



## CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 25, 2019

CASE NUMBER: 2019OPA-0273

### Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 14. Retaliation is prohibited	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 the Named Employee retaliated against her when he issued her a traffic citation.

#### ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employee. As such, the Named Employee was not interviewed as part of this case.

#### ANALYSIS AND CONCLUSIONS:

##### **Named Employee #1 - Allegations #1**

##### ***5.001 - Standards and Duties 14. Retaliation is prohibited***

On April 12, 2019, Named Employee #1 (NE#1) was parked on the northside of Mercer Street facing westbound and watching traffic. While doing so, NE#1 reported that he observed the Complainant’s vehicle as it passed by him. As the Complainant’s vehicle drove by, NE#1 documented that he noticed the rear license plate was affixed with an expired tab from January 2019. NE#1 stopped the Complainant’s vehicle, contacted her, and explained that she had expired license tabs. The Complainant told NE#1 that she was unaware that her tabs were expired. Ultimately, NE#1 issued her a citation for the traffic violation.

This investigation ensued after OPA received a complaint from the Complainant. She alleged that NE#1 targeted her for an unknown reason and that she wanted her ticket dismissed. During the Complainant’s OPA interview, she stated that she and NE#1 were positioned parallel to each other while they were stopped at a stoplight and that NE#1 would not have known she had expired tabs at that point. The Complainant suspected that NE#1 may have recognized her from an encounter that she had with a different officer a couple years ago and that he decided to pull her over for that reason. The Complainant told OPA that she is interested in knowing exactly why NE#1 decided to drive behind her and ticket her and she said that all she wants is for officers to be fair.



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As part of its investigation, OPA reviewed NE#1's In-Car (ICV) and Body Worn Video (BWV). The ICV showed that NE#1 was parked on the side of the road when the Complainant's vehicle passed by him. At that point, NE#1's vehicle entered traffic, pulled behind the Complainant, and he initiated the traffic stop. The BWV showed the entirety of the interaction between the Complainant and NE#1. At one point during the interaction, the Complainant asked NE#1 whether he knew an officer who worked at the South Precinct. NE#1 said that he knew the name but that he was not familiar with the officer and he moved on to discuss the citation. There was no indication from the video that NE#1 was aware of who the Complainant was or that he knew that she had any prior interaction with SPD officers. Based on its review of the video, OPA concluded that NE#1's interaction with the Complainant was professional and that the video was consistent with his memorialization of the incident in his documentation.

OPA reviewed Department records to examine all of the Complainant's prior contacts with SPD. OPA did so in order to determine whether or not the Complainant's assertion that she might have been cited for a retaliatory reason had any merit. OPA found that she had six previous interactions with SPD. In all six of those interactions, she was listed as the victim. In three of the interactions, she had direct contact with SPD officers. In the other three, she did not. Of the three contacts with SPD officers, two were collisions and one was a report of a car prowler. In all three incidents, she drove a different vehicle than the one that she operated during this case. There was no evidence that the Complainant had any previous interaction with NE#1 prior to this incident.

SPD policy precludes its employees from engaging in retaliation. (SPD Policy 5.001-POL-14.) 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.*)

Ultimately, the video of this incident establishes that NE#1 had a lawful basis to effectuate a traffic stop of the Complainant's vehicle. Notably, the Complainant's vehicle drove by NE#1's parked car and he would have been in a position to view her expired tabs. Further, it is undisputed that her tabs were in fact expired. In addition, contrary to the Complainant's belief to the contrary, there is no evidence that any of her past contacts with SPD played any role in her being stopped. First, the evidence indicated that she had never interacted with NE#1 before. Second, she had only had three previous interactions with SPD officers, which were routine and non-adversarial. The Complainant did not assert, and there is no evidence to support, that the Complainant ever filed a complaint or a lawsuit against an officer or took any other action that would have caused NE#1 or any other officer to retaliate against her.

For the above reasons, there is insufficient evidence to determine that NE#1 retaliated against the Complainant when he cited her. As such, I recommend that this allegation be Not Sustained – Unfounded.

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