



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 2, 2019

CASE NUMBER: 2019OPA-0402

Allegations of Misconduct & Director’s Findings

Named Employee #1		Director’s Findings
Allegation(s):		
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Training Referral)
# 2	5.001 - Standards and Duties 6. Employees May Use Discretion	Not Sustained (Lawful and Proper)

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 abused her discretion when she issued him a ticket when he was parked in a center turn lane. He further alleged that she was unprofessional towards him.

SUMMARY OF INVESTIGATION:

The Complainant alleged to OPA that Named Employee #1 (NE#1) was unprofessional towards him. The Complainant said that, at the time, he was making deliveries for Fed Ex. He parked his truck in the center turn lane because there were no available loading zones. The Complainant told OPA that he had been advised by officers over the years that he could park in the center lane where there was no other available parking. He said that, on the date in question, NE#1 approached his truck and cited him. The Complainant told OPA that when he discussed the citation with NE#1, she was “curt” and had a “raised voice.” The Complainant recalled that NE#1 told him that he had other parking options but he disagreed with that statement. The Complainant also recalled that NE#1 told him that she would have rather not made the delivery than have parked in the center lane. The Complainant felt that this statement was inappropriate. The Complainant also believed that NE#1 ultimately cited him under the wrong section of the SMC. He lastly said that he wanted NE#1 to be more “tolerant” and “understanding,” as well as to be counseled by a supervisor.

OPA reviewed the ticket issued by NE#1. It cited the Complainant for violating SMC 11.70.040, which concerns the requirement to parallel park in the right-hand lane. The citation included a photograph of the Complainant’s truck parked in the center lane and showed the Complainant walking in the direction of NE#1.

There was no video of the interaction and of the issuance of the citation as Parking Enforcement Officers (PEO) are not equipped with Body Worn Video (BWV) or In-Car Video (ICV).

OPA further interviewed NE#1 and a PEO supervisor. NE#1 said that she tried to explain the citation to the Complainant. She recalled that she told him that, even if he had not been cited in the past, the citation was appropriate in this situation. She said that, despite her best efforts, the conversation did not appear to be helpful. NE#1 said that she encouraged the Complainant to contest the citation in court. The Complainant explained that she had been writing



citations under the relevant provision of the SMC more and more and vehicles parking in the center lane was starting to become the norm in Capitol Hill. The citations were purposed to prevent this behavior from occurring. NE#1 asserted that she cited the Complainant under the correct SMC provision. NE#1 said that the Complainant told her that he was going to contact her supervisor and she replied that he had the right to do so. NE#1 denied that she acted in the manner that the Complainant described and told OPA that she was not unprofessional during this incident.

The PEO supervisor told OPA that NE#1 cited the Complainant under the appropriate SMC provision. The PEO supervisor told OPA that there is no SMC provision that specifically references parking in the center lane. Lastly, the PEO supervisor said that there are no exceptions provided to Fed Ex trucks, or other delivery trucks, to allow them to park in the center lane.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

SPD Policy 5.001-POL-10 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-10.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (*Id.*) Lastly, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (*Id.*)

Based on OPA’s review of the available evidence, there is an insufficient basis upon which to conclude that NE#1 was unprofessional during this incident. This is so even though, as discussed in multiple other cases, NE#1 has received professionalism complaints at a higher rate than virtually any PEO. In a recent case – 2019OPA-0251 – NE#1 was alleged to have been unprofessional to an individual that she cited. There, NE#1 admitted that her approach to the Complainant could have been viewed as “aggressive.” As such, OPA concluded that, even in the absence of video, there was enough evidence to establish that NE#1 was unprofessional when applying a totality of the evidence standard. Here, though, NE#1 denied that she was rude or aggressive and, accordingly, the evidence is insufficient to find that she violated policy.

The above being said and, again, based on the high number of similar cases involving NE#1 in the past, OPA recommends that NE#1 receive the below Training Referral.

- **Training Referral:** NE#1 should be reminded of the requirement that she treats those she interacts with professionally. OPA is aware that NE#1 is working hard to be professional and to better herself and her performance of her job. OPA commends her for that. However, OPA requests that NE#1’s supervisors instruct her that, as recently clearly communicated to her by the Chief of Police, she needs to avoid future professionalism cases. This retraining and any associated retraining should be documented, and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**



Named Employee #1 - Allegation #2

5.001 - Standards and Duties 6. Employees May Use Discretion

As indicated in SPD Policy 5.001-POL-6, “[e]mployees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the department and duties of their office and assignment.” This policy further states that “[t]he scope of discretion is proportional to the severity of the crime or public safety issue being addressed.” (SPD Policy 5.001-POL-6.)

OPA’s investigation indicated that NE#1 appropriately used her discretion when she issued the Complainant a citation under SMC 11.70.040. First, as the PEO supervisor explained, this was the correct provision to issue the citation under. Second, as the PEO supervisor again explained, there was no exception provided to Fed Ex trucks or other delivery vehicles allowing them to park in the center lane. As such, even though the Complainant was frustrated with the issuance of the citation and even if he had not been cited by other PEOs in the past, this does not cause the citation here to have been invalid or suggest that NE#1 abused her discretion. Accordingly, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**