



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 25, 2020

CASE NUMBER: 2019OPA-0651

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 14. Retaliation is prohibited	Not Sustained (Unfounded)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 14. Retaliation is prohibited	Not Sustained (Unfounded)

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 14. Retaliation is prohibited	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 Employees took retaliatory law enforcement action towards him.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the review and approval of the Office 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

5.001 - Standards and Duties 14. Retaliation is prohibited

The Complainant alleged to OPA that his arrest and the towing of his RV was due to retaliation by the Named Employees. He specifically asserted that he Named Employees retaliated against him because, the previous day, he had been quoted by a news outlet regarding the City's treatment of RV owners. He secondarily claimed that he was not given notice prior to the towing and that his orange backpack was lost as a result. OPA initiated this investigation to evaluate the Complainant's retaliation claim. OPA reviewed but did not investigate the Complainant's other allegations as he was not entitled to notice as a matter of law prior to the towing and because the Body Worn Video (BWV) disproved that SPD officers were involved with the loss of his orange backpack.



OPA's investigation indicated that, on September 4, 2019, Named Employee #1 (NE#1) and Named Employee #2 (NE#2) were enforcing parking violations with several Parking Enforcement Officers (PEOs). As part of that law enforcement activity, NE#1 and NE#2 interacted with the Complainant. At the time, the Complainant's RV was illegally parked and was blocking a driveway. There was a large unsecured load on the top of the RV. In addition, the officers determined that the RV's registration had expired 15 years prior. After observing the RV in violation but before contacting the Complainant, the officers learned that the RV belonged to him. They further determined that the Complainant was not a licensed or insured driver. The officers and the PEOs made the collective decision to tow the Complainant's RV. Prior to doing so, NE#1 spoke with the Complainant, who suggested having someone pull the RV forward. However, NE#1 was informed by PEOs that, even were the RV moved, it would still be illegally parked.

The Complainant asked for a supervisor and one was called to the scene. The officers spoke with the supervisor and informed him of what was happening. At one point during the conversation, the officers raised that that media had previously come to that location to interview the Complainant. The supervisor asked a clarifying question about this and the topic of conversation then changed. The Complainant subsequently spoke with the supervisor and was given the opportunity to articulate his concerns. He stated that he was having friends assist him in moving the vehicle; however, he was informed that the tow truck was on its way. The tow truck arrived and then towed the Complainant's RV from the scene.

SPD policy precludes its employees from engaging in retaliation. (SPD Policy 5.001-POL-14.) 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.*)

OPA's investigation yielded insufficient evidence to establish that NE#1 and NE#2 retaliated against the Complainant based on his speaking with the media. To the contrary, the BWV of this incident indicated that the RV was parked illegally and that the officers determined that this was the case prior to conclusively learning that the Complainant was the owner. While NE#1 and NE#2 were clearly aware of the article involving the Complainant, there is no indication that this improperly impacted the law enforcement action that they took. As such, OPA recommends that this allegation be Not Sustained – Unfounded as against both NE#1 and NE#2.

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

Named Employee #2 - Allegations #1

5.001 - Standards and Duties 14. Retaliation is prohibited

For the same reasons as stated above (see Named Employee #1, Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

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



Named Employee #3 - Allegations #1

5.001 - Standards and Duties 14. Retaliation is prohibited

OPA determined that Named Employee #3 (NE#3) arrested the Complainant for an open warrant in July of 2019. Based on OPA's review of the evidence, including the BWV of the arrest, there is no indication that NE#3 acted in an improper manner or that he retaliated against the Complainant. Indeed, this arrest occurred prior to the Complainant speaking with the media. As such, OPA recommends that this allegation be Not Sustained – Unfounded.

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