

Law Enforcement  
Community Oversight Board

# INVESTIGATIVE REPORT

23CMP-044



**ARLINGTON**  
**VIRGINIA**

Julie Evans, Chair  
[communityoversightboard@arlingtonva.us](mailto:communityoversightboard@arlingtonva.us)

To: **Chief Charles “Andy” Penn**  
Arlington County Police Department  
Justice Center Building, 1425 N. Courthouse Rd. Rm 7109  
Arlington, VA 22201

CC: **Captain Albert Kim**, OPR Commander  
**Mummi Ibrahim**, Independent Policing Auditor for Arlington County  
**Matt De Ferranti**, County Board COB Liaison  
**Susan Cunningham**, County Board COB Liaison  
**Aaron Miller**, Deputy County Manager  
**Mark Schwartz**, County Manager

Re: **23-CMP-044**

Dear Chief Penn:

This is to inform you that, pursuant to Arlington County Code Section 69, the Law Enforcement Community Oversight Board (COB) has reviewed the above-mentioned administrative investigation and has come to the following findings, assessments, and recommendations pertaining to the collaborative investigation conducted by the Arlington County Police Department Office of Professional Responsibility (OPR) and the Independent Policing Auditor (IPA).

*Table 1. Summary of Investigation and COB Review Findings*

Alleged Policy Violation(s)	OPR Finding(s)	IPA Finding(s)	COB Finding(s)
Traffic Policy (Officer 1)	Exonerated	Sustained	Sustained
Personal Contacts Policy (Officer 1)	Sustained	Sustained	Sustained

**SUMMARY OF THE INCIDENT**

**Location:** Intersection of South 18<sup>th</sup> Street and Eads Street

**Persons Involved:**

- Complainant – Black male
- Officer 1 – Initiating Officer for traffic stop

**Summary:** A community member (‘Complainant’) alleged in a complaint to ACPD that on June 5, 2023 an ACPD officer violated the traffic enforcement policy when he pulled Complainant over and required Complainant to produce his license and registration before telling Complainant why he was pulled over. The Complainant was pulled over for turning right on red at the intersection of South 18<sup>th</sup> Street and Eads Street, against posted signage. Officer 1 approached the car and asked for Complainant’s license and registration. The Complainant asked, “Why am I being pulled over?” Officer 1 indicated he had not heard the question and Complaint repeated the question. Officer 1 then told Complaint that as soon as Officer 1 got Complainant’s license and registration they could “have a discussion about that.” The Complainant then asked, “But don’t you have to tell me that, about why I am being pulled over?” Officer 1 again indicated he could not hear what Complainant said, so Complainant repeated the same question and Officer 1 replied that he would provide that info once he had the license and registration, stating that Complainant was required by law to provide it. The Complainant confirmed that he was required to provide the information “if I’ve been suspected of [a crime].” Officer 1 then stated “We’re not gonna have this discussion like this, okay? You are required to provide me with a license and registration. If you don’t wanna do that, I can place you under arrest. That’s your choice.” The Complainant then asked, “Arrest for what?,” and Officer 1 indicated it could be for failing to identify ones self when detained and one’s identification has been requested. Officer 1 then told the Complainant that he had been pulled over for turning right on red in a no right on red area. He directed the Complainant to produce his license and registration “so I can go write you a ticket. There will be no warning.” The Complainant then provided the requested documents. Complainant confirmed to the officer that, until that moment, he had not understood why he had been pulled over. Officer 1 told the Complainant that Officer 1 did not understand why the Complainant had not immediately provided his requested documents. When the Complaint said it was because he didn’t

know why he was pulled over, Officer 1 said, “There’s no law that says I have to tell you that. There is a law that says you must provide this when asked by law enforcement.” As Officer 1 walked back to his cruiser, he remarked audibly to himself, “You can fuck off. Smart ass.” The Complainant requested Officer 1’s body-worn camera and learned of this remark, referenced in his complaint.

*Table 2. Summary COB Assessment of ACPD OPR Investigation*

<b>Assessment Metric</b>	<b>Guiding Questions: Did ACPD’s OPR Investigation/Report...</b>	<b>COB Assessment</b>
<b>Comprehensive</b>	...explore all alleged and other identified possible policy violations?	<b>Yes</b>
<b>Thorough</b>	...pursue all relevant evidence available for all involved officers?	<b>Yes</b>
<b>Complete</b>	...analyze all lines of inquiry to a meaningful resolution?	<b>Yes</b>
<b>Accurate</b>	...correctly record the facts presented in available evidence?	<b>Yes</b>
<b>Objective</b>	...assess all evidence without assumptions or preconceived notions about the outcome?	<b>Yes</b>
<b>Impartial</b>	...demonstrate balanced consideration for all parties involved? (i.e., regardless of rank, position, demographic, etc.)	<b>Yes</b>
<b>Credible</b>	...promote public trust in the investigation process?	<b>Yes</b>
<b>Sufficient Discipline</b>	...include sufficient discipline for any sustained allegations?	<b>N/A</b>

**Additional Information about the COB’s Assessment of the OPR Investigation and Report:**

- Accuracy: The OPR investigation appeared to reflect accurate information.
- **Explanation of COB Findings for Alleged and Other Identified Possible Policy Violations:**  
[541.04 - Traffic Enforcement - Arlington County Police Department - PowerDMS](#) (Officer 1) – **Sustained**  
 The COB had a valuable discussion with ACPD over the purpose and interpretation of the traffic enforcement policy. The policy requires, among other things, that “The officer should greet the violator in a courteous manner, identify themselves, explain the reason for the stop, and request the driver’s license and vehicle registration.” ACPD confirmed that use of the word “should,” as opposed to “shall,” gives the officer discretion over how to implement the policy. By its terms the policy does not require that an officer explain the reason for the stop in every case. Nor, when an explanation is given, must it be prior to requesting the license and registration. ACPD also indicated that it interpreted “courteous manner” to specifically apply only to the officer’s greeting to the stopped individual, and not the rest of the interaction. Nevertheless, the COB was concerned with how quickly Officer 1 escalated the conversation by telling complainant he was at risk of arrest if he failed to produce the requested documents. A review of body-worn camera footage reveals that Officer 1’s statement regarding the possibility of arrest came 37 seconds into the encounter. The COB saw that as an unnecessary escalation of the situation and a poor use of the officer’s discretion, particularly where it was apparent from watching the body-worn camera that Complainant did not understand why he had been pulled over. Upon learning the reason for the request, Complainant quickly produced the requested information.

The Complainant’s license plate indicated that he is a disabled veteran. The COB noted its concern with the fact that Officer 1 later indicated that although he would typically give a disabled veteran a warning for a no right on red, he gave a ticket in this case. The COB’s inference is that Officer 1 did so because he believed the Complainant had improperly delayed the Officer in producing his requested information. This was disappointing because there appeared to be no investigative reason or exigency known to the COB that should have prevented Officer 1 from telling Complainant up front why he had been stopped. Overall, the COB felt that Officer 1 failed to meet the spirit of the traffic enforcement policy by, (1) failing to appreciate that Complaint was sincere in wanting to know why he was pulled over, (2) taking Complainant’s legitimate inquiry as a challenge to his authority, (3) threatening an arrest, and (4) issuing a ticket based on his frustration when he otherwise likely would have simply given a warning.

- [414.00 Personal Contacts](#) (Supervising Officer) – **Sustained**

The COB agreed with the OPR and IPA Report Conclusions that Officer 1 violated the personal contacts policy by using profanity. Although Officer 1 did not expect the Complaint to hear him say, “You can fuck off. Smart ass,” the

Complaint did in fact hear the inappropriate statement once he legally obtained Officer 1's body-worn camera footage via Virginia's Freedom of Information Act.

**Does this investigation warrant a training recommendation? If so, was one made by OPR or the IPA?**

- OPR issued "shift level counseling" as discipline for the sustained personal contacts violation. The COB had a split vote and some abstentions that resulted in no formal recommendation with regard to the sufficiency of that discipline.

**Other relevant comments, commendations, or concerns:**

- NA

We submit this report on behalf of the entire COB and we appreciate your attention to this report; please contact me if you have any questions.

Sincerely,



**Julie Evans**, Chair and Case Co-Reviewer  
Arlington County COB  
E-mail: [communityoversightboard@arlingtonva.us](mailto:communityoversightboard@arlingtonva.us)

**Lisa Ortiz**, Voting Member and Case Co-Reviewer

**Anika Montgomery**, Voting Member  
**Dave Smith**, Voting Member  
**Jim Miller**, Non-Voting Member

**Charles McCullouch**, Voting Member  
**Garry Dean**, Voting Member