



## ***CLOSED CASE SUMMARY***

ISSUED DATE: OCTOBER 10, 2020

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0254

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

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties: 6. Employees May Use Discretion	Not Sustained (Lawful and Proper)

***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 improperly ticketed his vehicle.

### **SUMMARY OF INVESTIGATION:**

The Complainant filed this complaint with OPA in which he alleged that Named Employee #1 (NE#1), a Parking Enforcement Officer (PEO), improperly ticketed his vehicle. He said that the citation indicated that his vehicle, a silver Volvo, was parked against the flow of traffic in violation of SMC 11.70.040. While he recognized that his vehicle was parked in this manner, he said that a number of other vehicles were also parked in a similar fashion but did not receive tickets. He noted that people in Seattle regularly parked like this and he provided photographs to OPA as examples. He also gave OPA a photograph of how his vehicle was situated at the time of the incident. The Complainant stated that, given this, the ticketing of his vehicle was improper and constituted an abuse of NE#1's discretion. The Complainant noted his belief that, given the ongoing COVID pandemic, this parking ordinance should not have been enforced. He told OPA that he had never received a ticket before this incident. Lastly, he stated that he contemporaneously called the non-emergency 911 line to express his concern with the ticket.

During its investigation, OPA reviewed the evidence and information provided by the Complainant. OPA further obtained the court packet concerning the citation issued to the Complainant.

With regard to the photographs provided by the Complainant, the photograph of his vehicle indicated that it was parked against the flow of traffic and did not show any similarly situated vehicles. While the other photographs did appear to show vehicles also parked against the flow of traffic, they appeared to be taken in other locations and did not capture the date in question. As such, the Complainant did not present any evidence establishing that his car was not the only improperly parked car at the time it was cited. In addition, OPA spoke with a PEO supervisor and verified that SMC 11.70.040 was not suspended at the time of the incident and, accordingly, the citation was validly issued. OPA further determined that, contrary to the Complainant's assertions, he had received parking citations prior to this incident – 14 of them. OPA lastly determined that there was no evidence that the Complainant called



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the non-emergency 911 line on the date in question and that the only call placed by the Complainant occurred two days prior.

Included in the court packet were three photographs of the Complainant's vehicle at the time of the citation. All three photographs conclusively established not just that the Complainant's vehicle was parked improperly but also that there were no other vehicles that were also parked against the flow of traffic at the time.

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

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

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.)

When evaluating the totality of the evidence, OPA concludes that NE#1 properly exercised his discretion when he cited the Complainant's vehicle. Most notably, the photographs included in the court packet conclusively established that the Complainant's vehicle was improperly parked and that no other vehicles were so parked at the time. Neither the Complainant's frustration with the issuance of the citation or the ongoing COVID pandemic changes this determination. Moreover, this conclusion does not change simply because other vehicles have not been cited under this ordinance in the Complainant's neighborhood or in other locations or even if Seattle drivers regularly park in this fashion. The law is the law and NE#1 was permitted to enforce it accordingly.

As such, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**