



## CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 6, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0118

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

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

Allegation(s):		Director's Findings
# 1	15.210-POL-6. Officers Cannot Return Stolen or Lost Property to the Owner	Not Sustained - Training Referral
# 2	5.001 - Standards and Duties, 5.001-POL-6. Employees May Use Discretion	Not Sustained - Training Referral

#### **Named Employee #2**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties, 5.001-POL-6. Employees May Use Discretion	Not Sustained - Inconclusive (Expedited)
# 2	5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional	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 sought to sell a reportedly stolen bicycle on OfferUp.<sup>1</sup> The Complainant alleged that Named Employee #1 (NE#1) unlawfully seized the bike and gave it to Community Member #1 (CM#1)—its putative owner. The Complainant further alleged that Named Employee #2 (NE#2)—an unknown employee—froze the Complainant's OfferUp account without justification. Last, the Complainant alleged that NE#2, using Username #1, harassed him on OfferUp, hurting his online marketplace business.

### **ADMINISTRATIVE NOTE:**

The allegations against NE#1 underwent a full investigation. On July 21, 2023, the Office of Inspector General (OIG) certified OPA's investigation as thorough, timely, and objective.

The allegations against NE#2 were approved for Expedited Investigation. That means OPA, with OIG's agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employee. As such, OPA was unable to identify NE#2. Therefore, NE#2 could not be interviewed. On April 18, 2023, OIG certified OPA's Expedited Investigation as thorough, timely, and objective.

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<sup>1</sup> OfferUp is a merchant application that provides a "way to buy and sell locally." See "How It Works," OfferUp, available at [about.offerup.com](https://about.offerup.com).



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**SUMMARY OF INVESTIGATION:**

The Complainant left a voicemail complaint at OPA. OPA contacted the Complainant and opened an investigation. During its investigation, OPA reviewed the OPA complaint, Shoreline Police Department computer-aided dispatch (CAD) call report, incident report, and supplemental reports, SPD CAD call report and incident report, body-worn video (BWV), in-car video (ICV), and email correspondence. OPA also interviewed the Complainant and NE#1.

*A. OPA Complaint*

The Complainant said he operates a business selling items through OfferUp. The Complainant said that in 2021, in Shoreline, he won an auctioned storage unit containing a bicycle. The Complainant said he arranged to sell the bike through OfferUp, but undercover SPD officers detained him at the transaction location. The Complainant said officers said the bicycle and its related items were reported stolen, and they confiscated them. The Complainant said he was released but was not given information about the incident. The Complainant alleged NE#1 “stole” the bicycle. The Complainant also alleged NE#2 froze his OfferUp account, hurting his business financially. The Complainant alleged NE#2, using Username #1, harassed him.

*B. Shoreline Police Department CAD Call Reports and Incident and Supplemental Reports*

On March 28, 2021, at 2:42 PM, CAD call remarks noted, “THEFT OF BICYCLE FROM HIS STORAGE LOCKER, [OCCURRED] OVER THE PAST 6 WEEKS.”

A Shoreline Police Department officer wrote an incident and a supplemental report stating that Community Member #1 (CM#1) called 9-1-1 to report a bicycle stolen from his locked storage unit in Shoreline (Storage Facility). The report noted that CM#1 said his storage unit was locked and appeared “untampered with” and that CM#1 suspected the theft “might be an inside job.”

On November 24, 2021, at 9:54 AM, CAD call remarks noted, “[CM#1] BELIEVES HE FOUND HIS STOLEN BIKE FOR SALE ON THE OFFERUP APP.” At 10:00 AM, CAD call remarks noted, “CALLED [CM#1] WHO WAS PRETTY SURE THE BIKE ONLINE IS HIS. THE BIKE IS IN FEDERAL WAY. ADVISED [CM#1] TO CALL FEDERAL WAY POLICE WITH THE CASE NUMBER.”

*C. Seattle Police Department Computer-Aided Dispatch (CAD) Call Report and Incident Report*

On December 8, 2021, at 4:04 PM, CAD indicated a “SUSPICIOUS PERSON, VEHICLE OR INCIDENT” at a mall. The call was categorized as a theft.

NE#1 wrote an incident report. NE#1 wrote that on December 8, 2021, at 4:04 PM, he was part of the Community Response Group (CRG). CM#1 told officers that his rare racing bicycle was stolen from a storage unit in Shoreline. CM#1 reported that he found his stolen bicycle on OfferUp, arranged to buy the bike from the seller in Seattle, and requested police assistance in retrieving the bicycle. CM#1 identified his bicycle based on its rarity—reportedly, there were only four models in the Pacific Northwest, and there is no serial number associated with it—and several other distinctive features. NE#1 wrote that CM#1 provided invoices for major bicycle components CM#1 purchased. NE#1 wrote, “The bicycle on OfferUp matched [CM#1’s] stolen bicycle.”



NE#1 wrote that he found the bicycle listing, ran a standard check on the seller, discovered the seller was the Complainant, and arranged to meet the Complainant at a mall. NE#1 wrote that other officers confirmed the bicycle as CM#1's, called in arrest teams, and detained the Complainant and Community Member #2 (CM#2), the Complainant's friend. NE#1 noted that the Complainant and CM#2 were detained as suspects of possessing stolen property in the first degree and trafficking in stolen property in the first degree.

The Complainant reported that he owned an "auction hunting business." The Complainant said he bid and won a storage locker at the Storage Facility. The Complainant claimed he located a bicycle inside and posted the bike for sale on OfferUp. The Complainant denied knowing the bicycle was stolen. NE#1 wrote that the Complainant requested the bike and its parts be returned to the owner. NE#1 wrote that the Complainant consented to officers retrieving the items from his vehicle and searching his car for other stolen items.

NE#1 wrote that officers located several storage auction receipts and a business license in the Complainant's name in the Complainant's vehicle. NE#1 concluded that the Complainant did not know the bicycle was reportedly stolen. NE#1 wrote that the Complainant and CM#2 were released and provided business cards. NE#1 wrote that the bike was returned to CM#1 on December 10<sup>th</sup>.

NE#1 signed the incident report on December 10, 2021. The incident report was approved by a supervisor on December 19, 2021.

#### *D. Body-Worn Video (BWV) and In-Car Video (ICV)*

OPA reviewed Witness Officer #1's (WO#1)— who assisted with the Complainant's arrest— BWV and ICV and found them consistent with NE#1's incident report.

ICV captured the following:

NE#1 said, "So that bicycle, obviously, I want to give it back to the rightful owner. That's why we're here. Right, man?" The Complainant replied, "Yeah, that's fine." NE#1 said, "I want to make sure I get that bike back." The Complainant replied, "Yeah, absolutely." NE#1 asked about bicycle parts, and the Complainant said he had two tires in his car's backseat. NE#1 asked, "Are you cool if I take those then?" The Complainant replied, "You can take them, yes. Absolutely."

The Complainant was handcuffed and placed in the back seat of WO#1's police vehicle. NE#1 asked the Complainant three times whether officers could search his vehicle. The Complainant consented each time. NE#1 also told the Complainant he had the right to refuse the search, revoke the search, and restrict the search. The Complainant understood those rights.

#### *E. Email Correspondence*

OPA contacted OfferUp. OfferUp said it "soft-blocks" accounts it deems to be bad actors, making those accounts invisible to the public but permitting users to access their accounts and post items. OfferUp said while the public cannot see or interact with the soft-blocked user, it is only visible to "white-listed" law enforcement accounts. OfferUp said white-listed accounts can communicate with soft-blocked accounts for investigative purposes. OfferUp said soft-blocked users are typically unaware of their account status or the reasons behind it.



OPA asked whether NE#1 communicated on OfferUp. OfferUp confirmed there were SPD-associated white-listed accounts but said, “We don’t work with anyone in particular.” OPA asked whether SPD is currently using Username #1 on OfferUp. OfferUp responded, “I don’t believe it’s a law enforcement account. The individual is not affiliated with the Seattle PD.”

*F. OPA Interview – the Complainant*

The Complainant asked OPA to review his text message correspondence with OPA instead of an interview. In summary, those messages showed:

The Complainant said NE#1 requested information regarding where the Complainant purchased his storage unit. According to the Complainant, NE#1 said that SPD could not investigate the storage unit because it was in Shoreline, outside SPD’s jurisdiction. Based on that information, the Complainant concluded that NE#1 stole the bicycle. The Complainant said, “The part that awed me the most in that incident was [SPD] didn’t care to know who stole the bike at all or to make any arrest. Just to gain possession of the bike.” The Complainant also said SPD did not provide receipts or paperwork after confiscating the bicycle.<sup>2</sup> The Complainant believed he was “robbed” of the bike, and SPD failed to conduct a proper investigation.

The Complainant said he buys abandoned storage units in auction and sells the contents. The Complainant questioned the legitimacy of the bicycle’s stolen status, saying that the storage unit, with the bike inside, could have been auctioned off due to the owner failing to pay his bills and speculated that the owner reported it stolen to get it back. The Complainant asked why NE#1 did not verify the storage unit’s owner to make a proper arrest. The Complainant believed he was the rightful owner of the bicycle because he bought the storage unit with the bike “free and clear,” backed by receipts. The Complainant believed NE#1 unjustifiably trusted CM#1’s claim that the bicycle was stolen.

The Complainant believed SPD harassed him on the OfferUp platform, although he had no account name or conversations to provide. The Complainant also believed SPD froze his OfferUp account because SPD thought the Complainant sold stolen items.

*G. OPA Interview – Named Employee #1 (NE#1)*

During his interview, NE#1’s account was consistent with his incident report. NE#1 stated the following:

NE#1 said SPD has law enforcement access to OfferUp’s accounts, which provide information on sellers’ and buyers’ items. NE#1 was unsure whether he accessed OfferUp through his account or another SPD employee’s account. NE#1 could not recall if SPD froze the Complainant’s account but said SPD may have done so.

OPA asked NE#1 why SPD investigated this case when the bicycle was allegedly stolen from a storage unit in Shoreline while the seller was in Federal Way. NE#1 replied that CM#1 is a Seattle resident. Although the alleged crime occurred outside of Seattle, NE#1 said he “can enforce the law anywhere.”

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<sup>2</sup> BWV reviewed during OPA’s intake showed the Complainant was provided an SPD business card with the case incident number. Accordingly, OPA did not conduct a full investigation on this aspect of the Complainant’s allegations.



OPA asked NE#1 about his understanding of SPD Policy 15.210-POL-6, which prohibits officers from returning stolen property from a reseller to the owner. NE#1 said he was not aware of this policy. NE#1 also interpreted this policy to apply to pawnshops, not to online transactions on OfferUp accounts. NE#1 said there was no dispute about who owned the bicycle, whereas pawn situations involved loaning items and collateral. NE#1 said this case was a criminal investigation, not a loan situation. NE#1 said, "If I had knowledge of [this policy], I also have the ability to use discretion. And, as a police officer, it's my job to make the best choice. And I believe returning a very valuable stolen bike to a victim of a high property crime area is extremely important. I was 100 percent positive that that bicycle was stolen based on a police report that was given to me, even if I had known that this policy existed, and I still would have done that. I mean, to me, it's the right thing to do."

OPA asked NE#1 about the Complainant's claim about the legitimacy of the bicycle's stolen status. NE#1 said the Complainant's claim was "unfounded" because the Shoreline Police Department took a stolen bicycle report that he believed was not a "false report." NE#1 also said, "To me, [the Complainant does not] have a legal reason to obtain that piece of property" and that the Complainant could go through the civil process to get the bicycle back. NE#1 said CM#1 had documentation of that bicycle, making him its rightful owner. NE#1 did not believe he "stole" the bike from the Complainant, saying that the Complainant consented for NE#1 to seize the bicycle and bicycle parts from the Complainant's vehicle. NE#1 said his job as a police officer was to recover stolen property.

#### **ANALYSIS AND CONCLUSIONS:**

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

##### ***15.210-POL-6. Officers Cannot Return Stolen or Lost Property to the Owner***

The Complainant alleged that NE#1 improperly gave CM#1 a bike the Complainant possessed.

SPD Policy 15.210 applies to property investigations involving resellers of used goods, including pawnshops and used-goods stores. See SPD Policy 15.210-POL. Officers cannot seize lost or stolen property from a reseller of used goods and return it to the owner. SPD Policy 15.210-POL-6. If ownership is not adjudicated in a criminal trial, the determination of ownership becomes a civil matter. *Id.*

Here, NE#1 returned the bicycle to CM#1 two days after it was seized. For SPD Policy 15.210-POL-6 to apply, the Complainant's business must be considered either a "pawnshop" or "reseller of used goods." SPD also defines the term "pawnshop" to include used-goods stores. Although the policy is somewhat ambiguous as to whether a used-goods store must also be "licensed" as a pawnshop for the policy to apply, the Seattle Municipal Code governing used goods dealers is clearer. Statutorily, a used good is "any item of personal property offered for sale not as new." SMC 6.288.010(G). Also, a "used goods dealer" is defined as a pawnbroker or any "person engaged in purchasing, selling, trading, auctioning, consignment selling, or otherwise transferring for value, used goods." SMC 6.288.010(H). Regardless of whether the Complainant's business operated with the assistance of the OfferUp platform, the Complainant was engaged in the purchase, sale, and auctioning of used goods.

NE#1 did not believe the policy applied in this case. NE#1 explained he thought it applied to pawnshops that loaned items as collateral and distinguished this case as a criminal investigation. OPA disagrees. The Complainant said he received the bicycle by winning a bid for the contents of an abandoned storage locker. This claim was corroborated when officers found a business license and auction receipts in the Complainant's car. If CM#1 abandoned his bicycle in the Storage Facility or it was secured by a lien due to non-payment, it is entirely possible that CM#1's bicycle was



not “stolen” but was, instead, purchased by the Complainant.<sup>3</sup> Policy 15.210-POL-6 aims to ensure that these complicated property disputes are adjudicated in a court by an appropriate standard of proof and not by a police officer using their discretion. Because the Complainant’s business was captured by the language of SPD policy, NE#1 was responsible for retaining stolen property. NE#1 was not permitted to return it to CM#1 until ownership of the bicycle had been adjudicated.<sup>4</sup>

OPA appreciates that this policy is somewhat obscure. Notably, OPA could not immediately identify other OPA cases with allegations of violating this policy. Moreover, NE#1 was not assigned to a “Pawnshop Unit” but was, instead, assigned to the North Precinct Community Response Group (CRG) squad, which NE#1 described as a “pro-active street crimes group” and “pretty much a catch-all.” OPA also notes that this situation was factually unique, and a supervisor approved NE#1’s incident report, apparently without objecting to NE#1’s course of action.

Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- Training Referral- NE#1’s chain of command should review OPA’s findings and 15.210-POL-6 with NE#1 and provide necessary training or counseling. Any training or counseling shall be uploaded and maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**

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

##### ***5.001 - Standards and Duties, 5.001-POL 6. Employees May Use Discretion***

The Complainant alleged that NE#1 used improper discretion.

“Employees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the department and duties of their office and assignment.” SPD Policy 5.001-POL-6. Further, “Discretion is proportional to the severity of the crime or public safety issue being addressed.” *Id.*

Here, the Complainant questioned NE#1’s investigative methods. The Complainant said CM#1 could have said the bicycle was stolen to reclaim it after losing it from defaulting on his storage unit. The Complainant believed NE#1 unjustifiably trusted CM#1’s claim that the bicycle was stolen. Conversely, Shoreline Police Department reports documented that CM#1 called 911 to report a stolen bike from the Storage Facility. CM#1 was able to explain specific features of the bike, describe its rarity, and produce documentation to NE#1 proving he—at least at some point—owned the bicycle. Conversely, the Complainant claimed he bought the bike at auction at the Storage Facility. NE#1 documented that a business license and auction receipts were found in the Complainant’s vehicle.

Even if SPD Policy 15.210 did not apply to this situation—which it did—NE#1’s determination that CM#1 was the lawful owner of the bicycle was an unreasonable exercise of discretion. NE#1 should have verified details with the Storage

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<sup>3</sup> In Washington, these rules are set forth in Chapter 19.150 of the Revised Code of Washington. Among other things, a storage facility has a lien on property stored at the facility, RCW 19.150.020, which can subject the property to a lien sale or disposal. See RCW 19.150.060. Among other things, under these rules, a renter at a storage facility may have “no right to repurchase any property sold at the lien sale,” RCW 19.150.060(g), and may only be entitled to any excess proceeds after a commercially reasonable sale. See RCW 19.150.080(2)(a).

<sup>4</sup> OPA makes no finding—and has no jurisdiction to determine—whether CM#1 or the Complainant had a superior interest in the bicycle.



Facility, like whether CM#1 rented space and violated lease terms, whether the Storage Facility auctioned CM#1's property, and who purchased the property. Instead, NE#1 relied solely on CM#1's account without taking further investigative steps.

Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- Training Referral- NE#1's chain of command should review OPA's findings and 5.001-POL-6 with NE#1 and provide necessary training or counseling. Any training or counseling shall be uploaded and maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**

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

***5.001 - Standards and Duties, 5.001-POL 6. Employees May Use Discretion***

The Complainant alleged NE#2 used improper discretion.

Here, the Complainant alleged NE#2 froze his OfferUp account without justification. NE#1 could not recall if SPD froze the Complainant's account but said SPD may have done so. OPA requested information from the Complainant regarding his OfferUp account to further investigate this allegation, but the Complainant would not provide it. OPA cannot adequately evaluate this allegation without that information.

Accordingly, OPA recommends this allegation be Not Sustained – Inconclusive (Expedited).

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

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

***5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional***

The Complainant alleged NE#2 was unprofessional.

SPD Policy 5.001-POL-10 requires that SPD employees "strive to be professional." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers," whether on or off duty. SPD Policy 5.001-POL-10. Additionally, the policy instructs Department employees to "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." *Id.* Furthermore, the policy states, "Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language derogatory, contemptuous, or disrespectful toward any person." *Id.*

Here, the Complainant alleged NE#2, using Username #1 on the OfferUp platform, harassed him online, financially hurting his business. OPA asked OfferUp whether SPD is currently using Username #1. OfferUp confirmed Username #1 was not a law enforcement account or an account affiliated with SPD. There is no evidence to suggest NE#2 harassed the Complainant online.

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