

City of Davis

# Independent Police Auditor Report:

Review of Allegation that Officer Improperly  
Detained Individual

July 2023

Independent Police Auditor  
Michael Gennaco





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## Factual Background

The complainant alleged that he was detained and handcuffed by a DPD officer as a suspect while he was waiting in his car in the drive through lane of a fast-food restaurant. The complainant suggested that the detention may have been because he was Hispanic.

The incident stemmed from a call for service from a tow company who reported that a person had been seen climbing into the secured space of the business in an apparent effort to retrieve items from his impounded car. The call described the man and dispatch sent two officers to the call.

The first officer arrived and noticed the complainant sitting in this car waiting to order food. He parked his car behind the complainant's vehicle and ordered the man to place his hands out of the window. The man complied and further complied with the officer's instructions to walk back toward him. The officer then instructed the man to place his hands behind his back and handcuffed him.

At that time, the second officer arrived on scene. That officer asked dispatch to repeat the description of the suspect. He then suggested to the first officer that the detained individual did not fit that description nor did the vehicle that had been reported to be connected with the call. The first officer agreed and unhandcuffed the man and sent him on his way with an apology about the detention.

## DPD Investigation and Outcome

DPD opened a formal personnel investigation into the complaint. The investigation determined that the first officer did not have sufficient cause to stop the complainant. The investigation focused on how the broadcast description of the suspect did not match the complainant. As a result, DPD determined that the officer violated policy when he detained and handcuffed the complainant. DPD devised an appropriate course correction for the policy violation.

DPD found that there was insufficient evidence to establish that the detention was based on race and did not sustain that aspect of the complaint.

To its credit, DPD provided a detailed account to the complainant regarding the basis for the findings and apologized for the encounter.

## IPA Review and Analysis

We reviewed the materials relevant to this incident, including DPD police reports, video accounts of the incident and the internal investigative report. We concurred with the determination reached by DPD.

As noted above, it was the second arriving officer that was instrumental in getting the complainant released after he again asked for a description of the suspect which demonstrated that the complainant was not who was being sought. As a result, the first officer changed course and released the wrongly detained complainant.

It was not clear from the documentation that the excellent work of the second officer was recognized in any formal or informal way. When officers perform well and mitigate any initial missteps of fellow officers, there should be recognition of that performance in some sort. We urge DPD to remind its supervisors of the need to positively recognize personnel when they are found to have performed well.

**Recommendation:** DPD should remind its supervisors of the need to commend personnel who perform well, particularly when it ameliorates potential missteps by fellow officers.