



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 21, 2018

CASE NUMBER: 2017OPA-1103

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 13. Retaliation is prohibited	Not Sustained (Unfounded)
# 2	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Unfounded)

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 alleged that his vehicle was illegally towed and impounded, and that this was done in retaliation by Named Employee #1.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

5.001 - Standards and Duties 13. Retaliation is prohibited

The Complainant initiated this complaint, in which he alleged that his vehicle was towed and impounded illegally. He stated that, at the time it was towed, the vehicle was parked in a location that had been his residence’s “driveway” since 1954. In one of his two emails to OPA, the Complainant asserted that because his property in Greenwood predated the City of Seattle’s annexation of that area, his vehicle could not be towed and impounded. In the other, he contended that the area he referred to as his “driveway,” had been deemed by the City, in its “great wisdom,” to “no longer exist.” The Complainant is correct that the area he refers to as a “driveway,” is no longer classified as such. Notably, as discussed below, that location is deemed a public right of way by SDOT GIS maps.

Named Employee #1 (NE#1) is a Parking Enforcement Officer. NE#1 stated that he was assigned to the Abandoned Vehicle Task Force. As part of his duties in this regard, he responded to the location in question, which was a chronic area of complaints. NE#1 told OPA that there are three business in that location that generate many of the complaints. Prior to the date of the towing, NE#1 noticed that the Complainant’s vehicle was parked illegally. He did not issue a citation at that time. When NE#1 returned a week later, the vehicle was still parked illegally and he examined the car more closely. He determined that the vehicle had the wrong tabs on it and that the vehicle’s registration had expired in March 2016, approximately seven months prior. NE#1 further verified, using SDOT GIS maps, that the vehicle was parked in a City right of way. NE#1 then cited and initiated the tow and impoundment of the vehicle.

The Complainant alleged that the towing and impoundment was retaliatory; however, he did not provide any basis for why he believed this to be true.



SPD policy precludes its employees from engaging in retaliation. (SPD Policy 5.001-POL-13.) SPD employees are specifically prohibited from retaliating against a person who engage in activities including, but not limited to, “oppos[ing] any practice that is reasonably believed to be unlawful or in violation of Department policy” or “who otherwise engages in lawful behavior.” (*Id.*) Retaliatory acts are defined broadly under SPD’s policy and include “discouragement, intimidation, coercion, or adverse action against any person. (*Id.*)

At his OPA interview, NE#1 stated that he did not know the Complainant and had never seen his vehicle until a week prior to the towing. He stated that his interactions with the three businesses in that area were polite and professional. While one of the businesses was associated with the Complainant, NE#1 could only recall interacting with someone from that business on one occasion. He did not remember that person’s name and characterized the interaction as professional. NE#1 stated that he later learned that the Complainant frequently calls SPD to complain about parking, but explained that he did not know this at the time. He stated that he did not know who the owner of the vehicle was at the time of the towing and, even if he did, it would not have impacted his decision-making. NE#1 told OPA that he had cited multiple vehicles in that location and that he had a legal basis to cite the Complainant’s vehicle in this case, as well as to have it towed and impounded.

From a review of the relevant statutory authority (*See* SMC 11.72.145; SMC 11.30.045) coupled with the maps that conclusively establish that the vehicle was parked in a City right of way, I agree with NE#1 that the citations, towing, and impoundment were legally supported. I also note that the Seattle Municipal Court determined that the infraction at issue – “expired/improper plates” – was “committed” by the Complainant.

I further find no evidence establishing that NE#1 knew that the vehicle belonged to the Complainant at the time he cited it and had it towed, let alone that he did so to retaliate against the Complainant. As such, I conclude that the allegation that NE#1 retaliated against the Complainant is unsupported by the record.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times

SPD Policy 5.001-POL-9 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-9.)

Certainly, if NE#1 retaliated against the Complainant, it would have constituted unprofessional behavior. However, as explained above, I find that there is no evidence establishing that NE#1 did so. Moreover, it appears undisputed that NE#1 did not interact with the Complainant on the date in question. As such, he could not have behaved unprofessionally towards him.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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