



CLOSED CASE SUMMARY

ISSUED DATE: JULY 12, 2019

CASE NUMBER: 2019OPA-0054

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 13. Employees Shall Not Use Their Position or Authority for Personal Gain	Not Sustained (Unfounded)
# 2	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Inconclusive)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5. Supervisors Will Investigate or Refer Allegations of Policy Violations Depending on the Severity of the Violation	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:

An anonymous Complainant alleged that Named Employee #1 used an official parking placard for personal use and that Named Employee #1 was unprofessional during a phone conversation with a REACH employee. The anonymous Complainant further alleged that Named Employee #2, who was Named Employee #1’s supervisor at the time, was aware of Named Employee #1’s purported misconduct and failed to make an OPA referral as required by policy.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

5.001 - Standards and Duties 13. Employees Shall Not Use Their Position or Authority for Personal Gain

An anonymous Complainant alleged that Named Employee #1 (NE#1) had a potential “fake” parking placard that included the following language on it: “Do Not Tow SPD NAV Team.” The Complainant stated that NE#1 used the fake placard while driving her personal vehicle and that NE#1 also let her partner drive her vehicle and use the parking placard. The Complainant asserted that NE#1’s Sergeant and his Lieutenant, Named Employee #2 (NE#2), knew that NE#1 was using the fake placard but took no action other than to direct NE#1 to stop using the placard. The Complainant alleged that neither the Sergeant nor NE#2 reported NE#1’s conduct to OPA, as the Complainant believed that they were required to do.



As part of its investigation, OPA interviewed two employees of REACH, an organization that works with SPD's Navigation Team to address issues involving homelessness within Seattle. The first REACH employee told OPA that he was aware that officers were issued parking placards given parking scarcity in the downtown area. The first employee stated that the placards were meant for official use but that, at some point, he and other REACH staff became aware of a blue Mini Cooper parked in the area that was using a "copy" of the placard. He said that, through some means, it was determined that this vehicle belonged to NE#1. The first employee told OPA that NE#1 called another REACH employee and angrily complained about the other employee "ratting [her] out." The first employee stated that the Sergeant was made aware that NE#1 was using the placard for personal use; however, nothing happened to NE#1 except for the fake placard being taken away. The first employee believed that, had NE#1 been a civilian, the consequences would have been more significant.

The second REACH employee stated that he received a call from NE#1 during which she angrily said: "That was my car. Thanks. Thanks a lot." The second employee believed that the call was inappropriate and unprofessional. The second employee told OPA that he later had a meeting with the Sergeant and NE#2; however, it did not seem to the second employee that anything was ever done and he never received an apology for the call from NE#1. The second employee provided OPA with a photograph that showed a blue Mini Cooper parked with a placard in the front window. The photograph was taken on April 3, 2018.

As part of its investigation, OPA further interviewed NE#1, NE#2, and the Sergeant. The Sergeant provided OPA with a sample parking placard, which contained language similar to that described by the anonymous Complainant. The Sergeant stated that NE#1 was given a parking placard for a period of time while she was on light duty due to an injury. The parking placard was purposed to allow her to park closer to her place of work. The Sergeant indicated that, once NE#1 was no longer on light duty, he took away the parking placard. While the Sergeant did not have personal knowledge of the phone call between NE#1 and the second REACH employee, he believed that this phone call may have raised the issue of NE#1's parking to him and NE#2. The Sergeant stated that he and NE#2 discussed this matter and concurred that NE#1 had been appropriately using the parking placard during work hours. The Sergeant did not recall any allegations being raised to him of NE#1 using the parking placard for personal purposes. The Sergeant also did not recall anyone reporting to him that NE#1 engaged in an unprofessional conversation with a REACH employee.

NE#2 stated that he had no recollection of an allegation concerning improper use of a parking placard by NE#1. He remembered that NE#1 did have access to a parking placard for a period of time given her light duty status and that the use of this placard was approved by the chain of command. NE#2 also told OPA that he did not recall ever being informed of an unprofessional phone conversation between NE#1 and a REACH employee; however, he acknowledged that relationships between officers and REACH employee could be contentious.

NE#1 denied misusing the parking placard. She stated that she only used it for work, that she did not use it for personal business, and that she did not share the parking placard with anyone else. NE#1 further denied that she had an unprofessional conversation with the second REACH employee. She recounted that, during the phone call, she stated to the second employee: "hey, that's my vehicle, just to let you know, if you could stop taking photos of it, thank you." However, she denied that any of her statements were inappropriate or otherwise inconsistent with policy.

SPD employees are prohibited from using their position or authority for personal gain. (SPD Policy 5.001-POL-13.)



If NE#1 used a Department parking placard for her personal benefit, it would have constituted a violation of this policy. However, based on the evidence amassed during this investigation, including the statements of both NE#2 and the Sergeant, NE#1 was authorized to possess the parking placard and used it appropriately. There is insufficient evidence in the record to establish the contrary. For example, while the photograph provided by the second REACH employee depicted NE#1's vehicle with a parking placard on the front dash, the vehicle was parked during regular business hours. This would be consistent with the permitted use. Moreover, even though the first REACH employee reported viewing NE#1's vehicle parked twice with the placard, there is no indication that it was parked while outside of business hours during that time or that the vehicle was being used for personal matters.

Given the above and when applying a preponderance of the evidence standard, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

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

As discussed above, the second REACH employee alleged that NE#1 was unprofessional towards him during a phone conversation when she purportedly angrily confronted him about the parking of her vehicle. When asked about this conversation, NE#1 acknowledged that it occurred and that she referenced her parking and the second employee taking photographs of her vehicle. However, she denied that she was rude or unprofessional. As far as OPA is aware, there is no recording of this phone conversation.

SPD Policy 5.001-POL-10 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-10.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (*Id.*)

Ultimately, OPA cannot conclusively determine what occurred during the phone call between NE#1 and the second employee. While OPA has questions concerning why NE#1 found it necessary or a good idea to call the second employee to discuss a potential complaint against her, OPA cannot, without more, prove that it was unprofessional. Accordingly, OPA recommends that this allegation be Not Sustained – Inconclusive.

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

Named Employee #2 - Allegations #1

5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5. Supervisors Will Investigate or Refer Allegations of Policy Violations Depending on the Severity of the Violation

The Complainant alleged that NE#2 failed to report potential misconduct to OPA. SPD Policy 5.002-POL-5 requires supervisors who become aware of a potential policy violation to investigate or refer the allegations depending on their severity. Minor allegations of misconduct may be investigated by a supervisor, while allegations of serious



misconduct – such as the use of an officer’s official position for personal gain – must be referred to OPA. (SPD Policy 5.002-POL-5.)

Here, it is undisputed that NE#2 did not report NE#1’s alleged improper use of her parking placard to OPA or her purported unprofessionalism towards the second REACH employee. However, NE#2 informed OPA that he was unaware of either allegation. This was corroborated by the Sergeant, who similarly confirmed that he was unaware of any allegations of misconduct against NE#1. Moreover, both NE#2 and the Sergeant stated that NE#1 was, in fact, permitted to use a parking placard so that she could park near her place of work. This was sanctioned by NE#1’s chain of command based on her being on light duty at the time.

As such, I find insufficient evidence to conclude that NE#2 or, for that matter, the Sergeant, failed to abide by Department policy concerning the reporting of misconduct. As such, I recommend that this allegation be Not Sustained – Unfounded.

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