



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 9, 2025

FROM: INTERIM DIRECTOR BONNIE GLENN
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0295

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 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	Not Sustained - Lawful and Proper (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	7.060 – Releasing Evidence, 7.060-POL-2. Sworn Employees Release Evidence No Longer Needed for Law Enforcement Purposes	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:

The Complainant was arrested for allegedly threatening Community Member #1 (CM#1) with a gun. The Complainant alleged that Named Employee #1 (NE#1) lacked probable cause for the arrest and that Named Employee #2 (NE#2) refused to return his gun.

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 employees. As such, OPA did not interview the named employees in this case.

On August 20, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

On July 13, 2024, the Complainant submitted an OPA complaint, alleging that his property was not returned to him following his unlawful arrest.



OPA investigated the complaint by reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), incident report, photographs, and email correspondence. The Complainant emailed OPA in lieu of an interview. His written statements were consistent with those recorded on BWV.

On June 14, 2024, at 9:01 PM, "WEAP[O]N – GUN, [] DEADLY [WEAPON]" was coded into CAD.

BWV recorded NE#1 responding to an intersection where the Complainant and four community members were present. One community member announced that the Complainant threatened to shoot her. The Complainant admitted to possessing a gun. In response to police commands, the Complainant knelt and placed his hands on his head. NE#1 then retrieved a gun from the Complainant's waistband and secured it in his police vehicle. Backing officers handcuffed the Complainant. NE#1 spoke with CM#1, who reported that the Complainant bumped into him in a store, argued, and threatened to shoot him while the Complainant concealed his hand behind his back. Another community member interjected, stating that the Complainant displayed his gun while holding it behind his back.

BWV recorded NE#1 speaking with the Complainant, who said he had asked a person in a wheelchair to move aside, but CM#1 believed the comment was directed at him. The Complainant claimed that CM#1 threatened to assault and shoot him. The Complainant said he felt threatened but denied drawing his gun. NE#1 expressed skepticism about the Complainant's sense of threat, noting that although the altercation occurred inside the store, officers found the Complainant outside near CM#1. NE#1 commented, "Well, if someone wants to shoot me in the face, I'm not going to get closer to them." A backing officer told NE#1 that a witness' account aligned with CM#1's. NE#1 screened the incident with a sergeant, who told the Complainant that he was arrested for felony harassment. The Complainant maintained that he only approached CM#1 outside the store to ask why CM#1 threatened to shoot him. NE#1 replied that a genuinely fearful person would have called 911 rather than confront the threat.

NE#1's incident report was consistent with OPA's BWV observations. NE#1 also documented that officers interviewed a store employee, who witnessed the verbal altercation and saw the Complainant holding a gun.

On July 11, 2024, the Complainant emailed NE#2, asking for the return of his gun. NE#2 replied, "You cannot have your property back yet. Once the case is adjudicated and goes to trial or gets dropped, all property will be released."

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – 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

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).



NE#1 had sufficient probable cause to arrest the Complainant for harassment.¹ Several community members, including a store employee, consistently reported that the Complainant had threatened CM#1 with a gun and displayed it while holding it behind his back. Moreover, NE#1 observed that the Complainant's account lacked credibility, as the Complainant was located near CM#1 upon NE#1's arrival. A reasonable person who genuinely feared for his safety would have likely distanced himself from the alleged threat and contacted the police. The consistent witness accounts, the presence of a gun in the Complainant's waistband, and the inconsistencies in the Complainant's account collectively established probable cause for harassment, justifying his arrest.

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

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

Named Employee #2 – Allegation #1

7.060 – Releasing Evidence, 7.060-POL-2. Sworn Employees Release Evidence No Longer Needed for Law Enforcement Purposes

The Complainant alleged that NE#2 refused to return his gun.

Sworn employees will release evidence no longer needed for law enforcement purposes. SPD Policy 7.060-POL-2.

As indicated in NE#1's incident report, the Complainant's gun was retained as evidence. When the Complainant sought its return, his case remained under investigation, meaning his gun was still needed "for law enforcement purposes." Thus, NE#2 correctly informed the Complainant that his gun would be returned following the adjudication of his case.

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

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

¹ A person is guilty of harassment if, without lawful authority, the person knowingly threatens to cause bodily injury immediately or in the future to the person threatened and the person, by words or conduct, places the person threatened in reasonable fear that the threat will be carried out. See RCW 9A.46.020(1).