



## **CLOSED CASE SUMMARY**

ISSUED DATE:      SEPTEMBER 14, 2018

CASE NUMBER:     2018OPA-0378

### **Allegations of Misconduct & Director’s Findings**

**Named Employee #1**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	5.001 - Standards and Duties 14. Retaliation is prohibited	Not Sustained (Unfounded)
# 2	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)
# 3	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	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 engaged in retaliation, harassment, and unprofessional behavior when his car was improperly towed.

**STATEMENT OF FACTS:**

The Complainant alleged to OPA that he was inside his home when he viewed an officer near his car. The officer leaned down near the license plate. The Complainant exited his home and asked the officer – who was later identified as Named Employee #1 (NE#1) – what he was doing. NE#1 responded that the Complainant’s tabs were expired. The Complainant asked the officer whether, since it was a Sunday, he could just move his car into his driveway. NE#1 said no and told him that the car was going to be impounded. When the Complainant pleaded for the car not to be impounded, NE#1 asked him why he parked his car in the same location all the time. The Complainant recounted that he told NE#1 that he was being harassed by the police and then walked back into his home. The Complainant stated that several other officers arrived at the scene and NE#1 removed the plates from his car. The Complainant told OPA that he again spoke to the officer and stated that he was going to be evicted and needed his car to live in. He recounted that NE#1 “snickered” and told the Complainant that his van had been towed the previous week for unlawful tabs. Lastly, the Complainant asserted that NE#1’s actions may have been in retaliation for an earlier complaint that the Complainant filed with OPA.

NE#1 reported that he was on patrol when he ran the Complainant’s license plates through his MDT system. He noticed that the license plate had tabs from the fourth quarter of 2018; however, his search indicated that the tabs associated with the Complainant’s license plates had expired in April of 2017. NE#1 was able to trace the tabs to a vehicle owned by another individual. NE#1 determined that the Complainant was also connected to another incident where his vehicle had tabs on it that were associated with a motorcycle that had been reported stolen.



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At that time, the Complainant came out of his home and approached NE#1. NE#1 informed him that he was being audio and video recorded and the Complainant stated that his van had been towed the previous month. NE#1 asked the Complainant for his name, but he refused to provide it. The Complainant stated that he could not afford tabs for his car and NE#1 informed him that this was not a valid excuse for stealing tabs from other community members. NE#1 reported that he believed the Complainant's explanation for how he came into possession of the tabs to be untrue. NE#1 impounded the Complainant's car and cited him for improper license.

The interaction between NE#1 and the Complainant, as well as NE#1's law enforcement activity, was recorded on Department video. The video provided significantly more detail as to the substance of the interaction between the Complainant and NE#1. The video is described in detail in the Case Summary.

**ANALYSIS AND CONCLUSIONS:**

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

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

SPD Policy 5.001-POL-14 prohibits Department employees from engaging in retaliation.

The Complainant alleged that NE#1 retaliated against him when he had his vehicle towed. The Complainant contended that this retaliation was based on a previous complaint that the Complainant filed with OPA.

This complaint (2018OPA-0153) involved the earlier towing of the Complainant's van. NE#1 was not a named employee in this case. Moreover, the case was closed as a Contact Log, meaning that OPA determined that, on its face, the complaint failed to allege a policy violation and that it could be closed with no further investigatory action. NE#1 stated that he was tangentially aware of an OPA complaint involving the Complainant and several parking enforcement officers. However, he told OPA that he did not know the details and was never asked to impound the Complainant's car due to this OPA complaint.

NE#1 explained that his actions were based solely on the fact that the Complainant had illegal tabs on his car and because this was not the first time that the Complainant had engaged in such behavior.

I find that NE#1's account is supported by the record and I find no evidence that he engaged in retaliation. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

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

***5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy***

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy. The Complainant alleged that NE#1 violated this policy when he improperly towed his vehicle.

I find that there was a more than sufficient legal basis to impound the Complainant's vehicle. The evidence conclusively establishes that the Complainant had tabs on his license plate that were associated with another



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vehicle. Moreover, the evidence also establishes that he engaged in this same behavior just one week earlier when he put tabs from a motorcycle on his van.

When the Complainant violates the law, such as he did here, he should expect that law enforcement action will be taken, including the impoundment of his car. To that end, NE#1's behavior in this case was consistent with law and policy. Accordingly, I recommend that this allegation be Not Sustained – Unfounded.

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

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

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

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.)

While the Complainant asserted that NE#1 was unprofessional, based on my review of the Department video, I disagree. While NE#1 was certainly matter of fact and to the point with the Complainant, he was also polite and responsive to the Complainant's questions. He ultimately explained that, despite the Complainant's objections, the car was going to be impounded because the Complainant had repeatedly violated the law. While the Complainant may not have liked this explanation, this does not constitute a lack of professionalism on NE#1's part. Moreover, I find no evidence from my review of the video that NE#1 “snickered” as the Complainant described.

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

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