



## OFFICE OF POLICE ACCOUNTABILITY

### Closed Case Summary

Complaint Number 2017OPA-0108

Issued Date: 11/28/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (9) Standards and Duties: Employees Shall Strive to be Professional at all Times (Policy that was issued April 1, 2015)
OPA Finding	<b>Not Sustained</b> (Inconclusive)
Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (13) Standards and Duties: Retaliation is prohibited (Policy that was issued April 1, 2015)
OPA Finding	<b>Not Sustained</b> (Inconclusive)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (9) Standards and Duties: Employees Shall Strive to be Professional at all Times (Policy that was issued April 1, 2015)
OPA Finding	<b>Not Sustained</b> (Inconclusive)
Final Discipline	N/A

## **INCIDENT SYNOPSIS**

The Named Employees issued the complainant parking citations.

## **COMPLAINT**

The complainant alleged that Named Employee #1 had been following and ticketing his truck as often as she could. This behavior allegedly occurred after Named Employee #1 received a complaint about issuing tickets, which could be a possible violation of SPD's retaliation policy. The complainant further alleged that both Named Employee #1 and Named Employee #2 were unprofessional.

## **INVESTIGATION**

The OPA investigation included the following actions:

1. Review of the complaint
2. Search for and review of all relevant records and other evidence
3. Review of external videos and photographs
4. Interviews of SPD employees

## **ANALYSIS AND CONCLUSION**

In his OPA complaint, the complainant alleged a sustained course of conduct by Named Employee #1 and Named Employee #2, which he characterized as unprofessional. The complainant explained that he began receiving parking tickets when parking near his home. The tickets were for parking in a bus zone. The complainant claimed that he received a notice saying that the bus zone was suspended based on ongoing construction, so he believed he could park in that location.

On February 1, 2017, the complainant reported having an interaction with Named Employee #1 during which she was rude, confrontational and unprofessional towards him. The complainant indicated his belief that Named Employee #1 was going out of her way to cite him. That same day, the complainant contacted OPA to file the initial complaint.

The following day, the complainant again called OPA and reported another negative interaction with Named Employee #1. On that day, Named Employee #1 allegedly approached him while he was sitting in his vehicle that was parked in an alley. The complainant told Named Employee #1 that he did not want to speak with her because he had just filed a complaint against her. Named Employee #1 responded: "Oh, I know, but you need to move." The complainant characterized Named Employee #1's behavior as rude and retaliatory.

The complainant reported to OPA that he was cited again by Named Employee #1 on February 3, 2017, for leaving his vehicle parked in an alley. He claimed to receive another ticket from Named Employee #1 on February 7, 2017, for parking in the bus zone. Named Employee #1 disagreed with the complainant's characterization of their interactions. Named Employee #1 stated that she did not behave unprofessionally and did not contact the complainant in order to harass him. She further stated that, to the contrary, the complainant and his wife were both rude in their interactions with her.

OPA verified that the complainant received four tickets from Named Employee #1 and one from Named Employee #2. The tickets written by Named Employee #1 were issued on January 17, 2017, January 31, 2017, February 1, 2017, and February 7, 2017. The ticket written by Named Employee #2 was issued on February 3, 2017.

OPA further verified that, even though the bus zone in question was inactive, the permanent no parking signs were still in effect. OPA also verified that the alley in question was marked: "NO TRESPASSING, Unauthorized Alley Access Prohibited, Tenant and Business Access Only, SMC 11.40.430."

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.)

Here, there was a dispute of fact as to whether Named Employee #1's conduct was unprofessional. The complainant alleged that it was and Named Employee #1 disagreed. While the complainant's wife supported his account, Named Employee #2 supported Named Employee #1's account. Given these disputes, the OPA Director could not reach a conclusive determination as to this allegation.

SPD policy precludes its employees from engaging in retaliation. (SPD Policy 5.001-POL-13.) 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.)

It was undisputed that Named Employee #1 issued four tickets to the complainant over close to one month. On three of the four occasions, Named Employee #1 issued tickets to multiple vehicles in the same vicinity during her shift; however, on one occasion, the complainant's vehicle was the only one ticketed. It was further undisputed that the complainant's vehicle was parked in an illegal spot and/or in a marked alley at the time of the citations.

While the OPA Director did not trivialize the complainant's stated belief that Named Employee #1's behavior was retaliatory, there was insufficient evidence to conclusively determine whether Named Employee #1's conduct in citing the complainant violated policy.

The complainant stated that he first interacted with Named Employee #2 in December 2016. At that time, she was looking at his parked vehicle and he approached her and asked if he could help her. She responded by slapping a sign with her hand (that detailed that parking in that area was impermissible) and saying: "Can't you read?"

Named Employee #2 described this interaction differently. She denied saying "can't you read" to the complainant. She admitted that her hand hit the sign, but stated that this occurred because she misjudged the depth of the sign and hit it errantly when pointing towards it. Named Employee #2 stated that she explained herself to the complainant at the time of the incident, apologized, and that she shook the complainant's hand at the conclusion of their interaction.

There was a dispute of fact as to the nature of the interaction between the complainant and Named Employee #2. There was insufficient evidence to establish whether or not Named Employee #2's behavior was unprofessional and, thus, in violation of policy.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

There was not a preponderance of the evidence either supporting or refuting the allegation. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Standards and Duties: Employees Shall Strive to be Professional at all Times*.

#### Allegation #2

There was not a preponderance of the evidence either supporting or refuting the allegation. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Standards and Duties: Retaliation is prohibited*.

### **Named Employee #2**

#### Allegation #1

There was not a preponderance of the evidence either supporting or refuting the allegation. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Standards and Duties: Employees Shall Strive to be Professional at all Times*.

*NOTE: The Seattle Police Department Manual policies cited for the allegation(s) made for this OPA Investigation are policies that were in effect during the time of the incident. The issued date of the policy is listed.*