




## CLOSED CASE SUMMARY

ISSUED DATE: MARCH 21, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0307

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

Allegation(s):		Director's Findings
# 1	6.120 - Impounding Vehicles, 6.120-POL-1 Sworn Employees Consider Alternative to Impound	Not Sustained - Unfounded (Expedited)
# 2	15.260 - Collision Investigations, 15.260-POL-8 Sworn Employees Do Not Recommend Tow Companies	Not Sustained - Unfounded (Expedited)
# 3	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

#### **Named Employee #2**

Allegation(s):		Director's Findings
# 1	6.120 - Impounding Vehicles, 6.120-POL-1 Sworn Employees Consider Alternative to Impound	Not Sustained - Unfounded (Expedited)
# 2	15.260 - Collision Investigations, 15.260-POL-8 Sworn Employees Do Not Recommend Tow Companies	Not Sustained - Unfounded (Expedited)
# 3	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

***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 Named Employee #1 (NE#1) and Named Employee #2 (NE#2) failed to consider an alternative to impounding her car. The Complainant also alleged the named employees engaged in biased policing based on race.

### **ADMINISTRATIVE NOTE:**

This case was designated an Expedited Investigation. That means OPA, with the Office of Inspector General's review and agreement, believed it could reach and issue recommended findings without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

### **SUMMARY OF INVESTIGATION:**

The Complainant submitted an online OPA complaint stating her sixteen-year-old granddaughter (Community Member #1 or CM#1) was involved in a motor vehicle collision. The Complainant alleged the named employees had



the car impounded rather than have CM#1 call her parents. The Complainant wrote the vehicle was not blocking traffic, and she arranged for AAA to tow it, but the company the named employees requested “had already loaded the car onto their truck.” The Complainant wrote she was charged \$200 to unload the vehicle. Finally, the Complainant alleged CM#1 would have received better treatment if she was “blond and blue-eyed.”

OPA opened an intake. During the intake, OPA reviewed the complaint, incident report, and body-worn video (BWV). OPA also interviewed the Complainant.

NE#1 wrote an incident report documenting the collision investigation. That investigation concluded that a vehicle (Unit #1) stopped at a stop sign before entering an intersection. As Unit #1 entered the intersection, CM#1’s vehicle (Unit #2) struck Unit #1. NE#1 documented that both cars were inoperable after the collision. NE#1 determined Unit #1 was at-fault since it had a stop sign and failed to yield the right-of-way to Unit #2. NE#1 issued a Notice of Infraction to Unit #1’s driver.

BWV depicted the relevant portions of the named employees’ investigation. Unit #1 and Unit #2 were heavily damaged from the collision and could not be driven safely. Unit #2’s front driver-side corner was wedged under Unit #1’s chassis just below Unit #1’s driver’s door. Unit #2 had severe front-end damage and was wedged so far under Unit #1 that Unit#1’s driver-side tires were off the ground. BWV showed both vehicles blocked traffic and required a tow truck to remove Unit #2 from under Unit #1. BWV also showed NE#1 requested tow trucks within two minutes of arriving at the scene. About ten minutes later, NE#1 informed CM#1, “I don’t know if you want a specific tow company or anything like that, but you do have insurance, so they should be able to work with you when they get here.” Later, when CM#1 first asked NE#2 whether a company of her choice could tow the car, the tow truck requested by NE#1 had arrived and moved Unit #2.

BWV appeared to show one side of a phone conversation between the tow truck driver and the Complainant, where the tow truck driver explained the vehicle was “already towed.” OPA interviewed the Complainant, who was not present at the accident scene. The Complainant stated Unit #2 was released by the tow truck driver the police ordered and towed by the Complainant’s preferred company. She also noted the AAA tow truck driver told her CM#1’s car was not blocking traffic.

## **ANALYSIS AND CONCLUSIONS:**

### **Named Employee #1 - Allegation #1**

#### ***6.120 - Impounding Vehicles, 6.120-POL-1 Sworn Employees Consider Alternative to Impound***

The Complainant alleged the named employees failed to consider alternatives to impound, such as having her granddaughter’s vehicle privately towed.

The Department has promulgated rules for employees impounding vehicles pursuant to investigations, arrests, recoveries, and parking violations. See SPD Policy 6.120 – Impounding Vehicles. SPD Policy 6.120-POL-1 requires employees to consider alternatives to impound, such as legally parking and securing a vehicle at the scene, releasing a vehicle to its owner, or having a car privately towed at the owner’s expense. See SPD Policy 6.120-POL-1. The requirement to consider alternatives does not require employees to exhaust all other options, nor do employees need to wait an unreasonable amount of time for an alternative to be accomplished. *Id.*



As an initial matter, it does not appear that either involved vehicle was impounded. Notably, Unit #2 was released by the tow truck driver ordered by the named employees to the Complainant's AAA tow truck driver at the scene. Nevertheless, SPD policy requires sworn employees to impound vehicles following collisions if the vehicle is "disabled and unable to be legally parked." SPD Policy 15.260-POL-7. Moreover, Washington State law states, "a law enforcement officer ... may cause a motor vehicle ... to be moved from the roadway." RCW 46.52.020(2)(b). BWV appears to show NE#1 did consider an alternative to arranging a tow, specifically having the vehicle privately towed at the owner's expense. However, CM#1 did not immediately request that alternative, and the named employees were not required to delay towing the vehicle, which was blocking traffic. Also, it does not appear either named employee knew about CM#1's or the Complainant's intention to privately tow Unit #2 until it was hooked to the tow truck they requested.

OPA appreciates the Complainant's frustration with paying to have Unit #2 unhooked. Still, the named employees acted within policy and were not required to ensure CM#1, CM#1's parents, and the Complainant agreed before arranging to tow vehicles that blocked a roadway.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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

**Named Employee #1 - Allegation #2**

***15.260 - Collision Investigations, 15.260-POL-8 Sworn Employees Do Not Recommend Tow Companies***

The Complainant alleged the named employees did not use their preferred tow company.

SPD Policy 15.260-POL-8 forbids employees conducting a collision investigation from recommending a tow company. See SPD Policy 15.260-POL-8. Instead, employees are required to impound vehicles through a radio request to Communications. *Id.*

BWV also showed that NE#1 did not recommend a tow company but complied with policy by requesting "hooks" (a tow truck) through Communications. See SPD Policy 5.260-POL-8. Although that tow company was not the Complainant's preference, NE#1 was unaware of the Complainant's choice until after the tow was affected.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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

**Named Employee #1 - Allegation #3**

***5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing***

The Complainant alleged the named employees would have treated CM#1 better if she was "blond and blue-eyed."

SPD policy prohibits biased policing, which it defines as "the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual." SPD Policy 5.140-POL. That includes different treatments based on the race of the subject. See *id.*



Here, BWV did not suggest CM#1 was treated differently based on race, hair color, or eye color. BWV showed the named employees patiently, kindly engaged both parties to the collision, and requested similar services for everyone involved.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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

**Named Employee #2 - Allegation #1**

***6.120 - Impounding Vehicles, 6.120-POL-1 Sworn Employees Consider Alternative to Impound***

For the reasons at Named Employee #1 - Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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

**Named Employee #2 - Allegation #2**

***15.260 - Collision Investigations, 15.260-POL-8 Sworn Employees Do Not Recommend Tow Companies***

For the reasons at Named Employee #1 - Allegation #2, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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

**Named Employee #2 - Allegation #3**

***5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing***

For the reasons at Named Employee #1 - Allegation #3, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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