



CLOSED CASE SUMMARY

ISSUED DATE: MAY 23, 2019

CASE NUMBER: 2018OPA-1178

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Unfounded)
# 2	11.050-Detainee Property 1. Officers Secure Detainee Property	Not Sustained (Unfounded)
# 3	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	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Unfounded)
# 2	11.050-Detainee Property 1. Officers Secure Detainee Property	Not Sustained (Unfounded)
# 3	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:

On December 17, 2018, the Named Employees were flagged down by a grocery store security officer and an employee of Gyro Stop to report a disturbance that allegedly began in the Gyro Stop but carried over to the grocery store. Per the Named Employees, when they entered the grocery store, the Complainant appeared extremely agitated and was yelling at store employees. The Named Employees detained her in handcuffs to safely investigate the incident. Based on the information that was obtained during their investigation, the Named Employees decided to arrest the Complainant. The Complainant later alleged that the Named Employees falsely arrested her, used excessive force, and stole cash and a diamond earring from her.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the review and approval of the Office of Inspector General for Public Safety, 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.

SUMMARY OF INVESTIGATION:

According to SPD reports, Named Employee #1 (NE#1) and Named Employee #2 (NE#2) were flagged down regarding a disturbance inside the grocery store, where the Complainant was “trashing” their breakroom. They were



also told that the Complainant had assaulted a nearby Gyro Stop employee minutes earlier. The Named Employees entered the grocery store and saw the Complainant with other store security guards. According to NE#1's report for this incident, the Complainant appeared agitated and was yelling at store employees. As such, the Named Employees decided to immediately detain and handcuff the Complainant based on what they were told, as well as her observed behavior, in order to ensure their safety. The Named Employees obtained a statement from the victim of the assault at Gyro Stop. They observed a cut on the victim's lip and blood in his mouth. Store security guards reported that the Complainant entered their store, went into the employee only area, stole food, dumped out the contents of a crock pot, and generally "trashed" the breakroom. The Named Employees developed probable cause to arrest the Complainant after speaking with victims and witnesses for the crimes of assault, theft, and property damage. The Complainant was taken to the West Precinct following her arrest, where she was searched before she was transported to the King County Jail (KCJ).

OPA also reviewed the 911 calls associated with this incident. The calls included information provided by a Gyro Stop employee who reported that he was assaulted by a female, and that they locked her out of the store. That call also included a description of the female, which included that she was wearing a Santa Claus outfit.

OPA further interviewed the Complainant. The Complainant stated that she was in the grocery store on December 17, 2018 at 4:30 p.m. when she was confronted and handcuffed by the Named Employees. The Complainant stated that the Named Employees told her that they would explain what happened when they got to the Precinct. The Complainant stated that she does not remember being put in a police car, getting transported to the Precinct, or being processed into the KCJ. The Complainant stated that her first memory was waking up in the psychiatric ward at the KCJ. The Complainant claimed that she "endured rough treatment, was abused, and thrown into jail." The Complainant stated that she was eventually moved from the psychiatric ward to the general population at the KCJ before she was released. Upon release, the Complainant told OPA that she discovered that she was missing approximately \$220 in cash, a diamond earring, and other personal property. The Complainant stated that the KCJ did not give her any property upon release; however, she also told OPA that she was provided her wallet upon release, which still had two \$50 bills (\$100) hidden inside. The Complainant stated that, after she returned home, she had her boyfriend take pictures of bruises that she sustained following her encounter with the Named Employees. The Complainant also told OPA that she went to a hospital emergency room to get checked out. As a resolution to what she alleged happened to her, the Complainant stated that she wants her property and money returned.

The Complainant provided OPA with nine photographs depicting swelling on her knee, a small cut to her upper lip, and bruising and abrasions to her legs and right shoulder. She also provided a medical form dated December 18, 2018, which listed her medical diagnosis as "assault" and her medical evaluation as "separation of right acromioclavicular joint, type 2."

OPA reviewed various video recordings associated with this incident, including: two videos from the Gyro Stop; Body Worn Video (BWV); In-Car Video (ICV); and video from the precinct. The Gyro Stop videos showed the Complainant punching an employee in the face and engaging in a violent struggle with other employees. The Complainant was seen falling to the ground before she returned to fight the employees again. A Gyro Stop employee eventually pushed the Complainant out of the door of the restaurant. The BWV and ICV showed the Named Employees' interaction with the Complainant, from their initial point of contact with her through processing her arrest at the Precinct. The video clearly showed how the Named Employees established probable cause for the Complainant's arrest. The video also recorded the search of the Complainant and how the Complainant was treated throughout



this incident. The video lastly showed the Named Employees' handling of the Complainant's property. There was no evidence from a review of the video that the Complainant had any cash visible in her wallet and show her wearing two earrings.

OPA obtained the KCJ's property report of the items that it maintained in its custody and ultimately turned over to the Complainant. It detailed the following items: wallet; identification; EBT card; keys; Santa hat; Santa outfit; two boots; three necklaces; and two earrings. The Complainant signed the form acknowledging the receipt of the property upon her release from the KCJ.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

8.200 - Using Force 1. Use of Force: When Authorized

The Complainant alleged that the Named Employees used excessive force and broke her wrists when she was handcuffed and taken into custody.

SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary and proportional. Whether force is reasonable depends "on the totality of the circumstances" known to the officers at the time of the force and must be balanced against "the rights of the subject, in light of the circumstances surrounding the event." (SPD Policy 8.200(1).) The policy lists a number of factors that should be weighed when evaluating reasonableness. (*See id.*) Force is necessary where "no reasonably effective alternative appears to exist, and only then to the degree which is reasonable to effect a lawful purpose." (*Id.*)

The entirety of the Named Employees' contact with the Complainant was documented on BWV and ICV. The Named Employees were professional, polite, and acted according to policy throughout their interaction with the Complainant. There is no evidence that the Named Employees used any reportable force against the Complainant, let alone that they broke her wrists.

With regard to the cause of the Complainant's injuries as displayed by her photographs and medical diagnosis, OPA found no evidence that the Named Employees or any other SPD employee was responsible for them. However, the video evidence did show that the Complainant engaged in a violent encounter with Gyro Stop employees minutes before she was detained and arrested. This, not any conduct on the part of the Named Employees, appears to be the source of her injuries.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded as against both Named Employees.

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



Named Employee #1 - Allegation #2

11.050-Detainee Property 1. Officers Secure Detainee Property

SPD Policy 11.050 sets forth details about how Department employees are expected to handle detainee property that is recovered incident to arrest.

Based on OPA's review of the evidence, I conclude that the Named Employees properly handled the Complainant's property and did not misplace or otherwise cause any of her reported property to go missing. From the video evidence, it is apparent that there was no money in the Complainant's wallet that was taken by the Named Employees. Furthermore, it shows the Complainant only wearing two earrings, which is exactly what was returned to her when she was released from jail.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded as against both Named Employees.

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

Named Employee #1 - Allegation #3

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.

As described above, the Complainant was detained by the Named Employees in response to the information they were provided by a victim and other witnesses to the Complainant's actions. The individuals provided statements that conclusively established that the Complainant had engaged in criminal activity. As such, the Named Employees had abundant probable cause to arrest the Complainant for the crimes of assault, theft, and property damage.

For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper as against both Named Employees.

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

Named Employee #2 - Allegations #1

8.200 - Using Force 1. Use of Force: When Authorized

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

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



Named Employee #2 - Allegation #2

11.050-Detainee Property 1. Officers Secure Detainee Property

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #3

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 #3), I recommend that this allegation be Not Sustained – Lawful and Proper.

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