



## CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 22, 2023

FROM: INTERIM DIRECTOR BONNIE GLENN  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0420

### 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	6.220-POL-2 Conducting a Terry Stop, 1. Terry Stops are Seizures Based Upon Reasonable Suspicion	Not Sustained - Lawful and Proper (Expedited)
# 3	6.010 Arrests POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Lawful and Proper (Expedited)

#### Named Employee #2

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	6.220-POL-2 Conducting a Terry Stop, 1. Terry Stops are Seizures Based Upon Reasonable Suspicion	Not Sustained - Lawful and Proper (Expedited)
# 3	6.010 Arrests POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Lawful and Proper (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 – a concerned citizen, alleged that Named Employee #1 (NE#1) and Named Employee #2 (NE#2) were racially biased in conducting a traffic stop and arresting Community Member #1 (CM#1) and Community Member #2 (CM#2) for being black. CM#1 and CM#2 were in a motor vehicle when stopped by police for no license plates and an illegal right turn. Officers ran CM#1's name and found outstanding felony warrants and arrested him and transported him to the King County Jail. CM#1 was arrested for obstruction and identified and released (I&R).<sup>1</sup> The vehicle was impounded and several items were placed into evidence.

### 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

<sup>1</sup> CM#2 was also arrested for Violation of the Uniform Firearm Act (VUFA) for a firearm that was found under the passenger seat she was in. CM#2 is also a convicted felon and is not able to lawfully have a firearm.



investigation and without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

On October 24, 2023, the Office of Inspector General (OIG) certified OPA's investigation as thorough, timely, and objective.

### **SUMMARY OF INVESTIGATION:**

OPA received a complaint from the Complainant and opened an investigation. During its investigation, OPA reviewed the OPA complaint, computer aided dispatch call reports, BWV, ICV and incident and supplemental reports. OPA tried to contact the Complainant several times without success. The Complainant finally reached back to OPA and said she would call the afternoon of October 5, 2023; however, OPA did not hear back from her and tried to contact her additional times without success.

#### **A. OPA Complaint**

An SPD Officer submitted a Blue Team complaint to OPA on behalf of the Complainant on September 22, 2023. The Complainant, was a concerned citizen who was not related to any of the parties or the police investigation. The Complainant observed the police conducting an investigation at some point, stopped her vehicle and started yelling at the police. The Complainant explained she was an "activist" and stated, "the officers were white and stopped the vehicle and arrested the suspects because they were black". The Complainant was extremely agitated and screamed during most of the contact with officers, despite being free to leave. The officers asked the Complainant if she wanted to make a complaint and she said, "yes". In response, SPD submitted a Blue Team complaint on her behalf. Neither CM#1 nor CM#2 made any complaints of bias policing.

#### **B. Incident and Supplemental Reports**

Seattle Police Officers NE#1 – the driver and NE#2 – the passenger were on patrol. The officers observed a black BMW travelling west bound approaching MLK Jr. Way South with no license plates attached to it. NE#1 and NE#2 were aware that vehicle thefts in the City of Seattle are at an all-time high and that license plates are often taken off to avoid law enforcement detection. The officers made a U-turn and got behind the vehicle and observed it enter the left turn lane and make an illegal right turn in front of two lanes of traffic. The vehicle continued northbound on MLK Jr. Way South. Officers activated their lights and the vehicle stopped one hundred to two hundred yards away in a "delayed stopped". CM#1 ultimately stopped the vehicle in the far-right lane of traffic. NE#2 approached CM#1 who explained he did not have a drivers license or identification. CM#1 provided NE#2 with his name and DOB and indicated he did not have any outstanding warrants when asked. CM#1 explained this was not his car but CM#2's car. NE#2 said, "... let me go run you and I'll run the car and make sure everything's good and we'll get you guys out of here." NE#1 noticed while talking to CM#2 that CM#1 seemed nervous and appeared to avoid making eye contact and was fidgeting a lot. NE#1 was concerned and asked CM#1 to take the keys out of the ignition. NE#2 walked back to the patrol car to verify CM#1's information. NE#2 learned CM#1 had outstanding felony warrants and is listed with an "armed and dangerous caution" notation. NE#2 requested additional units to respond to scene.<sup>2</sup> NE#2 went back to the CM#2's vehicle while he awaited verification of the warrants. NE#2 asked CM#1 to step out of the vehicle while he detained him with handcuffs while investigating his information. CM#1 explained he had just bailed out and had paperwork showing he

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<sup>2</sup> Outstanding warrants for VUCSA and VUFA violations.



paid his warrant; however, the computer system indicated there were two felony arrest warrants that were outstanding for him.

NE#1 approached the passenger CM#2 simultaneously to when NE#2 was talking to CM#1. CM#2 appeared to be counting several stacks of US currency that were \$1.00 bills. CM#2 told NE#1 that the black BMW was hers and she had purchased it in Oregon. CM#2 explained she did not have her driver's license or identification but indicated her sister who lived nearby could bring it to her. CM#2 said she could provide the title for the vehicle, but acknowledged she just got the car and does not have a bill of sale, insurance or the registration for it. Furthermore, CM#2 explained that her license plates had been stolen recently and Renton Police Department (RPD) had left a business card on her vehicle that she had a picture of. The business card stated, "License plate mis-match" – Renton PD and listed the incident number. CM#2 showed NE#1 a picture of her license plate number that was stolen. NE#1 explained to her that it is a violation to have a vehicle that was illegally operating on the roadway. Furthermore, the vehicle was stopped in a lane of traffic and had been operating on the roadway illegally so a tow truck was requested for the vehicle. A tow form was completed by Witness Officer #1 (WO#1).

NE#1 asked CM#2 to get out of her vehicle, as the tow truck was in route. NE#1 offered CM#2 to obtain her bundles of cash that were sitting on the passenger floorboard if she wanted; however, he would first need to frisk the reach area of the passenger seat for what appeared to be safety. CM#2 refused to let NE#1 frisk the vehicle so he waited until the tow truck arrived. When the tow truck arrived for impoundment, NE#1 began to inventory search the passenger side of the vehicle. CM#2 objected to this and NE#1 said she "attempted to physically hinder me [NE#1] from opening the car door to conduct the inventory search". NE#1 overcame her resistance and opened the door to conduct the inventory search. NE#1 located a large round "drum" style extended magazine that appeared to be attached to a handgun under the seat. NE#1 directed officers to place CM#2 under arrest with probable cause for obstructing pursuant to SMC 12a.16.010 and was given her Miranda warnings. CM#2 had multiple felony convictions and is not lawfully allowed to possess a firearm. CM#1 was arrested and read his Miranda rights and transported to the King County Jail. CM#2 was I&R'd from the scene in a further attempt to de-escalate the scene. An inventory search was conducted prior to the vehicle being impounded because it was illegal to drive and illegally block a lane on MLK Jr. Way South. The BMW vehicle was impounded to the Vehicle Processing Room pending application for a search warrant.<sup>3</sup>

NE#1 and NE#2 police reports and supplemental reports were consistent with the evidence summarized above. CM#1 was stopped for having no license plates on the vehicle, making an illegal right turn in front of two lanes of traffic and for illegal operating on the roadway, as there was no vehicle registration. In addition, the vehicle stopped in the far-right lane of on-going traffic. Furthermore, no valid registration was found for CM#2's vehicle and when they ran the Renton PD incident number for a "License plate mis-match" it was for a "Honda" and not a "BMW". NE#1 and NE#2's police reports that were signed off on by a Sgt. Witness Officer #4 (WO#4).

### **C. Body-Worn Video (BWV)**

NE#1 and NE#2 activated their BWV upon stopping the black BMW and walking to CM#2's car. The BWV showed the interaction between CM#1 and CM#2 during the stop, the investigation and arrest of CM#1. BWV showed CM#1 was

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<sup>3</sup> Witness Officer #2 (WO#2) served a vehicle search warrant in this matter on 6/28/23. Witness Officer #3 (WO#3) a Sgt. approved the impounding of the vehicle.



calm and helpful throughout the stop and verification of his two arrest warrants. In addition, it showed NE#1 and NE#2 were the same. CM#2 was also calm and helpful until CM#1 was being arrested and the officers wanted to frisk the passenger floorboard area.

#### **D. In-Car Video (ICV)**

The ICV showed NE#1 transporting CM#1 to the King County Jail. CM#1 was calm during this time and explained that he had just paid for his outstanding warrant and asked for his paperwork back so he could show this to the court. NE#1 explained that he must go off the information he receives from his mobile data terminal (MDT). The information showed that CM#1 had two active outstanding felony warrants.

#### **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 that NE#1 decided to take action influenced by bias, prejudice, or discriminatory intent based on CM#1's and CM#2's race.

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, ethnicity, or color of the subject. See *id.* Officers are forbidden from both, (i) making decisions or taking actions influenced by bias, and (ii) expressing any prejudice or derogatory comments concerning personal characteristics. See SPD Policy 5.140 POL-2.

Here, based on the evidence provided, there was no evidence that NE#1 intentionally sought out CM#1 or CM#2 as a pretext for a biased-based police action because they were Black. Instead, NE#1 became interested in the vehicle because it did not have any license plates and made an illegal turn in front of NE#1's patrol car. Additionally, there has been a high number of car thefts in Seattle and license plates are often not placed on cars to avoid law enforcement detection. Therefore, more likely than not, OPA finds NE#1 did not engage in bias-based policing in this matter.

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

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

##### ***6.220-POL-2 Conducting a Terry Stop, 1. Terry Stops are Seizures Based Upon Reasonable Suspicion***

The Complainant alleged that NE#1 stopped the vehicle based on CM#1's and CM#2's race.

SPD Policy 6.220-POL-2(1) governs Terry stops and stands for the proposition that Terry stops are seizures of an individual and, as such, must be based on reasonable suspicion in order to be lawful. SPD Policy defines a Terry stop as: "A brief, minimally invasive seizure of a suspect based upon articulable reasonable suspicion in order to investigate possible criminal activity." SPD Policy 6.220-POL-1. SPD Policy further defines reasonable suspicion as: "Specific,



objective, articulable facts, which, taken together with rational inferences, would create a well-founded suspicion that there is a substantial possibility that a subject has engaged, is engaging or is about to engage in criminal conduct.” Id. Whether a Terry stop is reasonable is determined by looking at “the totality of the circumstances, the officer’s training and experience, and what the officer knew before the stop.” Id. While “[i]nformation learned during the stop can lead to additional reasonable suspicion or probable cause that a crime has occurred, it “cannot provide the justification for the original stop.” Id.

Here, based on the totality of the circumstances, NE#1 was patrolling with his partner at a time when car thefts have increased in high numbers in Seattle. NE#1 saw no license plates on the vehicle driven by CM#1, which is a traffic violation that Washington State law allows the police to stop a vehicle for and investigate. Additionally, NE#1’s training as an officer informed him that people often take off their license plates to conceal that a vehicle may be stolen or to avoid law enforcement detection. Additionally, CM#1 made an illegal right turn when NE#1 and his partner were near the vehicle. Therefore, OPA finds, more likely than not, that NE#1 had reasonable suspicions to stop the vehicle for a limited period to investigate possible criminal activity.

Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

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

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

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

The Complainant alleged that NE#1 lacked probable cause to effect CM#1’s and CM#2’s 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. *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, based on the evidence, NE#1 had probable cause to arrest CM#1 when his name and date of birth were run and verified that CM#1 had two outstanding felony arrest warrants. CM#1 acknowledged that he had a warrant but had just paid it off; however, the amount he paid was less than the \$50,000.00 amount for one of the felony arrest warrants. In review of the totality of the circumstances, these facts provided NE#1 and his partner with sufficient evidence to support a reasonable belief that probable cause existed for CM#1’s arrest. Therefore, OPA finds that there was sufficient probable cause for CM#1’s arrest.

Furthermore, based on the evidence, NE#1 established probable cause for CM#2’s arrest for obstructing NE#1’s inventory search of the passenger side of the vehicle once the tow truck arrived to impound it. Here, OPA finds CM#2 did have the right to object to the frisk of this area when she was out of the vehicle and the officer asked her; however, once the vehicle was going to be impounded and an inventory search was taking place, CM#2 did not have the right to obstruct NE#1 from performing his inventory search. Inventory searches are administrative in nature and are necessary to protect and account for property of the arrested person, to protect the officer and Department from



false claims, and isolate dangerous items from police and jail facilities.<sup>4</sup> Here, NE#1 went to the passenger area where CM#2 was seen counting money, and CM#2 attempted to physically hinder NE#1 from opening the car door to conduct the inventory search. Additionally, a gun was found under the passenger seat where CM#2 was seated and CM#2 was not allowed to carry a firearm as a prior felon. Therefore, OPA finds that NE#1 had probable cause to arrest CM#2 for obstruction pursuant to SMC 12A.16.010.<sup>5</sup>

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

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

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

For the reasons at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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

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

**6.220-POL-2 Conducting a Terry Stop, 1. Terry Stops are Seizures Based Upon Reasonable Suspicion**

For the reasons at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

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

**Named Employee #2 - Allegation #3**

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

For the reasons at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

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

<sup>4</sup> 6.181 – Performing Inventory Searches – 6.181-POL 1 Inventory Searches Serve an Administrative Function. SPD Policy Manual.

<sup>5</sup> NE#1 also had probable cause to arrest CM#2 for a VUFA that was also indicated in incident and supplemental reports.