



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 3, 2018

CASE NUMBER: 2017OPA-0956

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	6.120 - Impounding Vehicles 4. Officers May Impound Vehicles With Prior Notice	Allegation Removed
# 2	6.120 - Impounding Vehicles 5. Officers May Impound Vehicles Without Prior Notice	Not Sustained (Lawful and Proper)
# 3	6.120-TSK-1-Impounding a Vehicle for Parking Violations 3. Completes a WA state Tow/Impound form and leaves the driver and tow company copies with the vehicle.	Not Sustained (Lawful and Proper)
# 4	5.001 - Standards and Duties 5. 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 the Named Employee improperly had his vehicle impounded without notice in violation of SPD policy and Seattle Municipal Code 11.30.040.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

6.120 - Impounding Vehicles 4. Officers May Impound Vehicles With Prior Notice

SPD Policy 6.120-POL-4 permits officers to impound vehicles with prior notice. The policy cites SMC 11.30.060 and states that a “vehicle may be impounded when it is in violation of any law, abandoned, or mechanically unsafe, and after 24 hours’ notice has been given.” The policy further states that, even if none of the conditions set forth in SMC 11.30.060 are met, a vehicle may still be impounded after 72 hours’ notice has been given consistent with SMC 11.72.440.

Here, the Complainant’s vehicle was impounded by Named Employee #1 (NE#1). However, NE#1 impounded the vehicle without notice because he believed it fell within a category defined in SMC 11.30.040; specifically, that he felt, based on his viewing of location of the vehicle and his training and experience, that the vehicle was parked in a manner that that was “impeding or likely to impede the normal flow of vehicular or pedestrian traffic.” As such, this conduct is more fully captured under SPD Policy 6.120-POL-5, which is discussed below.



Accordingly, this allegation, which deals with SPD Policy 6.120, is not relevant to this case and I recommend that this allegation be removed.

Recommended Finding: **Allegation Removed**

Named Employee #1 - Allegation #2

6.120 - Impounding Vehicles 5. Officers May Impound Vehicles Without Prior Notice

SPD Policy 6.120-POL-5 concerns the impounding of vehicles without prior notice. The policy states that a vehicle can be impounded “with or without citation or prior notice if it falls within a category defined in SMC 11.30.040.”

NE#1 was dispatched to the location where the Complainant’s vehicle was parked based on a civilian-submitted complaint that was received through the City’s Customer Service Bureau. As indicated above, NE#1 asserted that he believed the vehicle was parked in violation of SMC 11.30.040. Photographs of the vehicle taken by NE#1 indicated that it was parked less than five feet from a driveway. NE#1 then made the determination that, based on where the vehicle was parked, it was “impeding or likely to impede the normal flow of vehicular or pedestrian traffic.” Under SMC 11.30.040 this was a permissible basis to impound a vehicle and no notice was required prior to impoundment.

During his OPA interview, NE#1 further noted that there was debris around the vehicle and that it had tape and coverings all over the windows, but that when he looked inside it appeared to contain numerous items. NE#1 asserted that these items appeared to him to be junk. He further asserted that he believed it possible that the vehicle was inoperable, based on its appearance, and that it was being used for storage.

Ultimately, NE#1 made this decision based on his observations at the scene, which appear to be supported by photographic evidence, and his interpretation of the law, which was informed by his training and experience. I do not believe that his decision to impound the vehicle was either inconsistent with law or policy or was an unreasonable decision based on the facts of this case.

As such, I recommend that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #1 - Allegation #3

6.120-TSK-1-Impounding a Vehicle for Parking Violations 3. Completes a WA state Tow/Impound form and leaves the driver and tow company copies with the vehicle.

SPD 6.120-TSK-1(3) requires that employees complete a WA state Tow/Impound form and leave the form with the driver and tow company. Here, I find that NE#1 completed the form and complied with his requirements under this policy.

As such, I recommend that this allegation be Not Sustained – Lawful and Proper.

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



Named Employee #1 - Allegation #4

5.001 - Standards and Duties 5. Employees May Use Discretion

While I am sympathetic to the issues raised by the Complainant in his complaint and during his OPA interview, I find NE#1's conduct to have been consistent with law and policy. I thus find that he exercised his discretion in an appropriate manner in this case.

As such, I recommend that this allegation be Not Sustained – Lawful and Proper.

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