



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 6, 2020

FROM: DIRECTOR ANDREW MYERBERG
 OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0438

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	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	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	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 #3

Allegation(s):		Director’s Findings
# 1	6.010 - Arrests 3. Officers Shall Advise All Arrestees of Their Full Miranda Rights	Not Sustained (Lawful and Proper)
# 2	11.020 - Transportation of Detainees 1. Employees Will Take Reasonable Steps to Ensure the Safety of a Detainee in Their Custody and for the Safekeeping of Detainee’s Property	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 she was falsely arrested, that she was subjected to biased policing, that Miranda warnings were not read to her, and that she was improperly transported from a police precinct.

SUMMARY OF INVESTIGATION:

Officers, including Named Employee #1 (NE#1) and Named Employee #2 (NE#2), were staffing a barricade in the vicinity of the East Precinct on June 5, 2020. An SPD supervisor went over the PA system and directed demonstrators not to cross the barricade. A woman – who was later identified as the Complainant – did so regardless. She was the only demonstrator who crossed the barricade at that time. The Complainant was holding a sign that referenced the fatal shooting of Breonna Taylor. As a result of crossing the barricade, the Complainant was placed under arrest by NE#1 and NE#2. They took hold of the Complainant’s arms and walked her to the East Precinct. Aside from NE#1 and



NE#2 holding the Complainant's arms, they reported using no other force. The lack of any other force was confirmed by Body Worn Video (BWV) from another officer who had a clear view of the arrest and the walking of the Complainant to the precinct.

Once inside of the precinct, the Complainant's arrest was screened by a supervisor – Named Employee #3 (NE#3). NE#3 read the Complainant Miranda warnings. She told NE#3 that she was arrested when she asked the officers why Native American rights were being “abused.” She told NE#3 that she felt that she had been arrested because of her Chinook heritage; however, she alternatively told NE#3 that she identified as White. NE#3 asked if she was making a biased policing claim and she said that she was. The Complainant inquired as to why she had been arrested and she was told that it was because she crossed the barricade. The BWV of her time in custody indicated that the Complainant repeatedly discussed how officers were harvesting the organs of arrestees and her belief that the police would do so to her. She was extremely emotional at times. She further was captured on BWV lying on the floor and refusing to move when asked.

The officers initially attempted to transport the Complainant to the King County Jail in a marked SPD van; however, the Complainant loudly protested and would not get into the van. Given her behavior and concerns about her mental health, officers called AMR to the scene to transport the Complainant. AMR arrived and the Complainant was secured onto a gurney. She was then transported from the precinct. While in the AMR, the Complainant was asked whether she felt pain and responded: “everywhere, in my arms, in my back, in my legs – I was forced down, I was pushed down on my head, on my neck, on my spine.” She further talked about being cut, her organs being harvested, hearing bombs when she woke up, having to urinate in her pants, and a missing spiritual onyx stone. The Seattle City Attorney's Office ultimately declined to file charges against the Complainant. In its decline decision, the City Attorney's Office indicated that the Complainant was non-violent and noted that she appeared to be suffering from a mental health crisis at the time of her arrest and while in police custody.

The Complainant later filed this complaint with OPA. She stated that she was arrested because of her Chinook heritage, that her Miranda warnings were not read to her, that she was improperly transported from the scene by AMR, and that, before this occurred, officers tried to force her into an unmarked van. This investigation ensued.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” (SPD Policy 5.140.) This includes different treatment based on the race of the subject. (*See id.*)

There is insufficient evidence supporting the Complainant's assertion that her arrest was based on bias. First, there is no reason to believe that the officers were aware that the Complainant had any Chinook heritage until she raised this fact with NE#3. As the Complainant herself indicated, she presented and identified as White. Second, the sign she was holding at the time referenced Breonna Taylor, not anything concerning Native Americans, which provides further support that her arrest had nothing to do with her race. Third, even had she asked the officers why they were abusing Native American rights, this would have been after they made contact with her which was subsequent



to her crossing the barricade. Fourth and last, the Complainant was the only individual who crossed the barricade at that time. This provides additional evidence supporting the conclusion that she was taken into custody because she violated a lawful order, not because of her race.

For these reasons, OPA finds that the evidence contradicts the Complainant's assertion that she was arrested based on bias. As such, OPA recommends that this allegation be Not Sustained – Unfounded as against both NE#1 and NE#2.

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

Named Employee #1 - Allegation #2

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

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. Probable cause exists when the facts and circumstances within an officer's knowledge are sufficient in themselves to support a reasonable belief that an offense has been or is being committed.

As discussed in the context of Allegation #1 and as contemporaneously explained to the Complainant by the officers, she was arrested because she crossed the barricade. Demonstrators were directed not to do so and were informed that failure to comply with that direction could result in arrest. The Complainant knowingly crossed the barricade and, as a result, the officers had probable cause to take her into custody.

Accordingly, 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 - Allegation #1

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

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #2

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 #2), OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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



Named Employee #3 - Allegation #1

6.010 - Arrests 3. Officers Shall Advise All Arrestees of Their Full Miranda Rights

SPD Policy 6.010-POL-3 requires that arrestees be read their Miranda warnings “as soon as practical” after being taken into custody.

The Complainant alleged that she was not read her Miranda warnings after she was placed under arrest. This, like the other allegations made by the Complainant, was conclusively disproved by the BWV. The BWV clearly indicated that NE#3 read the Complainant Miranda warnings when she was brought into the precinct and before any questions were asked of her. This complied with both law and policy.

As such, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #3 - Allegation #1

11.020 - Transportation of Detainees 1. Employees Will Take Reasonable Steps to Ensure the Safety of a Detainee in Their Custody and for the Safekeeping of Detainee’s Property

SPD Policy 11.020-POL-1 requires officers to take reasonable steps to ensure the safety of a detainee in their custody. Here, the Complainant alleged that the officers failed to do so by trying to “force” her into an unmarked van and then again by transporting her from the scene via AMR. As NE#3 was the on-scene supervisor, this allegation was classified for investigation against him.

As a starting point, the officers did not try to force the Complainant into an unmarked van. BWV indicated that they, instead, attempted to convince her to voluntarily enter a marked SPD van. This was purposed to transport her from the precinct to the King County Jail. This did not violate policy and was consistent with standard operating procedures for transporting detainees. However, instead of complying, the Complainant repeatedly asserted that she was being victimized and that her organs were going to be harvested, as well as refused to enter the van.

Given the Complainant’s demeanor and behavior, the NE#3 shifted plans and called AMR to the precinct. Again, this was consistent with the officers’ training for dealing with uncooperative detainees who were potentially in mental health crisis. NE#3 reasonably believed that this was the case with the Complainant. Once AMR arrived, the Complainant and AMR staff seated the Complainant on the gurney and secured her. She was then transported from the scene in an ambulance. This, like the attempt to seat her in the SPD van, did not violate policy or training.

Notably, the BWV conclusively established that, at no point, were the officers inappropriately physical with the Complainant, unprofessional, or uncaring towards her. Indeed, they treated her calmly, gently, and respectfully despite her non-compliance and their confusion regarding the variety of the allegations that she made.

For these reasons, OPA finds that NE#3’s decision making was consistent with policy and, as such, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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