



## CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 15, 2018

CASE NUMBER: 2017OPA-0858

### Allegations of Misconduct & Director’s Findings

**Named Employee #1**

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Unfounded)
# 2	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 3	6.120 - Impounding Vehicles 6.120-TSK-3-Impounding a Vehicle on a 72 Hour Notice	Not Sustained (Unfounded)
# 4	6.180 - Searches-General 2. There are Specific Exceptions to the Search Warrant Requirement	Not Sustained (Unfounded)

**Named Employee #2**

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Unfounded)
# 2	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 3	6.120 - Impounding Vehicles 6.120-TSK-3-Impounding a Vehicle on a 72 Hour Notice	Not Sustained (Unfounded)
# 4	6.180 - Searches-General 2. There are Specific Exceptions to the Search Warrant Requirement	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 Complainants alleged that Named Employee #1 attempted to have their motor home towed, while it was occupied. The Complainants also alleged that Named Employee #1 singled them out for parking tickets, harassed them without cause, and went through their personal belongings without a legal basis to do so.

**STATEMENT OF FACTS:**

The Complainants are boyfriend and girlfriend. The Male Complainant complained that he has been subjected to harassment by Named Employee #1 (NE#1). He specifically recounted an incident that occurred on August 21, 2017, when he received a 72-hour notice on his motorhome that other motorhomes parked in the near vicinity did not receive. He does not appear to contest, however, that his motorhome was illegally parked on that day. He stated that NE#1 goes through his personal belongings, even though he has repeated told him not to do so. The Female Complainant reiterated her boyfriend’s allegations and further stated that on August 21, members of the City’s



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Navigation Team went through their personal belongings and informed them that the Male Complainant's motorhome was going to be towed. The Female Complainant further stated that NE#1 harasses them on an ongoing basis. Notably, the Complainants made no allegations against Named Employee #2 (NE#2).

From OPA's review, it appeared that NE#1 issued citations to Male Complainant's motorhome on two separate occasions – August 14, 2017 and August 21. He also issued two citations to a Toyota Camry that he believed belonged to the Female Complainant (it is, in fact, registered to the Male Complainant). These are the only citations that NE#1 has issued to the Complainants in the approximately 10 years that he has worked at the South Precinct.

A review of the In-Car Video (ICV) for NE#1 from August 14 showed that the Male Complainant's motorhome appeared to be the only one parked in a no parking zone. NE#1 spoke to the Male Complainant and reminded him that they had discussed last week that he could not park in this location and stated that he had given the Male Complainant multiple warnings concerning this matter. The Male Complainant acknowledged that he was parked in an illegal zone, and indicated that he was "sick" from something he ate. The video depicted individuals, who appeared to be affiliated with the City's Navigation Team, moving property from in front of the Male Complainant's motorhome to allow it to be towed. While a tow was threatened, NE#1 waited for approximately one hour until the Male Complainant moved his motorhome himself and NE#1 did not attempt to tow the motorhome while the Complainants were inside of it. Based on records obtained by OPA, NE#1 issued the Male Complainant a ticket for parking in an illegal zone.

The ICV from the August 21 incident reflects NE#1 parked behind the Male Complainant motorhome. He walked up to the motorhome and placed 72-hour notices on what appeared to be the front hood area and driver's side window. The video did not show him placing 72-hour notices on other vehicles, but it is unclear whether those vehicles had actually been parked in that location for longer than 72 hours. The August 21 video does not depict any interaction between NE#1 and the Complainants, nor does it show NE#1 or any other law enforcement officer going through the Complainant's personal property. Based on records obtained by OPA, NE#1 issued the Male Complainant a ticket on this date for expired tabs.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 - Allegation #1**

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

From my review of the evidence, most notably the ICV, I find no indication that NE#1 engaged in any unprofessional behavior. He discussed the Complainants' motorhome with them in somewhat stern tones and threatened a possible tow, but this does not constitute a violation of policy. I further do not find sufficient evidence when



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applying a preponderance of the evidence standard to establish that NE#1 engaged in purposeful and repeated harassment of the Complainants.

As such, I recommend that this allegation be Not Sustained – Unfounded.

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

**Named Employee #1 - Allegation #2**

***5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing***

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” (SPD Policy 5.140.) This includes different treatment based on the race of the subject. (*See id.*) The policy provides guidance as to when an allegation of biased policing occurs, explaining that: “an allegation of bias-based policing occurs whenever, from the perspective of a reasonable officer, a subject complains that he or she has received different treatment from an officer because of any discernible personal characteristic...” (*Id.*)

From my review of the evidence, there is no indication that NE#1 improperly harassed the Complainants or cited them based on bias. Instead, the citations appeared to be lawful and based on the fact that the Complainants were repeatedly parked in improper areas. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

**Named Employee #1 - Allegation #3**

***6.120 - Impounding Vehicles 6.120-TSK-3-Impounding a Vehicle on a 72 Hour Notice***

SPD Policy 6.120-TSK-3 concerns the impounding of vehicles based on a 72-hour notice. As part of this policy, officers are required to verify that a vehicle is illegally parked, place a 72-hour notice on the vehicle, return to the vehicle after the 72 hours has elapsed, and then take appropriate action to tow the vehicle. (*See SPD Policy 6.120-TSK-3.*)

On August 21, NE#1 placed a 72-hour notice on the motorhome. While the ICV did not depict him placing notices on the other surrounding vehicles, I do not know definitively that he did not do so. I also do not know that these other motorhomes were parked illegally and, if they were, that those vehicles had been illegally parked for more than 72 hours. What I do know from my review of the record was that NE#1’s vehicle was illegally parked. As such, it was appropriate for NE#1 to place the 72-hour notices on his vehicle.

Accordingly, I recommend that this allegation be Not Sustained – Unfounded.

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



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**Named Employee #1 - Allegation #4**

***6.180 - Searches-General 2. There are Specific Exceptions to the Search Warrant Requirement***

SPD Policy 6.180 generally concerns searches conducted by SPD personnel. Here, the Complainants contended that SPD personnel, including NE#1 and members of the Navigation Team, inappropriately went through their personal belongings on several occasions, thereby engaging in illegal and unjustified searches.

All that is before me here is the purported searches that occurred on August 14 and August 21. With regard to August 14, while individuals removed property from in front of Complainant Humphrey's motorhome, no search was conducted of that property. Instead, it was moved to allow the motorhome to be towed. Such action was warranted and appropriate and was not a search as contemplated by SPD's policy.

With regard to August 21, I see no evidence from the ICV that the Male Complainant's property was searched at any point by any officer, including NE#1.

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

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

**Named Employee #2 - Allegation #1**

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

I find no evidence that NE#2 had any interaction with the Complainants on either August 14 or August 21. As such, I recommend that this allegation be Not Sustained – Unfounded as against him.

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

**Named Employee #2 - Allegation #2**

***5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing***

As explained above, I find no evidence that NE#2 interacted with the Complainants on either August 14 or August 21, let alone engaged in biased policing towards them. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

**Named Employee #2 - Allegation #3**

***6.120 - Impounding Vehicles 6.120-TSK-3-Impounding a Vehicle on a 72 Hour Notice***

From my review of the ICV, NE#1 placed the 72-hour notices on the Male Complainant's motorhome, not NE#2. As such, I recommend that this allegation be Not Sustained – Unfounded as against him.

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



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**Named Employee #2 - Allegations #4**

***6.180 - Searches-General 2. There are Specific Exceptions to the Search Warrant Requirement***

I find no evidence that NE#2 ever interacted with the Complainants, let alone searched their property. As such, I recommend that this allegation be Not Sustained – Unfounded.

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