

Law Enforcement
Community Oversight Board

INVESTIGATIVE REPORT

23CMP-025



ARLINGTON
VIRGINIA

Julie Evans, Chair
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: **2023CMP-025**

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)
Policy Violation – Bias-Free Policing (Officer 1)	Exonerated	Exonerated	Exonerated
Policy Violation – Personal Contacts (Officer 2)	Exonerated	Exonerated	Exonerated

SUMMARY OF THE INCIDENT

Location: Multiple (Traffic Stops)

Persons Involved:

- Complainant – Black or African American, Male, English is Primary Language, complaint filed by phone with ACPD (voicemail)
- Officer 1 – Responding officer to first ACPD traffic stop, accompanied by their FTO
- Officer 2 – Responding as a supervising officer to second ACPD traffic stop

Summary: A community member (‘Complainant’) alleged in a complaint to ACPD that he was being harassed by officers, citing unprofessional behavior, during multiple traffic stops for the same violation of expired tags. A review of log files showed that the Complainant was stopped by Virginia State Police initially and given a court date for the expired tags violation. He was subsequently stopped twice by ACPD officers, three days apart in late April.

During the first stop by ACPD, two Officers – one in training (Officer 1) and a Field Training Officer (FTO) - followed the Complainant’s vehicle after noticing the expired tag. After the Complainant’s car pulled into a parking lot, which the officers later learned was at the Complainant’s place of employment, the officers initiated a traffic stop. The Complainant questioned why he had been stopped and told Officer 1 that it was embarrassing to be questioned in front of his place of work. Instead of issuing a citation for expired tags, Officer 1 issued a written warning.

During the second stop by ACPD, a traffic stop was initiated for a speeding violation after the Complainant was detected with radar driving 69mph in a 45mph zone. Upon approaching the vehicle, it was noticed that the car had expired tags. In addition to the speeding ticket, a citation was issued for the vehicle registration violation. During the stop, the Complainant requested a supervising officer. A supervisor (Officer 2) responded to the scene and spoke to the Complainant, explaining that because he was driving with expired tags additional stops, tickets, and towing were possible until the vehicle registration was updated. The supervising officer provided information about DMV protocols, clarifying that that the

Complainant did not need an appointment and that COVID-related leniency provisions regarding vehicle registration protocols had previously expired.

Table 2. Summary COB Assessment of ACPD OPR Investigation

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

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

- **Accuracy:** The OPR investigation appeared to uncover accurate information. **Explanation of COB Findings for Alleged and Other Identified Possible Policy Violations:**
- [531.06 Bias-Free Policing](#) (Officer 1) – **Exonerated**
The majority of the COB's review pertained to the issue of bias-free policing. The Complainant expressed that it seemed as though he had been pulled over multiple times for the same issue, namely, expired tags, even though after the first stop (by the VA State Police) he had taken action to address the matter by setting an appointment with the DMV. He stated that had he not been a Black male, he would not have been pulled over multiple times. As to the first ACPD stop on April 26, the Complainant asserted that he had been followed for several miles prior to being stopped and was embarrassed because he was stopped at his place of work. The investigation revealed that Complainant was followed for less than one mile, and that during that time Officer 1, who was in training, was trying to run the expired tag to confirm that it was in fact expired (and not simply that the new sticker had not been put on the plate.) Officer 1 was behind Complainant's car when he spotted the expired tag. The tag was spotted as out of date because the sticker was a different color than the current year's sticker. There was no evidence, or reason to think, that Officer 1 knew that Complainant worked at a location in the parking lot where he pulled over. These facts do not appear to support the allegation of biased policing. In addition, Officer 1 issued Complainant a warning, rather than a citation, for the expired tag based on Complainant's assertion at the scene that he had previously been stopped (by VA State police) for expired tags, even though Officer 1 was not able to confirm that fact on the scene.

COB members agreed that Officer 1 did not violate the policy, but wanted to explore more fully the importance of soft skills and broader awareness of social context to help police officers evaluate these types of situations in a more nuanced way. COB members discussed the fact that in his complaint, the Complainant noted that he was experiencing financial hardship that impacted his ability to get his car into compliance. Officer 1 did not know this fact (nor did Officer 2 at the April 29 stop) and it is unclear what impact it could have made even if they had known.
- [414.00 Personal Contacts](#) (Supervising Officer) – **Exonerated**
The stop on April 29 was predicated on the Complainant's speeding. He was traveling 24 miles over speed limit. He was also given a citation for expired tags at that time. The Complainant was upset with the way that Officer 2 (the supervisor who came to the scene) spoke to him, which he felt was demeaning. Officer 2's body-worn camera revealed that Complainant understood that he had been pulled over for speeding. Officer 2 explained to Complainant that setting an appointment at DMV did not insulate him from also being cited for expired tags so long as he continued to drive the car with expired tags. Officer 2 explained to Complainant that he did not have to make an appointment at DMV and that he could simply walk in on any given day. He also confirmed that leniency with DMV compliance due to Covid had ended. Officer 2 did say that, had it been up to him, he would have towed Complainant's car. COB members agreed that the personal contacts policy had not been violated.

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

No.

Other relevant comments, commendations, or concerns:

- The IPA's report commended Officer 2 for his professionalism during the encounter: *"Furthermore, throughout the conversation with the Complainant, the Supervising Officer displayed professionalism and courtesy by explaining the protocols and safety issues around expired registrations, the process for filing a complaint and making a FOIA request and ensuring that the Complainant understood what had taken place during the April 29 stop before ending the interaction."*
- This case review prompted a discussion by the COB about the financial impacts of law enforcement actions and a desire for our board to conduct a future review of policies related to enforcement of vehicle-specific violations that may not negatively impact public safety.

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
Reviewer

Arlington County COB

E-mail: communityoversightboard@arlingtonva.us

Anika Montgomery, Voting Member and Case Co-

Lisa Davis, Voting Member

Dave Smith, Voting Member

Jim Miller, Non-Voting Member

Charles McCullough, Voting Member

Garry Dean, Voting Member