening to "fucking pop them both" and then followed them. CM#1 said he thought he saw the Complainant's gun. CM#2 said the Complainant pistol whipped her before and described prior domestic violence (DV) incidents and threats. Also, CM#1 and CM#2 said they feared the Complainant would shoot them. NE#2 called NE#1, telling him there was probable cause for felony harassment.

NE#1 handcuffed the Complainant, who denied any wrongdoing and claimed he was harassed. The named employees transported the Complainant to the King County Jail where WS#1 screened the arrest. The Complainant alleged that the named employees inadequately investigated the incident and suggested CM#1 and CM#2 were armed. The Complainant alleged that the named employees found CM#2's account more credible based on skin color, citing CM#2 being white and his being Black. The Complainant alleged that CM#2 was always drunk and made false claims.

NE#2's incident report was consistent with BWV and ICV observations. NE#2 documented, "Based on the statements made by [CM#1] and [CM#2], combined with the dangerous driving maneuvers I observed [the Complainant] make, probable cause was established to arrest him for Domestic Violence Felony Harassment."

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 the named employees inadequately investigated the incident.

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.*

The named employees' investigation consisted of their observations (seeing two vehicles unlawfully enter the opposite travel lane and seeing the Complainant's vehicle leave the scene), statements from all relevant parties, credibility issues concerning the Complainant's account, and DV history between the Complainant and CM#2. A preponderance of the evidence shows the named employees 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 the named employees lacked probable cause to arrest him.

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, the named employees established sufficient probable cause to arrest the Complainant based on the evidence they collected. The parties' driving pattern corroborated CM#1's and CM#2's claim that the Complainant chased them. CM#1 immediately waved at the named employees, seeking their assistance, while the Complainant drove away. CM#1's and CM#2's account was consistent and credible, whereas the Complainant's account contained inconsistencies. For example, the Complainant denied knowing the occupants in the vehicle but later professed that the driver was a "brother." Although the named employees did not find a gun in the Complainant's vehicle, that fact alone was insufficient to dispel their probable cause since the crime of harassment did not require the police to find a gun in the suspect's possession. It required the suspect to knowingly threaten "bodily injury immediately or in the future" to the person threatened, who must be "in reasonable fear that the threat will be carried out." *See RCW 9A.46.020(1)*. The totality of the named employees' investigation established sufficient probable cause to arrest the Complainant for felony harassment.

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

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

Named Employee #1 – Allegation #3

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

The Complainant alleged that the named employees engaged in race-based policing.

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 treatment 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.*

There was no evidence to suggest the named employees found CM#2's account more credible and the Complainant's account less credible based on their skin color. As noted above, the Complainant's account contained inconsistencies that undermined his credibility. The named employees' probable cause determination was based on personal observations, witness statements, and DV history, not the parties' skin color. OPA's review of the named employees' BWV uncovered no evidence of race-based mistreatment.



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

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

Named Employee #2 – Allegation #1

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

For the reasons at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

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

Named Employee #2 – 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

For the reasons at Named Employee #1 – Allegation #2, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

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

Named Employee #2 – Allegation #3

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

For the reasons at Named Employee #1 – Allegation #3, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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