



## ***CLOSED CASE SUMMARY***

ISSUED DATE: AUGUST 6, 2021

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0078

### **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 (Inconclusive) |
| # 2            | 5.001 – Standards and Duties 10. Employees Shall Strive to be Professional | 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 abused her discretion when citing the Complainant, as well as that the Named Employee was unprofessional during their interaction.

### **SUMMARY OF INVESTIGATION:**

The Complainant alleged that she stopped her vehicle on the side of the road because it was not operational. She stated that she was waiting for someone to meet her when Named Employee #1 (NE#1), a Parking Enforcement Officer (PEO), approached her vehicle and told her that she needed to move. The Complainant said that she informed NE#1 that she could not do so because her vehicle had broken down. The Complainant stated that, in response, NE#1 said that she did not care about the Complainant's explanation and threw a citation through the Complainant's open window. NE#1 did not say anything else and walked away. The Complainant told OPA that she could not afford to pay the citation and was challenging it in court.

As part of its investigation, OPA reviewed the citation packet. A photograph associated with the citation confirmed that the Complainant's vehicle was stopped in an improper location and that the citation was for SMC 11.72.030 – no parking on or over a sidewalk. OPA verified that, at the time of this investigation, this citation was still pending. The Complainant had two other open citations.

There was no video of the issuance of the citation and the interaction between NE#1 and the Complainant as PEOs are not equipped with either In-Car Video or Body Worn Video. In addition, there was no indication that third-party video was recorded that captured what occurred.

Lastly, OPA interviewed NE#1. She said that she observed the Complainant's vehicle illegally parked. She wrote the citation and walked to the front of the vehicle with the intention of placing the citation on the windshield. She then saw that the vehicle was occupied by the Complainant. NE#1 told OPA that she explained to the Complainant that her



vehicle was blocking the sidewalk and asked her to move it. However, the Complainant just stared at her. She again asked the Complainant to move her vehicle and the Complainant then said that she did not have keys. At that point, NE#1 handed the Complainant the citation and walked away. NE#1 denied that she threw the ticket at the Complainant. NE#1 also denied that she was unprofessional towards the Complainant and that she told the Complainant that she did not care.

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

##### **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.)

This allegation was added given the Complainant’s assertion that she was cited by NE#1 even though she told NE#1 that her vehicle was not operational. If true, this would likely constitute an abuse of discretion on NE#1’s behalf.

For her part, NE#1 denied that the Complainant ever said that her vehicle was non-operational. To the contrary, NE#1 told OPA that the Complainant never provided her any explanation except that she did not have keys. NE#1 noted that, at the time, the Complainant was stopped blocking the sidewalk. People could not get by and that was something she felt that she needed to enforce. She also noted that this was a parking offense for which she could have impounded the Complainant’s vehicle, and she did not do so.

The photograph attached to the citation indicated that the Complainant was illegally parked at the time. However, given the absence of video or any non-interested witnesses to this incident, OPA cannot confirm whether or not the Subject told NE#1 that her vehicle was non-operational. If she did, it would have been an abuse of discretion to cite her. If she did not, the citation was valid.

Due to the dispute of fact between the parties and the lack of other evidence, OPA recommends that this allegation be Not Sustained – Inconclusive.

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

##### **Named Employee #1 – Allegation #2**

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

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.)

As discussed above, the Complainant and NE#1 relay two disparate accounts of this incident. With regard to NE#1’s purported unprofessionalism, the Complainant alleged that NE#1 told her that she did not care about her vehicle being non-operational and threw the citation at her. NE#1 denied both of these claims.



---

Again, there is no video capturing what occurred and no independent witnesses to this interaction. Accordingly, OPA cannot reach a definitive conclusion concerning this incident and recommends that this allegation be Not Sustained – Inconclusive.

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