



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 18, 2017

CASE NUMBER: 2017OPA-0309

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Sustained
# 2	5.001 - Standards and Duties 12. Employees Shall Not Use Their Position or Authority for Personal Gain	Sustained
# 3	5.001 - Standards and Duties 13. Retaliation is prohibited	Not Sustained (Inconclusive)
# 4	12.110 - Use of Department E-mail & Internet Systems 2. The Department Allows Limited Personal Use of Email and Internet	Not Sustained (Training Referral)
# 5	12.110 - Use of Department E-mail & Internet Systems 4. All Email and Internet Communications Must Be Professional, Appropriate, and Lawful	Sustained

Imposed Discipline

10 Day Suspension

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:

OPA alleges that Named Employee #1 (NE#1) may have use his position for personal gain and engaged in behavior that reflects negatively on the Seattle Police Department (SPD) by parking his personal car repeatedly (30-40 tickets over a five-year period) in a three-minute load and unload zone in the Pike Place Market with his SPD business card displayed in the dash. Additionally, it appears that NE#1 may have violated SPD Policy against retaliation and professionalism by: discussing with Parking Enforcement Officers (PEO) about not having his car towed; and sending an email to PEOs regarding their lawful ticketing of other vehicles in the area.

STATEMENT OF FACTS:

This investigation arose in a peculiar fashion. On March 24, 2017, NE#1 sent an email to the OPA Captain detailing a complaint he had concerning the towing of his vehicle by a Seattle PEO. (See NE#1 Email to OPA.) In that email, NE#1 admitted that he was a “chronic violator” of one specific three-minute zone. (Id.) NE#1 indicated that he received tickets frequently, even though he left his SPD business card on the front dash of his car, but that this indicated to him that the PEOs were “doing their job very efficiently knowing full well [NE#1] is a chronic violator.” (Id.) NE#1 stated that he would continue this parking practice, and claimed that “given there is no parking I will continue to take the risk occasionally.” (Id.) NE#1’s particular complaint was that he was towed, which had never happened to him in the more than five years that he lived in that area and did not happen to the other individuals that chronically abused the three-minute zone restrictions. (Id.) NE#1 appeared to believe that he was specifically being targeted by PEOs. (Id.)



NE#1 further intimated his belief that he may have been flagged for towing by a PEO supervisor. (*Id.*) Notably, there is no evidence in the record suggesting the NE#1 was targeted by PEOs or a PEO supervisor, or that the towing of his vehicle was based on anything other than the fact that it was illegally parked. NE#1 did not set forth any such evidence in either his OPA interview or his emails to the OPA Captain, and his allegations were based predominantly on conjecture.

As a result of this email, OPA initiated an investigation into NE#1's admitted chronic illegal parking and his practice of leaving his business card on his front dash, which, OPA believed, could constitute an abuse of authority and use of NE#1's position for his own personal gain. In its investigation, OPA interviewed a number of PEOs, including supervisors, civilians who worked in the area, and NE#1, himself. OPA further obtained a number of emails authored by NE#1 and sent to PEOs, as well as emails sent by NE#1 from his SPD email that sought a multitude of goods and services unrelated to his employment at the Department. Lastly, OPA obtained information concerning NE#1's ongoing parking infractions. These interviews, emails, and evidence of the scope of NE#1's conduct, demonstrated a concerning pattern of NE#1 using his status as a police officer to seek and obtain preferential treatment not available to a civilian.

While these are the general facts surrounding this case, a more detailed accounting of the facts and OPA's investigation in the allegations is set forth in the OPA Case Summary.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times

SPD Policy 5.001-POL-9 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-9.)

The gravamen of the allegations against NE#1 is that he used his position of authority as an employee of SPD in a manner that undermined the public's trust. NE#1 is alleged to have done so in a number of respects, including by: repeatedly and consistently parking in an illegal spot; using his status as an officer to avoid being ticketed or towed; sending emails to PEOs in a manner that could be construed as attempting to seek preferential treatment; and using his Department email to seek goods and services in his personal capacity.

NE#1 admitted to repeatedly parking illegally in a three-minute zone near his residence. As explained more fully below, NE#1 did so based on his belief that it was cheaper to receive tickets for the violation than to pay for a legal parking space. NE#1 further admitted to repeatedly leaving his business card on the front dash of his vehicle (*see* NE#1 OPA Interview, at p. 26), which was apparently purposed to inform people, whether PEOs or civilians, that the car was associated with a police officer.

OPA interviewed a number of PEOs who had knowledge of NE#1's parking habits. PEO #1 stated that he observed NE#1's car parked illegally and made the decision to cite and then impound the vehicle. (PEO #1 OPA Interview, at p. 2.) The PEO stated that he observed a card on the front dash that referred to "Paul Unit" (the nomenclature for PEOs) and an envelope addressed to an SPD sergeant. (*Id.*; *see also* NE#1 Email to PEO #1.) PEO #1 thought that the



vehicle could have an SPD connection, but did not know definitively. (PEO #1 OPA Interview, at pp. 2-3.) He stated that had there been a clear connection, he might have taken different action. (*Id.* at p. 4.) After the towing, NE#1 sent PEO #1 an email identifying his vehicle by make and color, noting his parking practices, and indicating that, while he had received a number of tickets, he had never been towed from that location. (*See* NE#1 Email to PEO #1.)

PEO #2 stated to OPA that she received an email from NE#1 after writing him a ticket. (PEO #2 OPA Interview, at p. 3.) In that email, NE#1 said something along the lines of: "I noticed that you've been writing a lot of tickets in the market." (*Id.* at p. 4.) While the email did not explicitly warn against the writing of tickets, PEO #2 interpreted the email as potentially implying that she should not write tickets to that vehicle and she forwarded the email to her supervisor. (*Id.*) PEO #2 stated that she had never received an email like that from someone in the Department in her entire career. (*Id.* at p. 7.) Prior to receiving that email, she had written NE#1 five tickets. (*Id.* at pp. 5-6.) After the email, she stated that she did not write NE#1 any more tickets. (*Id.*) I note that PEO #2 stated that she did not recall observing NE#1's vehicle in violation after the email was sent and she began writing tickets in other locations. (*Id.*)

In her interview with OPA, PEO #3 indicated that after ticketing NE#1 she received an email from him discussing the ticket. (PEO #3 OPA Interview, at p. 2.) PEO #3 interpreted that email as conveying that the vehicle belonged to an SPD employee and that she should not cite it again. (*Id.* at p. 3.) The PEO recalled that at the time she cited the vehicle, a civilian, who worked at the nearby hotel, came over to speak with her. (*Id.*) The civilian indicated that the vehicle belonged to an "officer." (*Id.*) When asked how he knew that, the civilian stated that the vehicle is known to park there, is known to belong to an officer, and that this officer often "chase[d] people out of that particular parking space, telling [people] they're not allowed to park there." (*Id.*) PEO #3 flagged this issue for a supervisor. (*Id.*) The PEO stated that, after she received NE#1's email, she again saw his car parked illegally but did not cite it. Instead, she left a "courtesy notice" requesting that NE#1 no longer park there. (*Id.* at p. 5.) She explained that she was concerned that NE#1's complaints against her could influence other officers to feel negatively towards PEOs. (*Id.* at p. 6.) She also stated that NE#1's behavior put her in an uncomfortable situation. (*Id.* at p. 8.)

PEO #4 echoed the statements made by the other PEOs and added other important details. She stated that, around September 2016, she was approached by an individual who she later learned to be NE#1. (PEO #4 OPA Interview, at pp. 2-3.) She recounted that NE#1 stated that he parked his vehicle near Pike Place Market and mentioned that the PEOs in that area were "quick." (*Id.* at p. 3.) I note that NE#1 denied ever speaking to PEOs in person (NE#1 OPA Interview, at p. 30), which appears to be contradicted by PEO #4's statements. A few weeks later, she spotted the car, which had a note in it that again referenced how "quick" Paul Unit was. (PEO #4 OPA Interview, at p. 4.) At some point later, the PEO received an email from NE#1 that thanked her for not impounding his vehicle. (*Id.* at p. 5.) PEO #4 interpreted that email, however, as intimating the contrary. (*Id.*) In her opinion, NE#1 was sending the PEOs a message that he should not be ticketed. (*See id.* at p. 11.) After PEO #4 cited the vehicle again, she received another similar email. (*Id.* at pp. 5-6.) She forwarded the emails to supervisors. (*Id.* at pp. 6-7.) She reported that the emails made her nervous. (*Id.* at p. 7.) This stemmed from the fact that other PEOs had received similar emails, and based on her concern that her daughter, who was then applying to SPD (and who shared the same last name), could be negatively impacted due to NE#1's specific assignment at the Department. (*See id.* at pp. 7-8.) Importantly, PEO #4 stated that NE#1's conduct intimidated her. (*Id.* at p. 12.)

OPA identified at least five emails sent by NE#1 to PEOs. At his OPA interview, however, NE#1 stated that he had only sent two over five years. (NE#1 OPA Interview, at pp. 19-20.) The emails were very similar and usually:



identified the make, model and color of his vehicle; noted that he frequently parked in an illegal zone; and referenced how quickly he received tickets from Paul Unit. (See, e.g., NE#1 email to PEOs #4 and PEO #5; NE#1 email to PEO #4; NE#1 email to PEO #3.) In a number of the emails, he thanked the PEOs for not towing his vehicle. (See, e.g., NE#1 email to PEO #4; NE#1 email to PEO #3.) All of these emails were sent from NE#1's Department email address and had his name, rank and assignment in the signature block at the bottom.

Interviews of civilians employed by businesses in the vicinity of the three-minute zone indicated that they were all aware that NE#1's car was repeatedly illegally parked and that the vehicle likely belonged to a police officer. NE#1 stated that he often exited and entered his vehicle while in uniform (NE#1 OPA Interview, at p. 10), which supports the likelihood that civilians who worked in the neighborhood knew that the vehicle belonged to an officer. In fact, NE#1 admitted that he was widely known throughout the neighborhood as working for SPD. (*Id.* at pp. 11-14.) For example, at his OPA interview, NE#1 relayed an anecdote in which his barber, who worked in the neighborhood, approached a PEO who was about to ticket NE#1's car and stated: "you know it's owned by a police officer?" (*Id.* at p. 14.) The interviewed civilians stated that they viewed NE#1 parking in that spot continuously, sometimes with a note/card on the front dash. One individual asserted his belief that, even though NE#1 received tickets, "he gets the tickets like disqualified or written off or something just because he's associated with somebody who can do that." (Nathaniel Rankin OPA Interview; see also David Watkins OPA Interview.)

From these interviews, and from the undisputed evidence of the scope of NE#1's behavior, it is clear that his conduct violated SPD policy. NE#1 purposefully and continuously violated Seattle parking regulations over a five-year period. (NE#1 email to OPA Captain.) Indeed, during his OPA interview, it appeared that NE#1 was still actively parking in the illegal spot. (NE#1 OPA Interview, at p. 8.)

It is further clear that, to both to the PEOs enforcing parking regulations and the civilians who witnessed NE#1's parking proclivities, that NE#1 acted in a manner that led them to believe that he expected or actually received preferential treatment based on his employment status. I find this to be supported by NE#1's emails, which, while carefully worded, were clearly purposed to educate the PEOs as to the fact that he parked in that location and to reduce the possibility that his car was ticketed or towed.

It's troubling that an officer who has taken an oath to uphold the laws of the City of Seattle, including traffic and parking regulations, would so openly and repeatedly flaunt them. As NE#1 describes it, he has no choice other than to repeatedly violate City parking regulations. However, he has a multitude of choices, including walking to work or taking the bus. Indeed, hundreds of thousands of Seattleites make that same choice every day with no angst. This includes civilians who, like NE#1, work at night (and potentially also during the day) several times a week. What it comes down to is that NE#1 believes that he, as a police officer, should receive special treatment that no one else receives in the entire City. This type of mindset and behavior is what drives a wedge between the Department and the communities it serves. We are all equal under the law and are all beholden to the same laws, whether they be criminal, traffic or otherwise.

Here, I find that NE#1's conduct undermined public trust in the Department. As such, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**



Named Employee #1 - Allegation #2

5.001 - Standards and Duties 12. Employees Shall Not Use Their Position or Authority for Personal Gain

SPD employees are prohibited from using their position or authority for personal gain. (SPD Policy 5.001-POL-12.)

During his OPA interview, NE#1 laid out the simple math for why he repeatedly parks illegally. He stated that were he to secure legal parking in the vicinity of SPD Headquarters (where he works) and the Pike Place Market area (where he resides), it would cost him between \$8,000 to \$9,000 per year. (*Id.* at pp. 22, 24.) By taking the risk that he will receive a ticket, which does not always occur, NE#1 acknowledged that he saves money, thus providing him with quantifiable personal gain. (*See id.* at p. 24.) The fact that an SPD employee repeatedly violates traffic infractions is concerning in and of itself, but this is further exacerbated by the fact that NE#1 sent emails to PEOs that were purposed to reduce the amount of tickets he received and the frequency with which his vehicle would be towed. NE#1's motive, even if not stated explicitly, is clear – if PEOs are aware that the vehicle belongs to an officer they will be less likely to ticket or tow it, which will, in turn, result in increased financial benefits to NE#1.

NE#1 also admitted to conducting a personal investigation into why his vehicle repeatedly had milk spilled on it from a Beecher's truck that would park in the same location, often in front of his vehicle. (*Id.* at p. 12.) In conducting the investigation into his suspicions, NE#1 contacted business owners and the truck owner to determine whether the spill was purposeful or whether the truck had a faulty seal. (*Id.*) During this investigation, which NE#1 knew was completely unrelated to his official duties, NE#1 stated that he believed that those he interacted with knew that he was a police officer. (*Id.* at p. 13.) As such, it is another example of NE#1 utilizing his employment status to obtain a personal benefit.

NE#1's documented and undisputed behavior is concerning, both in that it represents a clear violation of policy and a disregard for the law. Even more concerning is NE#1's apparent failure to recognize the inappropriateness of his actions, as exemplified by the fact that he is still admittedly continuing to engage in this course of conduct.

For these reasons, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #3

5.001 - Standards and Duties 13. Retaliation is prohibited

SPD policy precludes its employees from engaging in retaliation. (SPD Policy 5.001-POL-13.) 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.*)

As indicated above, NE#1 repeatedly sent emails to PEOs that ticketed him, as well as to their supervisors. The emails were carefully worded: identifying the vehicle and the fact that it belonged to NE#1; complimenting the PEOs on how fast they were in giving him a ticket; and thanking them for not towing his vehicle. All emails were sent from NE#1's SPD email address and had his signature, including his title and duties, at the bottom.



While NE#1 repeatedly attempted to discourage PEOs from doing their lawful job duties, his focus appeared to be on obtaining preferential treatment due to his status as a police officer and the attendant personal gain from not receiving tickets or being towed. Therefore, his misconduct falls more squarely within the other policies referenced herein. I find the question of whether he “retaliated” against the PEOs, as the term is contemplated by the policy, to be inconclusive.

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

Named Employee #1 - Allegation #4

12.110 - Use of Department E-mail & Internet Systems 2. The Department Allows Limited Personal Use of Email and Internet

SPD policy allows the limited personal use of internet and email. (SPD Policy 12.110-POL-2.) However, such use is permissible only to the extent that “it follows the policies and usage standards set by the Department and the City.” (*Id.*)

OPA’s investigation showed that NE#1 used his Department email address for a host of personal matters. (*See* NE#1 emails.) These included communicating with attorneys retained for personal matters and with banks concerning lines of credit. (*See id.*) It also appeared that NE#1 used his Department email address to sign up for scores of e-commerce sites, to pay utilities, and to conduct electronic banking. (*See id.*)

A number of emails, both work related and not, contained profanities (including fuck, bullshit and shit). In one email, NE#1’s brother appeared to caution him against using his Department email for personal reasons. (*See* NE#1 email to brother.) In response, NE#1 replied that “I use the SPD e-mail because I never put anything into it that the department cares about – they can monitor all they want.” (*Id.*) NE#1 misses the point. Even disregarding the content of the messages, SPD email is to be used for Department, not personal, reasons. (*Id.*) Here, NE#1 engaged (and presumably continues to engage) in widespread use of his email for non-official reasons. While an occasional personal email is allowed and permitted by the Department, such frequent usage of SPD email is certainly outside of the Department’s expectations.

As explained more fully below, this use was certainly inappropriate; however, OPA could not conclusively determine whether or not it was excessive and thus violated this section of the policy.

I note, however, that the available evidence raises the question of whether this personal email and related internet usage may have all been engaged in during on-duty time. This raises other very serious concerns that should be addressed by NE#1’s chain of command.

For these reasons, I recommend that this allegation be Not Sustained – Training Referral.

Recommended Training: NE#1 should receive counseling and training from his chain of command concerning the appropriate limited use of personal email and internet and the Department’s expectations in this area.

Recommended Finding: **Not Sustained (Training Referral)**



Named Employee #1 - Allegation #5

12.110 - Use of Department E-mail & Internet Systems 4. All Email and Internet Communications Must Be Professional, Appropriate, and Lawful

SPD employees must ensure that their email communications and internet usage are professional, appropriate and lawful. (SPD Policy 12.110-POL-4.) All such usage must be consistent with Department policies. (*Id.*)

Based on my review of the evidence, NE#1's emails were unprofessional and inappropriate.

With regard to the emails sent to the PEOs, from my review of the content of the emails and the interviews of the PEOs, I find that these emails were purposed to obtain preferential treatment based on NE#1's status as an SPD employee. I further find that not only were these emails clearly improper, but they were purposed to discourage the PEOs from enforcing the traffic laws. That the emails ultimately did not change the PEO's actual practice of doing so is of no import. Indeed, the PEOs should be credited for continuing to enforce the law. While, as explained above, I am unable to conclusively find that NE#1's emails were "retaliatory" as contemplated by the policy, I have no such problem finding that these emails constituted a grave abuse of his authority and lack of judgment.

I further find that NE#1's continuous use of his Department email address for non-official business to have been improper. He used his SPD email to engage in discussions with his personal attorneys, including concerning fee arrangements and payments. NE#1 additionally used his SPD email to seek loans and lines of credit. Viewed through the lens of his conduct towards the PEOs, these emails can be construed as again seeking preferential treatment, including substantial loans, based on his status as a police officer. This pattern of behavior is unacceptable.

Lastly, NE#1 used profanities in emails sent in both his personal and professional capacities. These communications were also unprofessional and inappropriate and would have been sufficient, standing alone, to constitute a policy violation.

As such, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**