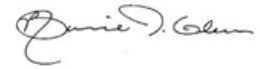

Issued Date: JULY 17, 2024

From: Deputy Director Bonnie Glenn on Behalf Of Director Gino Betts, Jr.
Office of Police Accountability



Case Number: 2024OPA-0061

Allegations of Misconduct & Director's Findings

Named Employee #1

- 1. Allegation #1:** 5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing
Finding: Not Sustained - Unfounded (Expedited)
- 2. Allegation #2:** 5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional
Finding: Not Sustained - Unfounded (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections may be written in the first person.

Executive Summary:

The Complainant alleged Named Employee #1 (NE#1), a parking enforcement officer, was unprofessional and engaged in bias-based policing by towing her mobile home despite the Complainant being homeless.

Administrative Note:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employee. As such, OPA did not interview the named employee involved in this case.

On February 28, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of Investigation:

The Complainant filed complaints through OPA's website and through an SPD supervisor. The Complainant alleged NE#1 engaged in "poor behavior regarding personal bias of homelessness." Specifically, the Complainant alleged NE#1 had her vehicle towed despite the fact her vehicle

was her residence. The Complainant alleged this violated the law according to *City of Seattle v. Long*, 198 Wash.2d 136 (2021) and constituted an unlawful seizure of her property. The Complainant also alleged NE#1 parked her SPD vehicle in front of the Complainant's vehicle to prevent it from being towed by a friend. The Complainant also alleged NE#1 told her she could retrieve items from her vehicle after it was impounded, which was false and caused the Complainant to leave valuable items in the vehicle. Finally, the Complainant alleged when she asked NE#1 to call a supervisor, NE#1 responded that she did not have a supervisor

OPA opened an intake investigation. During the intake, OPA reviewed the OPA complaints, parking enforcement officer's court package, incident report, and body-worn video (BWV). OPA also corresponded with the Complainant by email.

The court package documented that NE#1 impounded the Complainant's vehicle for parking in a prohibited "no parking" zone. Photographs attached to the court package clearly showed the Complainant's vehicle parked in a prohibited area.



"No Parking" sign indicated by green arrow. Complainant's vehicle indicated by orange arrow.

NE#1 also noted that the Complainant's vehicle was parked in the same location longer than seventy-two hours, in violation of the City's 72-hour on-street parking ordinance. Regardless of

whether or not there is any sign posted, the City's Traffic Code does not allow a vehicle to be parked on a City street for longer than 72 hours. See SMC 11.72.440. NE#1 noted the vehicle was cited on January 19, 2024, before it was impounded on January 23, 2024. NE#1 also noted the occupants were told to move the vehicle, and that she gave the occupants more than an hour to attempt to move the vehicle. NE#1 also documented that one of the occupants proceeded to "fall asleep at the front of the wheel," and that an occupant "came out and pretended to point a gun at me and another PEO and shoot us."

An SPD police officer also documented their interactions with the Complainant in a report. That officer responded to the scene because the Complainant was "refusing to exit the RV." The officer's BWV captured NE#1 interacting with the vehicle occupants and stating that she originally "tagged" their vehicle on December 8, 2023, noting "I have given you all the time in the world." NE#1 explained they were not parked in a legal spot. NE#1 allowed the Complainant and other vehicle occupants an opportunity to retrieve their belongings from the vehicle, and BWV captured the vehicle occupants doing so.

OPA was unable to arrange an interview with the Complainant, but was able to correspond with her by email. The Complainant documented the hardship cause by having their vehicle impounded.

Analysis and Conclusions:

Named Employee #1 - Allegation #1

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

The Complainant alleged that NE#1 engaged in bias-based policing due to the Complainant's homelessness.

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. This includes different treatment based on the homelessness of a subject. See *id.* Officers are forbidden from both, (i) making decisions or taking actions influenced by bias, and (ii) expressing any prejudice or derogatory comments concerning personal characteristics. See SPD Policy 5.140 POL-2.

OPA did not observe any evidence to corroborate the Complainant's allegation that NE#1 engaged in bias-based policing. According to the Complainant, she has interacted with NE#1 on numerous occasions and was always permitted to move her vehicle in the past. Moreover, NE#1 gave the Complainant more than three days of warning to move her vehicle. Finally, NE#1 was on scene for nearly two hours working with the Complainant before NE#1 contacted a tow company. OPA observed no other language or actions in NE#1's reports or available BWV that indicated NE#1 was motivated by anything other than enforcing Seattle's Traffic Code, which the Complainant clearly violated.

Relatedly, BWV showed that NE#1's vehicle most likely did not block the Complainant from

having her vehicle towed by a friend. Also, NE#1 permitted the Complainant and other occupants ample time to retrieve valuable personal property from the vehicle and attempted to move the vehicle themselves prior to initiating the tow. BWV also showed that, although the Complainant made a vague reference to a supervisor at some point during the interaction, NE#1 was not near the Complainant at that time.

Finally, the Complainant's allegation that NE#1 violated the holding in *City of Seattle v. Long* is incorrect. In fact, in that case, the Washington Supreme Court explicitly upheld the authority of the City of Seattle and its officers to tow vehicles for violating the 72-hour rule. See *Long*, 198 Wash.2d at 157 ("Furthermore, the officers had authority of law to seize Long's truck. Long violated the city's 72-hour parking ordinance. SMC 11.72.440. He had no right to park on a public right of way.").

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

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

Named Employee #1 - Allegation #2

5.001 - Standards and Duties, 5.001-POL 10. Employees Will Strive to be Professional

The Complainant alleged that NE#1 engaged in unprofessional behavior such as preventing their vehicle from being towed and making misleading statements about being able to retrieve their property from impound and not having a supervisor.

SPD Policy 5.001-POL-10 requires that SPD employees "strive to be professional." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers" whether on or off duty. SPD Policy 5.001-POL-10.

For the same reasons articulated above at Named Employee #1, Allegation #1, OPA finds NE#1 did not engage in any unprofessional behavior. Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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