

City of Davis

Independent Police Auditor Report:

Allegation that DPD Made Complainant Start and Move a Vehicle and Threatened Citation if He Did Not Comply

January 2024

Independent Police Auditor
Michael Gennaco





323-821-0586
7142 Trask Avenue | Playa del Rey, CA 90293
OIRGroup.com

Factual Background

The complainant alleged in an email that a DPD employee was discourteous when he was contacted at the complainant's residence. The complainant wrote that the employee had contacted him and advised him that he needed to move his vehicle, which had been reported abandoned, or it could be towed. The complainant wrote that he felt that his rights were being violated because he was required to move his vehicle.

DPD Investigation and Outcome

DPD opened a formal investigation into the allegations.

As part of the investigation, DPD collected all relevant reports and documentation and reached out to the complainant who had initiated the process through an email. In reply, the complainant advised that he had nothing further to add and was only available by email.

The DPD reviewer of the investigation first noted that Davis Municipal Code provides that if a vehicle is parked or left standing for more than 120 hours, any member of the police department may remove such vehicle from the street. However, the reviewer noted that the practice is that when DPD receives a complaint about an abandoned vehicle, an employee is expected to try to contact the owner and ask them to move the vehicle to avoid having the vehicle towed at the owner's expense.

As part of the investigation, the employee who was the subject of the complaint was interviewed. During that interview, the employee stated that he had received an official complaint regarding the complainant's vehicle. The employee then located and contacted the owner of the vehicle who informed him that her son used the vehicle. The employee said he contacted the son, advised him of the complaint, explained the process, and that if the vehicle could be shown to be operable in his presence, he could close out the case and take no further action. The employee further said that he advised the complainant that if he did not want to move the vehicle, he could begin the towing process. The employee said that eventually, the complainant moved the vehicle, and the matter was closed.

DPD determined that the employee's request to have the complainant move his vehicle to prevent it from being denoted as abandoned was appropriate and a courtesy to the complainant. DPD determined that the reported behavior or actions to not constitute a violation of policy.

IPA Review and Analysis

IPA concurs with the disposition reached by DPD. The complainant was not required to move his vehicle and there is insufficient evidence to find that the employee was rude or unprofessional with the complainant.

There was one investigative issue, however, worthy of discussion. When the employee was interviewed by the investigator, there was an attempt to record the interview, in fact, there was not a successful recording made. Obviously, equipment malfunctions or human error can and sometimes do occur. However, when there are issues regarding a failed effort at recording an interview, the investigative report should so advise. Here, there was no such indication in the report; instead, the report indicated that there was a recording of the interview. On a forward going basis, DPD personnel entrusted with such investigations should be advised on how to document any failed efforts at recording interviews.

RECOMMENDATION: DPD investigative personnel should be advised that when efforts to record an interview are unsuccessful, that circumstance and any details explaining the failure should be included in the investigative report.