



## CLOSED CASE SUMMARY

ISSUED DATE:      OCTOBER 29, 2022

FROM:             DIRECTOR GINO BETTS  
                      OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER:     2022OPA-0132

### **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 - Unfounded (Expedited)
# 2	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:**

The Complainant alleged that Named Employee #1 (NE#1) arrested him without probable cause. The Complainant also alleged that NE#1 arrested him based on bias due to his attire, skin complexion, and hair style, which the Complainant stated were outward signs of his ethnic background.

### **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 involved employees. As such, OPA did not interview the involved employee in this case.

### **SUMMARY OF INVESTIGATION:**

The Complainant alleged NE#1 arrested him on November 12, 2021, outside of the King County Jail without probable cause that he had committed a crime. The Complainant also alleged NE#1 based the arrest on the Complainant’s attire, skin complexion, and hair style, which the Complainant stated were outward signs of his ethnic background. OPA opened this investigation.

During its investigation, OPA reviewed six web-based or email complaints filed by the Complainant about this incident as well as email correspondence sent from the Complainant’s email address and another email address. OPA also reviewed a Computer Aided Dispatch (CAD) Call Report, Incident Report, Case Investigation Report, and Video Evidence. OPA also reviewed NE#1’s OPA interview from OPA case 2021OPA-0534.



From late 2021 through 2022, OPA received numerous complaints from the Complainant in this case (hereafter Community Member #1 or CM#1) and the Complainant in OPA case number 2022OPA-0534 (hereafter Community Member #2 or CM#2) concerning NE#1. During this time, OPA and external entities also received numerous contacts purportedly from CM#1, CM#2, or other individuals filing complaints against NE#1. To date, OPA has opened seven separate investigations concerning these apparently related allegations.<sup>1</sup> Two of these investigations have concluded with Not Sustained findings.<sup>2</sup> The remaining five—including this one—were designated as Expedited Investigations by OPA with OIG’s review and approval.

#### *A. Complaints*

OPA received six web-based or email complaints in connection with this case with the following details:

- May 2, 2022, 10:06AM, Web-Based Complaint from CM#1;
- May 2, 2022, 10:13AM, Web-Based Complaint from CM#1;
- May 2, 2022, 10:15AM, Web-Based Complaint from CM#1;
- May 4, 2022, 12:26PM, OIG Web Complaint from non-party name, listing CM#1’s email address and phone number in the contact information – OIG forwarded this complaint to OPA the same day;
- May 8, 2022, 3:02AM, Web-Based Complaint from non-party name, listing CM#1’s email address in the contact information; and
- July 18, 2022, 6:44AM, Web-Based Complaint from CM#1.

OPA was also contacted by email and phone by an individual claiming to work for a community group in South Seattle. This individual declined to participate in a recorded interview. This individual provided OPA with second-hand allegations over the telephone on May 18, 2022, that aligned with complaints OPA was already investigating<sup>3</sup> and new allegations that OPA subsequently investigated under 2022OPA-0159.

The assigned OPA investigator was able to speak with CM#1 by phone on July 6, 2022, but CM#1 was uncooperative and hung up on the OPA investigator.

From July 7, 2022 through October 15, 2022, CM#1 emailed multiple times with OPA staff. CM#1 initially provided undated and redacted cell phone screen shots that, CM#1 claimed, showed that NE#1 had been contacting him by phone from her department cell phone.<sup>4</sup> CM#1 asked for multiple updates on the status and management of his case. CM#1 was referred to the assigned OPA investigator until, on September 25, 2022, CM#1 referenced that he was represented by an attorney and was advised that OPA could only continue communicating with him with his attorney present or with clear authorization from both CM#1 and his attorney that OPA could speak with him. *See OPA Manual Section 4.4.* After asking again for case status and management updates, CM#1 advised OPA by email on October 15, 2022 that he was “[n]o longer interested in moving forward with these complaints.”

<sup>1</sup> 2021OPA-0534, 2022OPA-0077, 2022OPA-0132, 2022OPA-0145, 2022OPA-0159, 2022OPA-0209, 2022OPA-0227.

<sup>2</sup> 2021OPA-0534 and 2022OPA-0077

<sup>3</sup> 2022OPA-0132; 2022OPA-0077; 2021OPA-0534; 2022OPA-0145

<sup>4</sup> OPA pulled SPD cell phone records for NE#1’s department phone and located no calls or text messages to or from CM#1’s phone number after May 2, 2022, the date the complaint in this case was filed.



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*B. Criminal Investigation*

CM#1 and CM#2 were both arrested following an investigation for a drive-by shooting and robbery in the first degree. NE#1 was the SPD detective assigned to investigate that criminal matter. Her investigation was documented in her Case Investigation Report, SPD paperwork, and was discussed in her OPA interview in OPA Case 2021OPA-0534. The results of NE#1's investigation are summarized below.

In summary, on October 22, 2021, multiple witnesses called 911 to report hearing gunshots near an intersection in North Seattle. About four minutes later, an employee at a marijuana dispensary in proximity to that intersection called 911 to report that shots were fired from a Toyota Prius after a suspect attempted to shoplift from the dispensary and brandished a firearm. SPD officers responded. Witnesses there reported that a male tried to "snatch" product without paying and was removed from the store by a Security Officer. The Security Officer stated he was then approached by a second male who pointed a firearm with an extended magazine at the Security Officer. The Security Officer retreated but then saw the Toyota Prius pull a U-Turn nearby and observed shots being fired from the Prius' driver's window.

SPD officers recovered 9mm shell casings nearby. The casings were tested and corresponded to two other recent armed robberies: one in Seattle, the other in Tukwila.

SPD officers recovered high-quality interior and exterior video from the marijuana dispensary. From the video, two suspects were identified, and pictures of the Prius were obtained. Suspect 1 was "a heavy-set black male wearing glasses, a black sweatshirt, and black and white sweatpants entered Uncle Ike's and attempted to shoplift." Suspect 2 was "a light skinned black male with a tall afro shaved on the sides, wearing a blue t-shirt with a white stripe and Champion logo, gray sweatpants, and white shoes." Both suspects entered the same silver Toyota Prius.

Robbery Detectives put out a request to identify the two suspects to regional law enforcement agencies with still photographs of the suspects. Suspect 1 was identified as CM#2 by an SPD officer, as described in OPA Case 2021OPA-0534, based on July 1, 2021 traffic stop that was the subject of OPA Case 2021OPA-0331. BWV images from the July 1, 2021, traffic stop were compared with images of Suspect 1 and were a clear match for CM#2.

On November 6, 2021, CM#2 reported that his vehicle (a Toyota Corolla) was carjacked at gunpoint by two male suspects. On November 8, 2021, CM#1 was arrested in possession of CM#2's vehicle. CM#2 identified CM#1 as the individual who carjacked him. CM#1 was arrested for this carjacking.

Detectives investigating the armed robberies compared video of CM#1's carjacking arrest with images from the dispensary robbery. CM#1 was wearing the same shirt when he was arrested for the carjacking as Suspect 2 for the dispensary robbery and CM#1's image was consistent with images of Suspect 2 (whose image was partially obscured by a surgical face mask).

CM#1's Department of Licensing (DOL) address was located. DOL records showed that a gray Toyota Prius was registered to that address and an open source google maps image showed a gray/silver Prius parked outside CM#1's



DOL address. That Prius had wheels that matched those of the Prius in the dispensary robbery. The license plate for that Prius was a partial match for the license plate of a silver Prius that picked CM#2 up at a pawn show in November 2021.

NE#1 summarized that the video evidence, identical clothing, eyewitness accounts, access to a silver Toyota Prius matching the suspect vehicle, and association with CM#2 established probable cause to arrest CM#1 for the dispensary robbery.

*C. Video Evidence*

OPA was also provided video evidence of the CM#1 and CM#2 joking about filing complaints against NE#1 and threatening NE#1.

**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***

CM#1 alleged that NE#1 arrested him without probable cause.

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.

This allegation is unfounded. NE#1 developed probable cause to arrest CM#1 that was strong and corroborated. Witnesses recounted Suspect 2 pointing a firearm at the Security Officer, entering a silver Prius with Suspect 1, then several shots being fired from the Prius. High quality video images of Suspect 2 look like CM#1 and showed Suspect 2 entering a silver Toyota Prius matching one that CM#1 had access to. CM#1 and CM#2 also appeared to both have an association with one another and a silver Prius.

Also, as outlined in 2021OPA-0534 with respect to CM#2, OPA finds by a preponderance of the evidence that CM#1's allegations against NE#1 are not credible and are, more likely than not, an attempt to discredit a criminal investigation against him. In making this finding, OPA finds especially compelling the video evidence of CM#1 and CM#2 joking about filing complaints against NE#1 with both OPA and a law enforcement agency. OPA is also suspicious of CM#1's repeated unwillingness to speak at any length with an OPA investigator. Finally, CM#1's statement that NE#1 had been calling him was supported by "evidence" that was suspect on its face and quickly proven false by objective phone records.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

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



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**Named Employee #1 - Allegation #2**

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

CM#1 alleged that NE#1 engaged in bias-based policing based on his race and/or ethnic background.

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-POL. This includes different treatment based on the race of the subject. *See id.*

As discussed above, NE#1 developed probable cause to arrest CM#1 based on objective video evidence, his demonstrable association with CM#2, witness statements, and—perhaps most importantly—his access to a vehicle that matched one associated with CM#2 and involved in the dispensary and Tukwila robberies. OPA observed no evidence to suggest that NE#1 was motivated by racial and/or ethnic bias when she arrested CM#1.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

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