

Issued Date: DECEMBER 29, 2023

From: Director Gino Betts, Office of Police Accountability



Case Number: 2023OPA-0296

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 5.001 – Standards and Duties, 5.001-POL-11. Employees Will Be Truthful and Complete in All Communication
 - a. **Finding:** Not Sustained - Unfounded (Expedited)
 2. **Allegation #2:** 5.001 – Standards and Duties, 5.001-POL-6. Employees May Use Discretion
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)
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Named Employee #2

1. **Allegation #1:** 5.001 – Standards and Duties, 5.001-POL-11. Employees Will Be Truthful and Complete in All Communication
 - a. **Finding:** Not Sustained - Unfounded (Expedited)
 2. **Allegation #2:** 5.001 – Standards and Duties, 5.001-POL-6. Employees May Use Discretion
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)
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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:

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) responded to a parked stolen vehicle. The Complainant alleged the named employees were untruthful when they told him that he was not the vehicle's registered owner. The Complainant also alleged the named employees used unreasonable discretion in towing his vehicle.

Administrative Note:

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employees. As such, OPA did not interview the named employees involved in this case.

On August 14, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of the Investigation:

A sergeant submitted a Blue Team complaint to OPA on the Complainant's behalf on July 10, 2023. Based on the sergeant's investigation and the Complainant's statements, the sergeant wrote the following:

- On June 13, 2023, the Complainant bought a vehicle from Community Member #1 (CM#1).
- On June 21, 2023, CM#1 reported the vehicle stolen to the King County Sheriff's Office (KCSO).
- On July 6, 2023, the named employees responded to the reportedly stolen vehicle. The Complainant said he was the vehicle's registered owner, which could be proven by the paperwork in the vehicle's glovebox, but NE#1 prevented him from accessing the vehicle. The Complainant said NE#1 ran the vehicle identification number (VIN) and said the Complainant was not the registered owner. The Complainant said NE#1 lied because a VIN check through the Department of Licensing (DOL) showed him as the registered owner. The Complainant said NE#2 agreed with NE#1. The named employees towed the vehicle.
- On July 7, 2023, the Complainant entered the Southwest Precinct and wanted his vehicle back. The Complainant showed the sergeant a duplicate title he received from DOL. The title showed the Complainant as the vehicle's registered owner.

The sergeant wrote that he checked the vehicle's license plate and VIN. The sergeant wrote that the license plate came back to CM#1 and was reported stolen to KCSO on June 21, 2023, but the VIN came back to the Complainant as the registered owner since June 13, 2023. The sergeant wrote that he called a DOL employee (DOL#1), who said that the Complainant was the vehicle's registered owner based on a VIN check. The sergeant wrote that DOL#1 said she assisted the Complainant in transferring the title to his name when he had insufficient funds. The sergeant wrote that DOL#1 said the named employees should have checked the vehicle's glovebox and ran the VIN.

OPA opened an intake investigation. During its investigation, OPA reviewed the OPA complaint, DOL query response, computer-aided dispatch (CAD) call report, body-worn video (BWV), and

incident and supplement reports. OPA also interviewed DOL#1. OPA could not reach the Complainant for an interview.

On July 6, 2023, at 4:17 PM, DOL responded to a vehicle query, identifying CM#1 as the vehicle's registered and legal owner. DOL included the following warning: "POSSIBLE STOLEN." At 4:18 PM, CAD call remarks noted a drivable and unoccupied vehicle with only a rear plate attached. The call was coded as an automobile recovery.

The named employees responded to the call. NE#1 activated his BWV, which captured the following events on July 6, 2023. The named employees approached the vehicle. The driver's side windshield was smashed, and cardboard covered the dashboard. The Complainant approached minutes later, said the vehicle was his, and said the paperwork was inside in the glovebox. NE#1 said he had a "stolen hit" on the vehicle and was going to tow it unless the Complainant could prove he was the registered owner. The Complainant said the stolen vehicle report was fake and said he bought the vehicle from a "military guy" but could not recall his name and did not have his contact information. The Complainant said he did not have the key to the car on him. NE#1 attempted to open the vehicle's doors, but they were locked. NE#1 said he could not run the VIN because it was covered by cardboard. The Complainant asked if he could retrieve the paperwork inside the vehicle, but NE#1 refused, saying the vehicle was not registered to him. The Complainant said he went to DOL and submitted a bill of sale, but NE#2 said the Complainant did not show up as the registered owner. The Complainant said the system would show him as the registered owner if the named employees ran the VIN instead of the license plate, but NE#1 replied that he could not run the VIN because it was covered. NE#1 advised the Complainant to resolve the registration issue with DOL. The named employees stood by while a towing truck secured the vehicle. The Complainant was upset and repeatedly swore at the named employees.

NE#1 wrote an incident report consistent with the evidence summarized above. Witness Officer #1 (WO#1) wrote a supplement report documenting the Complainant's July 7, 2023, visit to the Southwest Precinct. WO#1's supplement report was consistent with the Blue Team complaint summarized above. WO#1 wrote, "There appears to be two DOL replies from the same vehicle and VIN number, but with two different registered owners [the Complainant] and [CM#1]. The latest registration date as of 6/13/2023 listed the legal owner as [the Complainant]. If the DOL license plate [] is entered on the system, the reply would indicate the legal owner to be [CM#1], but with expired tabs on 9/23/2019 and 7/25/2021."

OPA interviewed DOL#1 on July 25, 2023. DOL#1 said the Complainant went into her DOL office to register the vehicle, but he only had enough money to transfer the registration into his name. DOL#1 said she warned the Complainant not to drive the vehicle without valid plates. DOL#1 said if a new owner left the previous owner's plates on a vehicle, those plates would still return to the previous owner. DOL#1 said an officer must run the VIN to see that the registered owner changed. DOL#1 said the registered owner should have changed immediately after she updated it in the DOL system. DOL#1 faulted both parties, saying that the Complainant should not have left the previous owner's plate on the vehicle and the named employees should have run the VIN

before towing the vehicle.

Analysis and Conclusions:

Named Employee #1 – Allegation #1

5.001 – Standards and Duties, 5.001-POL-11. Employees Will Be Truthful and Complete in All Communication

The Complainant alleged NE#1 was untruthful when NE#1 said the Complainant was not the vehicle's registered owner.

Department employees must be truthful and complete in all communications. SPD Policy 5.001-POL-11.

Here, the named employees received a "stolen hit" on the vehicle based on its license plate, not the VIN, which was communicated to the Complainant. The named employees could not have run the VIN because it was covered by cardboard. Before the named employees' arrival, DOL responded to a vehicle query identifying CM#1 as the vehicle's registered and legal owner. DOL also included a "POSSIBLE STOLEN" warning in its response. The named employees' communication to the Complainant was truthful, consistent with DOL's query response, and based on information known to them at the time that they responded to the stolen vehicle call. There is no evidence to suggest that the named employees were untruthful in their communication to the Complainant.

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

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

Named Employee #1 – Allegation #2

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

The Complainant alleged NE#1 used unreasonable discretion by towing the vehicle before running its VIN.

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. Discretion is proportional to the severity of the crime or public safety issue being addressed. *Id.*

Here, the named employees towed the vehicle because they received a "stolen hit" from DOL. The named employees also became aware that the vehicle was reported stolen to the KCSO. Although the named employees did not run the VIN, the facts known to them at the time suggested the vehicle was stolen. The vehicle's condition was poor. Its windshield was smashed, and cardboard covered the VIN. The Complainant could not corroborate his claim in any way that

he was the registered owner. The Complainant failed to produce any paperwork, keys, or seller information. Based on the information known to the named employees, they exercised reasonable discretion by towing the vehicle. Policy required the named employees to tow the reportedly stolen vehicle under these circumstances. See SPD Policy 15.190-POL-12 (“Officers will immediately impound vehicles recovered in the city reported stolen outside the city”); SPD Policy 15.190-TSK-3 (allowing an officer to recover a stolen vehicle after the officer, among other things, locates the vehicle and verifies that “the vehicle or license plate is stolen” (emphasis added)).

Based on paperwork the Complainant showed to the Southwest Precinct employees the next day and DOL#1’s statements concerning VIN registration, it appears the Complainant was telling the truth about being the registered owner of the vehicle. But the named employees were unaware of such facts at the time they ordered the towing. These later-discovered facts did not render the named employees’ discretion to tow the vehicle without verifying ownership based on the VIN unreasonable.

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

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

Named Employee #2 – Allegation #1

5.001 – Standards and Duties, 5.001-POL-11. Employees Will Be Truthful and Complete in All Communication

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

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

For the reasons at Named Employee #1 – Allegation #2, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

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