



## CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 1, 2023

FROM: DIRECTOR GINO BETTS  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0209

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)
# 2	5.001 - Standards and Duties 5.001-POL 14. Retaliation is prohibited	Not Sustained - Unfounded (Expedited)
# 3	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)

***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 Complainants alleged Named Employee #1 (NE#1) linked East African community members to crimes based on their race and ethnicity. The Complainants also alleged NE#1 retaliated against them for prior OPA complaints. Finally, the Complainants alleged NE#1 attempted to coerce them into withdrawing their OPA complaints.

### **ADMINISTRATIVE NOTE:**

This case was designated an Expedited Investigation. That means OPA, with the Office of Inspector General's review and approval, believed it could reach and issue recommended findings based solely on its intake investigation without interviewing the involved employees. As such, OPA did not interview the involved employee.

### **SUMMARY OF INVESTIGATION:**

From late 2021 through 2022, OPA received numerous complaints concerning NE#1. Other agencies and government officials also received numerous contacts purportedly from the Complainants, Community Member #1 (CM#1),<sup>1</sup> and others alleging NE#1's misconduct. To date, OPA opened seven investigations concerning these apparently related allegations.<sup>2</sup> Two of those investigations concluded with Not Sustained findings.<sup>3</sup> The remaining five—including this one—were designated Expedited Investigations.

<sup>1</sup> CM#1 was the complainant in 2022OPA-0132.

<sup>2</sup> 2021OPA-0534, 2022OPA-0077, 2022OPA-0132, 2022OPA-0145, 2022OPA-0159, 2022OPA-0209, 2022OPA-0227.

<sup>3</sup> 2021OPA-0534 and 2022OPA-0077



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*a. Complaints*

On June 26, 2022, Complainant #1 emailed an elected official. The subject line was “Police retaliation.” Complainant #1 alleged he was a “young black man” who was “racially targeted and discriminated against” by NE#1. Complainant #1 claimed NE#1 said his “skin color matched [a suspect’s skin color.]” Complainant #1 also said NE#1 retaliated against him for filing a complaint against her. On July 1, 2022, that elected official forwarded Complainant #1’s email to OPA along with the five OPA case numbers Complainant #1 referenced: 2022OPA-0132, 2022OPA-0077, 2021OPA-0534, 2022OPA-0145, and 2022OPA-0159. OPA told the elected official Complainant #1 should file a new complaint so the retaliation allegation could be investigated.

The elected official’s July 1, 2022 email to OPA included a thread of emails between the elected official and Complainant#1:

1. Complainant #1’s June 26, 2022 email to the elected official with the subject line “Police retaliation.”
2. On June 28, 2022, Complainant #1 sent the elected official five OPA case numbers. Complainant #1 also stated NE#1 had an “intelligence background” and was “extremely manipulative.” Complainant #1 alleged NE#1 was “calling me and my co defendants in order to try to get us to withdraw the opa complaints in exchange for better charges.” On June 28, 2022, Complainant #1 wrote, “A friend of mine [CM#1] has also been targeted by this detective in a similar way.” Complainant #1 attached five images to three emails he sent the elected official. Those five images are discussed below.
3. Complainant #1’s July 1, 2022 email had the subject line “Detective [NE#1].” The body stated, “I was asked by Detective [NE#1] to withdraw our complaints in exchange for better charges I believe this was in attempt to witness tamper and silence me could you please reach out to OPA and follow up with them?”<sup>4</sup>

On July 2, 2022, OPA received Complainant #2’s emailed complaint. Complainant #2 had the same last name as CM#1. Complainant #2 alleged “[m]ultiple complainants” told her NE#1 continued to contact them “unsolicited.” Complainant #2 stated the complainants took “screen grabs and videos” of NE#1’s calls. Complainant #2 alleged NE#1 contacted the complainants to “silence them from moving forward with their complaints.”

On July 3, 2022, OPA received two anonymous web complaints against NE#1. The first alleged NE#1 continued to “contact complainants and harassing them I believe this is a ploy to silence them I have video and photo proof of this.” That anonymous complainant alleged NE#1 attempted to use her position to hinder OPA’s investigation. The second anonymous complaint alleged NE#1 engaged in “inappropriate use of ruses employing outside agencies like the fbi [sic] to scare suspects into cooperating, she has used federal agents that are not interested in charges to come in to interrogation rooms threatening members of the community that have not even been charged with federal crimes.”<sup>5</sup>

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<sup>4</sup> Two other emails duplicated portions of the email threads summarized above.

<sup>5</sup> OPA investigated an allegation that NE#1 used an “inappropriate ruse” under 2021OPA-0534. This allegation was not sustained and found to be lawful and proper.



On July 4, 2022, Complainant #2 emailed OPA. Complainant #2 reiterated her allegations from July 2, 2022: “Black men have reportedly faced retaliation and harassment at the hands of a Seattle police detective known as [NE#1].” Complainant #2 also stated NE#1 “called several complainants unsolicited in an attempt to use her position . . . to intimidate complainants to withdraw complaints against her.”

On July 7, 2022, OPA received an anonymous web complaint alleging NE#1 “Racially discriminated” against the anonymous complainant in a “Seattle interrogation room” by accusing the anonymous complainant of “being in a gang” to “attempt to make charges stick.” The anonymous complainant believed NE#1 accused them of gang affiliation because of where they lived.

On August 13, 2022, OPA received an email from a gmail account purporting to be Community Member #2 (CM#2). The email had the subject line “Unlawful dna collection.” The email stated it was filing a complaint “on behalf of my client” against NE#1. The email did not name the client. The email alleged NE#1 arrested the client and gave him a water bottle, which NE#1 later used to gather DNA evidence from the client.<sup>6</sup>

*b. Images from Complainant #1*

Complainant #1 sent the elected official five images to support allegations against NE#1.

Image #1 was a screen capture from a website that described itself as a database of law enforcement officer LinkedIn profiles. It appeared to include NE#1’s LinkedIn profile photo and a description of NE#1’s professional experience and qualifications.

Image #2 was a screen capture from another website that described itself as a database of law enforcement officers. It appeared to include NE#1’s name, gender, race, department, date of birth, and start date.

Image #3 was a screen capture of an email sent to OPA. It showed NE#1’s SPD phone number as a “missed call” at 8:51 P.M. No date was listed. That image was identical to another CM#1 sent OPA on two separate occasions during 2022OPA-0132’s investigation.

Image #4 showed an SPD business card with NE#1’s name and SPD mobile number underlined.

Image #5 was a phone screen capture showing an incoming call from NE#1’s SPD mobile number at 4:07 P.M. No date was listed. OPA previously collected Image #5, during 2022OPA-0132’s investigation. It only showed NE#1’s SPD mobile number, with other parts of the call log redacted.

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<sup>6</sup> OPA did not find CM#2’s name listed in the Washington State Bar Association’s directory. Moreover, the behavior described in the email was not unlawful under Washington State law. *See State v. Athan*, 160 Wash.2d 354 (2007) (en banc) (police did not violate defendant’s reasonable expectation of privacy by posing as fictitious law firm to obtain defendant’s saliva from an envelope because saliva was “discarded genetic material.”)



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*c. SPD Records*

OPA was unable to locate Computer-Aided Dispatch (CAD) call records or Mark43 reports associated with Complainant #1. OPA located records for Complainant #2. The most recent was from 2017, but NE#1 did not investigate any of Complainant #2 past cases.

During 2022OPA-0132's investigation, OPA obtained NE#1's work phone records. However, neither Complainant in this case provided the phone numbers NE#1 allegedly contacted. Without that information, OPA could not compare their numbers to those listed in NE#1's work phone log.

*d. OPA Emails with Complainants*

OPA only received a name and email address for Complainant #1. When contacted by email, Complainant #1 requested to answer emailed questions. NE#1 wrote that his complaint was "related to member of my community that have come to me who believe they have been targeted by [NE#1]." Complainant #1 alleged the incidents occurred in Seattle from "November-July 2021-2022." When asked to describe the incidents, Complainant #1 stated, "Detective [NE#1] has taken things too far when dealing with suspects/people who file opa complaints against her." When asked why he felt he was racially targeted, Complainant #1 wrote, "detective [NE#1] got a hold of my phone number and other complainants and began harassing and calling them unsolicited." Complainant #1 elaborated, "all the people he has targeted including myself are members of the African American/black community." When asked for evidence to support his allegations, Complainant #1 wrote, "I have text messages along with other complainants but their phones have been taken as evidence by [NE#1]." When asked about witnesses, Complainant #1 stated, "I have several people but they wish to remain anonymous in fear of retaliation I could set up a zoom call sometime with opa and these individuals so long as they remain anonymous."

Complainant #1 did not respond to further OPA questions or provide contact information for the witnesses he mentioned. On October 15, 2022, Complainant #1 emailed OPA, "Ok I would like to withdraw this complaint 2022-0209."

Complainant #2 did not respond to OPA's interview request.

**ANALYSIS AND CONCLUSIONS:**

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

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

The Complainant alleged NE#1 engaged in bias-based policing.

SPD policy prohibits biased policing, defined 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.



Here, the Complainants made vague allegations that materially realleged allegations covered under 2022OPA-0132. Also, Complainant #1 identified himself as a charged co-defendant in cases handled by NE#1, but OPA was unable to locate an SPD record for an individual with Complainant #1's name. Absent further information, the Complainants failed to allege an action or behavior evidencing NE#1's bias against specific individuals.

Also, the facts here strongly suggest CM#1 either filed both complaints himself or asked others to do so on his behalf. Additionally, Complainant #2 shared CM#1's last name and two of the images provided by Complainant #1 were identical to images provided by CM#1 in 2022OPA-0132.

OPA finds the allegations here no more credible than those made in 2022OPA-0132. For the reasons outlined in 2022OPA-0132, OPA notes these allegations appear to be an attempt to undermine a criminal investigation against CM#1.

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

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

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

##### ***5.001 - Standards and Duties 5.001-POL 14. Retaliation is prohibited***

SPD policy prohibits retaliation. SPD Policy 5.001-POL-14. Specifically, SPD employees are prohibited from retaliating against a person "oppos[ing] any practice that is reasonably believed to be unlawful or in violation of Department policy" or "who otherwise engages in lawful behavior." *Id.* Retaliatory acts include "discouragement, intimidation, coercion, or adverse action against any person. *Id.*

As discussed above, neither complainant provided sufficient cooperation or corroboration for OPA to determine NE#1 engaged in retaliation. The complainants' allegation of retaliation was largely based on their claim that NE#1 called them or people they knew after an OPA complaint was filed against NE#1. The only evidence supporting that allegation was identical to what CM#1 offered in 2022OPA-0132, which OPA found not credible.

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

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

#### **Named Employee #1 - Allegation #3**

##### ***6.010 - Arrests 6.010-POL 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 officers to have probable cause that a suspect committed a crime before effectuating an arrest. An arrest not supported by probable cause violates law and Department policy. Probable cause exists when the facts and circumstances within an officer's knowledge are sufficient to support a reasonable belief that an offense was 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).



Here, there is no record reflecting NE#1's arrest of Complainant #1 or Complainant #2. Accordingly, OPA recommends the allegation NE#1 arrested CM#1 without probable cause be Not Sustained – Unfounded.

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