



## CLOSED CASE SUMMARY

ISSUED DATE: MAY 23, 2019

CASE NUMBER: 2018OPA-1174

### Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	6.120 - Impounding Vehicles 8. Officers May Impound Vehicles to the Vehicle Processing Room (VPR) for Specific Reasons	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:

On December 19, 2018, the Named Employee impounded the Complainant's vehicle from a Safeway parking lot. The Complainant alleged that the Named Employee did so unlawfully.

### ADMINISTRATIVE NOTE:

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

### ANALYSIS AND CONCLUSIONS:

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

#### ***6.120 - Impounding Vehicles 8. Officers May Impound Vehicles to the Vehicle Processing Room (VPR) for Specific Reasons***

Named Employee #1 (NE#1) reported that he was proactively patrolling a Safeway parking lot by randomly running license plate checks of occupied vehicles. He explained that he was doing so because this location had become a hotspot for a wide range of criminal activity. At that time, he ran the Complainant’s license plate and discovered that it was involved in a narcotics incident on September 13, 2018. NE#1 further learned that it was a suspect vehicle in another criminal incident that occurred on November 2, 2018.

NE#1 verified that the vehicle in question was registered to the Complainant. NE#1 stated that he then performed a routine check on the Complainant’s name and discovered that she had been arrested for possession of heroin on October 17, 2017, and that she had an outstanding misdemeanor warrant for her arrest from Pierce County. NE#1 stated that, after obtaining a basic description of the Complainant, he decided to contact the occupants of the vehicle and to see if the Complainant was among the occupants, as well as to investigate possible narcotics activity.



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As NE#1 approached the vehicle, the Complainant opened her car door. NE#1 explained in his report that he asked her to exit the vehicle so that he could place her in custody if her open warrant was extraditable. NE#1 reported that, as the Complainant exited the vehicle, he observed a large, partially empty plastic bag with needles sitting in plain view. NE#1 reported that, based on his experience and training, he knew that heroin is commonly consumed via injection using those needles.

At around this same time, NE#1 learned that the Complainant's warrant was from the Ruston Police Department (RPD) and he knew that RPD would typically not verify such warrants even if the suspect is physically brought to Pierce County. Ultimately, NE#1 released the Complainant from the scene and provided her with an incident number. However, NE#1 impounded the Complainant's vehicle and had it transported to SPD's vehicle processing room (VPR) while he waited for the approval of a warrant to search the vehicle. NE#1 was able to obtain a signed warrant permitting the search.

OPA later received a complaint that was submitted through OPA's online complaint form concerning the impounding of the Complainant's vehicle. In her complaint, the Complainant alleged that, according to her own research, NE#1 had no legal basis to impound her vehicle because she was not arrested at that time. OPA spoke by phone with the Complainant and asked if she would be willing to provide a recorded statement about her complaint, but she declined and stated that everything she had to say was included in her online complaint.

OPA reviewed the Body Worn and In-Car Videos associated with this incident. The videos support the details of this incident that were reported by NE#1.

SPD Policy 6.120 POL-8 states that officer may impound vehicles to the VPR when the vehicle contains evidence and is pending a warrant. Further, SMC 11.30.040 identifies the legal reasons when a vehicle may be impounded without prior notice. This section of the SMC provides that a vehicle can be impounded with or without a citation and without prior notice "[w]hen a police officer has probable cause to believe that the vehicle constitutes evidence of a crime or contains evidence of a crime, if impoundment is reasonably necessary in such instance to obtain or preserve such evidence."

Based on OPA's review of the evidence, OPA finds that NE#1 had probable cause to believe that the vehicle constituted evidence of a crime – namely, the two crimes identified by NE#1 in his report, as well as probable cause to believe that there could be evidence of narcotics activity within the vehicle. As such, he was legally permitted to impound it and hold the vehicle while he waited for a search warrant to be approved.

For the above reasons, I find that NE#1 acted according to policy and law when he impounded the Complainant's vehicle pending a warrant. As such, I recommend that this allegation be Not Sustained – Lawful and Proper.

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