



July 2, 2013

Final Investigative Report: Ombudsman Complaint #2013-0014

COMPLAINT

An Anchorage citizen called the Ombudsman's office stating she had run out of gas by the highway and when she returned her car was being towed. When she went to the tow yard to collect her vehicle, she was upset by the cost. She also complained that when she requested to speak to an APD Impound Supervisor one was not available and did not return her call.

FINDINGS

The complaint that constituent was not able to address her concerns with a Supervisor is **NOT SUPPORTED**. Constituent's complaint that the tow fees assessed to her vehicle were excessive is **JUSTIFIED**.

ANALYSIS AND CONCLUSIONS

On January 22, 2013, a citizen ran out of gas on Elmore Road between Dowling and E. 64th. She waited with her child for her boyfriend to bring gasoline, but by the time he arrived the car battery had died. Because she and the child were cold from waiting in the car, they went with the boyfriend to get a battery charger. When they returned the car was being towed, despite her presence there with gas and a battery charger. When she went to collect her vehicle, she was told the fees were \$476.00, including a \$25 gate fee, and a \$250 Administrative fee. She alleged she was unable to reach an APD Impound supervisor by phone, when she went to the APD offices she was told there was not an Impound supervisor available to speak with her, and she did not receive a call back.

The constituent contacted the Ombudsman's office on January 30, 2013 requesting help in contacting a supervisor with whom she could speak regarding what she felt were excessive fees.

Complaint #1. Constituent's claim that she was denied access to an Impound Supervisor.

The Associate Ombudsman referred the constituent to the APD Impound Supervisor and she was encouraged to call the supervisor with her questions. Follow-up with the constituent confirmed that she had spoken with the Impound Supervisor. The Supervisor also assisted the complainant in gaining access to her vehicle and retrieving her personal items when she determined that the cost to retrieve her vehicle was more than she could afford and she would have to forfeit her vehicle. **Because the Complainant was given access to and assisted by the Impound Supervisor, her complaint that she was denied access to a Supervisor is NOT SUPPORTED.**

Complaint #2. Constituent's claim that the impound fees were unreasonable.

On January 30, 2013 the Associate Ombudsman contacted APD Impound regarding the fees that the constituent said she had been quoted for retrieval of her vehicle. The Associate Ombudsman was informed that because tow companies were called on a rotating basis, fees ranged from \$300 - \$800

depending on which tow company was utilized. However, further investigation by the Associate Ombudsman determined that for “Safekeep” tows, fees are regulated by the APD Rotational Tow Contract and should be uniform. (A “Safekeep” tow is a tow initiated by APD due to the potential for a roadside hazard, such as a car broken down on a busy roadside.) A conversation with the tow business owner revealed that itemized statements were not available to car owners prior to payment for the retrieval of their cars, because their “system is unable to produce one prior to payment.”

An assessment of rates from the APD Rotational Impound Tow Program determined that when the constituent originally called the Ombudsman’s office her tow fees would have been \$326.50. Alaska Statute 28.10.502 does not allow for an Administrative fee, restricting tow liens to “towing and storage charges and associated mailing fees”. Unfortunately, after indicating to the Associate Ombudsman that she was going to have to forfeit her vehicle due to the amount of the impound fees, contact was lost with this constituent. Multiple calls were greeted with a busy signal. Communication with the Impound Supervisor indicates that this caller was originally quoted a fee that included a \$250 administrative fee, although the fee was removed at her direction. The question remains whether or not if this constituent had been quoted the correct fee originally, would she still have suffered the loss of her vehicle due to running out of gas? If the APD Program fees had been accessible to the constituent and/or had she been provided an itemized billing of the charges for her vehicle, the validity of her complaint could have been more quickly and easily assessed.

AMC 9.54.030 requires that each towing operator “shall maintain a published itemized list of all fees it charges for towing services” and that the list shall be “on file with the municipal clerk”. It goes on to say that all fees shall be reasonable. However, the APD rotational fee schedule is not published online with other tow company fees. These fees are significantly lower than the general user fees posted by most of the local tow companies. The Ombudsman finds that this lack of transparency can significantly impair constituents’ ability to inform themselves of the potential cost of their tow pursuant to the Rotational Tow Program.

AMC 9.54.050C requires tow operators to provide the owner of a car an invoice including “an itemized list of fees owed” when the owner comes to claim their car. Inclusion of the word “owed” in contrast to “paid” or “charged” indicates the list should be provided prior to payment. It is reasonable that a list of charges be available to the constituent prior to payment so that necessary arrangements can be made to make payment.

Because the original fee quoted to this constituent contained an unlawful administrative fee of \$250, the Ombudsman finds the complaint that the Impound fees for constituent’s car were excessive to be *JUSTIFIED*.

It should be noted that the Associate Ombudsman and the Assembly Counsel suggest that the unlawful charge of excessive and unreasonable fees should allow for the constituent to reclaim her vehicle for the corrected amount of the original tow fee. However, contact has been lost with the constituent, and the vehicle was auctioned off on 4/13/13. Therefore this is not a feasible recommendation, and so is not included below.

Based on the findings of this investigation, the Ombudsman makes the following recommendations:

- 1. that the fee schedule for the APD Rotational Tow Program be registered with the Municipal Clerk’s office and posted online with other tow Rate Schedules as per AMC 9.54.030;**

2. that the invoice required by AMC 9.54.050C, including the itemized list of fees owed, be provided upon request of the vehicle owner for any tow initiated pursuant to the APD Rotational Tow Program;
3. that tow operators operating pursuant to the APD Rotational Tow Program be required to inform citizens who are present at the time of a legal towing of their vehicle of the “Curb Release” fee, and be given an opportunity to pay the fee and have their vehicle released prior to being towed;
4. that Impound information provided by the APD web pages at www.muni.org be updated and include rate sheets relevant to each particular impound process.

Based on these findings and these recommendations, this case is closed.

A preliminary report regarding this matter has been provided to the Anchorage Police Department.

The department has indicated a willingness to implement the Ombudsman’s recommendations. The Department also indicated that the issue of charging an Administrative fee has been addressed according to Department policy with the offending tow company.

If you object to the Ombudsman’s decision to decline or discontinue this investigation or review you may file a grievance with the Ombudsman as specified in A.M.C.R. 2.60.006.



Heather MacAlpine
Associate Ombudsman



Darrel Hess
Ombudsman

