



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 29, 2020

CASE NUMBER: 2019OPA-0675

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained (Lawful and Proper)

Named Employee #2

Allegation(s):		Director's Findings
# 1	6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained (Lawful and Proper)

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 alleged that the Named Employees failed to an arrest and that this violated policy.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

Officers, including Named Employee #1 (NE#1) and Named Employee #2 (NE#2), were dispatched to a potential domestic violence (DV) incident at a residence in South Seattle. The Named Employees' response to this incident was fully recorded on Body Worn Video (BWV). Upon arrival at the scene, the Named Employees established that the disturbance involved a 17-year-old female who was attempting to retrieve personal possessions from her mother's apartment. The Named Employees learned that the mother and daughter were estranged, and that the daughter was a ward of the state. The daughter brought a friend with her to the apartment and the friend stood by as a witness.

The officers spoke with the daughter, who gave them the phone number for her social worker. NE#2 went to speak with the mother while NE#1 returned his patrol vehicle to call the social worker. The social worker was unavailable, so NE#1 spoke with another social worker. He determined that the daughter was found a place to stay by DESC but told them that she did not want the placement.

The daughter further told DESC that she was planning on staying with her “sister” in Bellevue. She informed DESC that she wanted her things from her mother’s house and that she needed help getting them. DESC indicated to the daughter that they could not help her until the following day, but the daughter decided to go on her own.

NE#2 spoke to the mother who informed NE#2 that she had dropped the daughter’s clothes off at DESC. The mother said that she did not want the daughter at her residence and that the previous times she had allowed the daughter to stay there had resulted in the daughter using drugs and alcohol and breaking the mother’s rules. NE#2 relayed this information to NE#1. There was no indication that the daughter had engaged in any criminal activity up until that point.

NE#1 and NE#2 returned to speak with the daughter. NE#1 informed the daughter what they learned from the social worker. They also told the daughter what the mother had said and the fact that they searched the closets in the home and did not find the daughter’s things. The daughter grew upset and alleged that her mother had hidden her things. She walked to her mother’s door and began screaming that she wanted her things. She also kicked the door. The officers told her to stop and said that, if she did not, she would be arrested. The daughter continued to yell. The mother and her husband opened their door and stated that they wanted to press charges. They then closed the door. The officers did not discern any damage to the door from the kicking.

Ultimately, after further yelling and discussions with the officers and her friend, the daughter left the vicinity of her mother’s door. NE#1 entered the mother’s apartment and spoke with the mother and the husband. The mother and the husband complained about the daughter not being arrested. NE#1 told them that he was not going to arrest the daughter for kicking the door. He explained that, without a violent felony, there was no way a juvenile subject would be booked in jail. He agreed with the mother and the husband that the daughter was being rude and was acting inappropriately and confirmed that, had she been an adult, she would have been arrested.

NE#1 exited the apartment and he and the other officers continued to speak with the daughter. She had calmed down at that point. NE#1 called DESC and verified that five bags of clothing had been dropped off there by the mother and that the daughter knew that. After a further back and forth, the daughter left the scene with her friend.

The mother and the husband later initiated this OPA complaint. They alleged that the Named Employees should have arrested the daughter but failed to do so. They asserted that the lack of an arrest violated policy.

SPD Policy 6.010-POL-1 requires that officers have probable cause to believe that a suspect committed a crime when effectuating an arrest. Stated differently, where an arrest is not supported by probable cause, it violates law and Department policy.

Based on a review of the BWV, OPA does not believe that the Named Employees’ decision to not arrest the daughter violated policy. First, while the daughter was rude and behaved inappropriately during this incident, she did not commit a clear criminal act. Theoretically, she could have been arrested for kicking the door; however, the officers determined that the door was not damaged. Second, OPA understands why the Named Employees would have wanted to avoid arresting a juvenile, if possible. Indeed, SPD Policy 6.290-POL-2 instructs that “officers will exercise reasonable discretion when determining the disposition of juveniles.” OPA finds that, under the circumstances they were confronted with here, the officers exercised such reasonable discretion.

In reaching this finding, OPA recognizes the frustrations of the mother and the husband. Indeed, the Named Employees were also frustrated. But this does not warrant a finding that the Named Employees acted contrary to policy. Instead and for the reasons stated above, OPA recommends that this allegation be Not Sustained – Lawful and Proper as against both NE#1 and NE#2.

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

Named Employee #2 - Allegations #1

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

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Lawful and Proper

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