



## **CLOSED CASE SUMMARY**

ISSUED DATE:     SEPTEMBER 4, 2019

CASE NUMBER:     2019OPA-0200

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

**Named Employee #1**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Inconclusive)
# 2	5.001 - Standards and Duties 6. Employees May Use Discretion	Not Sustained (Inconclusive)

***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 Employee was unprofessional towards her and that the Named Employee abused his discretion when he cited her vehicle.

#### **ANALYSIS AND CONCLUSIONS:**

##### **Named Employee #1 - Allegations #1**

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

The Complainant stated that she parked in front of a donut shop where she was picking up her daughter. She said that she had been stopped for only 30 seconds when she was approached by a Parking Enforcement Officer (PEO), Named Employee #1 (NE#1). The Complainant contended that NE#1 told her that she was in a “pay to park zone.” The Complainant explained that because she was in the spot for such a short time prior to being contacted by NE#1 that she would not have even had the chance to pay for parking. The Complainant stated that NE#1 stood in front of her vehicle, blocking her daughter from entering it. The Complainant recounted that NE#1 was intimidating and aggressive. She stated that NE#1 told her that he was issuing her a citation while she was driving away. She did not know what that citation was for and believed that it was inappropriately issued.

Given that NE is a PEO, he is not equipped with Body Worn Video or In-Car Video. OPA found no other third-party video of this incident.

As part of its investigation, OPA interviewed NE#1. He stated that, on the date in question, he was enforcing the “pay to park zone.” NE#1 said that there were a number of vehicles lined up in the zone, including the vehicle belonging to the Complainant. NE#1 recounted that he cited several vehicles on that day, including the Complainant’s. NE#1 told OPA that, as a general matter, where a vehicle is occupied, he will speak with the driver and provide “education” concerning the parking zone. He indicated that this usually results in the driver moving their vehicle or paying to park. NE#1 stated that, at the time he approached the Complainant’s vehicle, she had been parked in the “pay to park zone” for several minutes.



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NE#1 recalled that, when he approached the Complainant's vehicle, he knocked on the window. When the Complainant rolled the window down, he asked her if she was aware that she was situated in a "pay to park zone." He stated that the Complainant told him that she did not have payment and that she was just waiting for her daughter. NE#1 told OPA that, at this point, the Complainant rolled up her window and looked away from NE#1, thus ending their interaction. NE#1 stated that he moved to the back-right quarter panel of the Complainant's vehicle and began issuing her a citation. NE#1 indicated that he did not see the Complainant's daughter until she was getting into the vehicle and he told OPA that he did not think that he blocked the daughter's access to the vehicle at any point. NE#1 denied that he was rude or intimidating during this incident. He further did not believe that he engaged in any unprofessional behavior towards the Complainant.

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.*) Lastly, the policy instructs Department employees to "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." (*Id.*) As indicated in SPD Policy 5.001-POL-6, "[e]mployees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the department and duties of their office and assignment." This policy further states that "[t]he scope of discretion is proportional to the severity of the crime or public safety issue being addressed." (SPD Policy 5.001-POL-6.)

NE#1 and the Complainant provided disparate accounts of what occurred during this incident. The Complainant alleged that NE#1 was intimidating, unprofessional, and inappropriately ticketed her as she was only stopped in the "pay to park zone" for seconds. NE#1 asserted that he acted professionally, that the Complainant's vehicle was illegally parked for several minutes, if not longer, and that, when he tried to speak with the Complainant, she rolled up her window, dismissed him, and drove away.

If the Complainant's account were supported by the weight of the evidence, I would likely find that NE#1's conduct was unprofessional and that he abused his discretion when he cited the Complainant's vehicle. However, if NE#1's version of events was accurate, I would likely find that he acted consistent with policy. Ultimately, given the disputes of fact between the parties' descriptions of the incident and given the lack of video evidence that could verify what actually occurred, I cannot conclusively determine whether NE#1 acted contrary to policy during this incident. As such, I recommend that this allegation be Not Sustained – Inconclusive.

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

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

***5.001 - Standards and Duties 6. Employees May Use Discretion***

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

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