



OFFICE OF INSPECTOR GENERAL
City of Albuquerque

Melissa Santistevan
Inspector General

P.O. Box 1293, Suite 5025
Albuquerque, New Mexico 87103
Telephone: (505) 768-3150
Fax: (505) 768-3158

Investigative Informative Case Synopsis

FILE NO: 22-0183-C

SUBJECT MATTER: City Parking Enforcement Officers failing to perform duties.

STATUS: Final

INVESTIGATOR: M. Santistevan

DocuSigned by:

Melissa R. Santistevan

MELISSA SANTISTEVAN, CIG
INSPECTOR GENERAL
OFFICE OF INSPECTOR GENERAL

November 9, 2022

Date of Completion

DocuSigned by:

Edmund Perea

EDMUND E. PEREA, ESQ
ACCOUNTABILITY IN GOVERNMENT
OVERSIGHT COMMITTEE CHAIRPERSON

January 11, 2023

Date of Approval

DISTRIBUTION:

- Honorable Mayor**
- President City Council**
- Chief Administrative Officer**
- City Councilors**
- Director Council Services**
- City Attorney**
- Department Director**
- Members, Accountability and Government Oversight Committee**
- File**

EXECUTIVE SUMMARY

According to City Ordinance 2-17-2, the Inspector General's goals are to (1) Conduct investigations in an efficient, impartial, equitable, and objective manner; (2) Prevent and detect fraud, waste, and abuse in city activities including all city contracts and partnerships; (3) Deter criminal activity through independence in fact and appearance, investigation and interdiction; and (4) Propose ways to increase the city's legal, fiscal and ethical accountability to insure that tax payers' dollars are spent in a manner consistent with the highest standards of local governments.

During the months of August 2022 and September 2022, the Office of Inspector General (OIG) received fifteen (15) complaints alleging that the City's Parking Enforcement Officers were not fulfilling their duties by not citing parking violations. The OIG determined that the allegations contained elements of potential fraud, waste, or abuse and that it was appropriate for the OIG to conduct a fact-finding investigation. The purpose of the investigation was to determine if the Parking Enforcement Officers were failing to cite parking violations per the City ordinances.

As a result of the investigation, the OIG was not able to substantiate the allegation that the City's Parking Enforcement Officers were not citing vehicles per City ordinances.

This investigation revealed another issue related to the neighborhood design resulting in limited curb parking resulting in citations. The OIG was able to substantiate the subsequent matter.

ABBREVIATIONS

CITY: City of Albuquerque
DMD: Department of Municipal Development
E1: Parking Officer
IDO: Integrated Development Ordinance
OIG: Office of Inspector General
PLN: Planning Division
PRK: Parking Division

INVESTIGATION

Background: The City of Albuquerque’s (City) Department of Municipal Development (DMD) is made up of multiple divisions. For this investigation, we will focus on the Parking Division (PRK). The PRK manages several parking structures and lots providing maintenance and repairs of facilities, attendant services, and customer support, and oversees parking enforcement services. The PRK also oversees parking meter operations including revenue collections, installations, and repairs.

Photographs of each citation are taken, by the Parking Officer, as evidence of the violation. Officers are not permitted to initiate an encounter with constituents, however, if a constituent engages the officer, education and remediation are utilized to ensure compliance with the ordinance.

The State of New Mexico Department of Motor Vehicles has experienced delays related to registration renewals due to supply chain issues and scheduling occurring as a result of the pandemic. Parking Enforcement Officers were advised by their Division Manager to not issue a citation if the registration expiration date is within six months of expiration.

To mitigate government overreach, parking violations should be observed by PRK to be cited. A picture of an alleged violation submitted through the 311-call center or SeeClickFix system is not sufficient for PRK to issue a citation. Additionally, it is not acceptable to utilize Google to identify violations throughout the City to issue citations.

In August 2022, the OIG received ten (10) complaints stating that Parking Enforcement Officers were not citing parking violations that were submitted through the 311-call center and forwarded to PRK and the OIG. The allegations were submitted to PRK and the OIG after the receive date making it impossible to ascertain if a violation occurred.

In September 2022, the OIG received an additional four (4) complaints alleging that Parking Enforcement Officers were failing to perform their duties. These allegations were made through the OIG’s online reporting form.

Many of these complaints were isolated to a specific neighborhood located within the limits of the City of Albuquerque.

On September 28, 2022, in response to a complaint of active violations, the OIG investigator accompanied a Parking Officer (E1) to the identified neighborhood.

Allegation: The City's Parking Enforcement Officers were not fulfilling their duties by not citing parking violations.

Authority: City Ordinance § 8-5-1-1 STOPPING, STANDING OR PARKING PROHIBITED NO SIGNS REQUIRED.

No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic control device, in any of the following places:

- (A) Next to a curb that is painted either yellow or red.
- (B) On a sidewalk.
- (C) Within three feet of a public or private driveway.
- (D) Within an intersection.
- (E) Within 15 feet of a fire hydrant.
- (F) On a crosswalk or within ten feet of a crosswalk at an intersection.
- (G) Within 20 feet of the approach to any flashing beacon, stop sign, yield sign, or traffic control signal located at the side of a roadway, unless the Mayor or his designated representative has specifically, by markings or by parking meters, indicated parking to be permitted.
- (H) Between a safety zone and the adjacent curb, or within 20 feet of points on the curb immediately opposite the ends of a safety zone, unless the Mayor or his designated representative has indicated a different length of signs or markings.
- (I) Within 50 feet of the nearest rail of a railroad crossing.
- (J) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance (when properly sign-posted).
- (K) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
- (L) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (M) Upon any bridge or other elevated structure upon a roadway or within a roadway tunnel.
- (N) Between the curb or edge of the roadway and the sidewalk.

Analysis: On September 28, 2022, in response to a complaint of active violations, the OIG investigator accompanied E1 to the neighborhood. The original complaint alleged twenty (20) violations at twelve (12) addresses in the neighborhood. The OIG observed E1 issue eleven (11) citations during our ride along to the specified neighborhood. One (1) citation could not be issued because the vehicle had no registration and an owner could not be identified. One (1) alleged violation was rectified by the constituent before the citation was issued and the remaining alleged violations were proven, through measurements, to not violate the ordinance.

The Parking Enforcement Officers do use their discretion when determining whether a citation should be issued. The OIG did observe instances where a constituent engaged with E1, of their own accord, and was provided the opportunity to become compliant, thus avoiding a citation that had not been previously issued. Citations already issued were not voided, however, the constituent was provided information on how they could request a review and potential abatement.

The OIG spoke to another PRK representative and verified that correction of the violation before the collection of evidence by the PRK Officer is an acceptable means of compliance.

The OIG was cognizant that the issuance of citations for violations may have increased due to our investigator's presence.

Allegation Finding: Based on the OIG observation, the allegation that the City's Parking Enforcement Officers failed to cite vehicles per City ordinances was not able to be substantiated.

Subsequent Matter: During the OIG ride-along and throughout our investigation, the OIG noticed that the housing development had limited curb parking which resulted in citations due to the length of newer vehicles.

Authority: § 6-5-4-3 Curb Cut Requirements, §6-5-5-5 Sidewalks, Integrated Development Ordinance (IDO), § 8-5-1-1 Stopping, standing or parking prohibited no signs required, and Development Process Manual (DPM).

6-5-4-3 Curb Cut Requirements states: (A) In all residential areas which shall include all dwelling units, single family, apartments, or otherwise, the following regulations shall apply:

- (1) Measured from the gutter line the minimum width of curb cuts shall be 12 feet and the maximum width shall be 22 feet.
- (2) A minimum of 22 feet of standing curb must remain between any two curb cuts on the same lot or single parcel of land or if more than one lot or parcel of land is being put to a single land use, then the requirement shall apply to said land use.
- (3) The minimum setback for the building from the property line in apartment parking areas shall be 30 feet.
- (4) No double or circle drives shall be installed or maintained unless the property shall have a minimum of 60 feet frontage on the street affected thereby.
- (5) No curb cuts shall be closer than 2 ½ feet from side property lines.

§ 6-5-5 Sidewalks provides for the following definitions that were used for our investigation.

A sidewalk is defined as that portion of the public right-of-way that is primarily devoted to pedestrian use.

A curb cut is defined as any break in a curb which facilitates access to or from a street or alley.

Drive Pad is defined as a paved vehicular way that may be either part, all, or not at all within the public right-of-way and which provides vehicular access from a public right-of-way to property abutting the right-of-way.

A driveway is defined as a vehicular way that may be either part, all, or not at all within the public right-of-way and which provides vehicular access from a public right-of-way to property abutting the right-of-way.

IDO section 5-3 (E) (3) (a) (2) states that driveways, drive aisles, and access points shall be constructed to the standards of the DPM.

Section 5-5 (F)(1)(a)(7) states that required parking spaces for single-family and two-family detached dwellings, and cluster development shall be located on the same lot as the residential use they serve. On-street parking spaces abutting the subject property shall be considered as located on the same lot for the purposes of Subsection 5-5-(c) (6) (d).

No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer or traffic control device, in any of the following places:

- (A) Next to a curb that is painted either yellow or red.
- (B) On a sidewalk.
- (C) Within three feet of a public or private driveway.
- (D) Within an intersection.
- (E) Within 15 feet of a fire hydrant.
- (F) On a crosswalk or within ten feet of a crosswalk at an intersection.
- (G) Within 20 feet of the approach to any flashing beacon, stop sign, yield sign, or traffic control signal located at the side of a roadway, unless the Mayor or his designated representative has specifically, by markings or by parking meters, indicated parking to be permitted.
- (H) Between a safety zone and the adjacent curb, or within 20 feet of points on the curb immediately opposite the ends of a safety zone, unless the Mayor or his designated representative has indicated a different length of signs or markings.
- (I) Within 50 feet of the nearest rail of a railroad crossing.
- (J) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance (when properly sign-posted).
- (K) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
- (L) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
- (M) Upon any bridge or other elevated structure upon a roadway or within a roadway tunnel.
- (N) Between the curb or edge of the roadway and the sidewalk.

The Development Process Manual (DPM) section 7-4 Table 7.4.44 states that Low-density Residential Driveways are subject to a minimum distance of 28 feet between driveways and a minimum of 5 feet from the side property line.

Analysis: The OIG reviewed the above-mentioned ordinances as they relate to the development of residential areas, curb cut requirements, sidewalks, driveways, and parking. Additionally, the OIG conducted a physical inspection of the development with identified parking violations.

During our observation, the OIG noted that some citations were issued to vehicles parked on the street to the side of the driveways. The citations were issued for not having three (3) feet of clearance on both sides of the vehicle between driveways. The OIG noted that some of the vehicles cited were standard-sized vehicles.

The OIG researched the length of vehicles. JD Power states that the length of the average car is 14.7 feet. Below is a list of lengths by vehicle type as provided by JD Power.

Mini car: 10.5 feet
Small car: 13.8 feet
Mid-sized car: 14.8 feet
Full-sized car: 15.7 feet
Small SUV: 14.4 feet
Large SUV: 16.7 feet
Small Pickup: 16.3 feet
Large Pickup: 18.4 feet

Additional research on the average lengths of vehicles revealed that some newer pickup trucks have lengths exceeding 22 feet and the average size of the majority of vehicles has been increasing since 2017.

The DPM states that the distance between driveways must be a minimum of 28 feet, while § 6-5-4-3 states a minimum of 22 feet of standing curb must remain between any two curb cuts on the same lot or single parcel of land or if more than one lot or parcel of land is being put to a single land use, then the requirement shall apply to said land use.

The OIG requested guidance from a City engineer who explained that the 22 feet minimum is only applicable when the two driveways are on the same property. If there are multiple properties, a minimum distance of 5 feet is required from each property line.

The Development Process Manual (DPM) section 7-4 states that Low-density Residential Driveways are subject to a minimum distance of 28 feet between driveways and a minimum of 5 feet from the side property line but clarification of the language and the table may be necessary.

In one specific instance during our observation, the OIG noted that a Kia sedan SLX was cited for not having 3 feet on both sides of the vehicle between driveways. The Kia Sedan SLX is 14.8 feet long. Adding the length of the vehicle of 14.8 feet, the 3 feet setback on the front side of the vehicle, and the 3 feet set back on the backside of the vehicle, the total is 20.8 feet and should have provided adequate curb parking for the Kia Sedan SLX.

Taking the same Kia Sedan SLX and applying the 5-foot setback from each of the side property lines, you should have 10 feet of curb parking, and given that the vehicle is 14.8 feet in length, there would be inadequate curb parking.

During our observation, the OIG noted that vehicles in their driveway were being cited for extending into the sidewalk, (a public right of way). Many of the vehicles cited during that observation were dual cab trucks or full-sized SUVs where the average length exceeded 20 feet, the required length of the driveway per the DPM, and IDO. The OIG did note that a Ford Taurus barely fit between the house facia and the sidewalk. Given the length of these types of vehicles and the observed limitations between driveways, larger vehicles may only be able to park on roadways where there are no driveways, considering the limitations imposed by fire hydrants and mailboxes.

The OIG also noticed that a fire hydrant was placed in the middle of the curb between driveways rendering the curb unavailable for parking for any sized vehicle.

Given the development's design and the lack of available parking, two constituents have stated that their perception is that parking citations are merely a revenue-generation tactic.

Subsequent Matter Finding: The OIG was able to substantiate the subsequent matter as it relates to the housing development having limited curb parking which result in citations.

Recommendation: The OIG recommends the City's Engineering Department, Planning Department, Parking Division, City Attorney, and City Council review the related ordinances and document any necessary modifications or clarifications to ensure consistency between the ordinances. All Departments with a vested interest should conduct site visits to affected neighborhoods to determine areas of concern and provide public input for modifications to the ordinances. The City Ordinances should address who, when, and under what circumstances variances could be issued. A variance review panel should be established, with appropriate representatives of all vested Departments, so the impact of variances can be fully considered by all affected Departments. The City should take into consideration the effect of the potential collapse of multiple households into one household and how the existing parking limitations would affect congestion in affected neighborhoods.

The City should consider whether a revision to Article 5 related to parking should include language to address Officer discretion when compliance was obtained before evidence has been collected and a citation issued.

Additionally, the OIG is recommending that the Parking Division and the City Councilor for the District in conjunction with the neighborhood association create an opportunity for providing education related to the City's parking ordinance to the neighborhood residents.

Management Response: The Parking Division, DMD Legal, and the City Engineer are reviewing the findings of your report. Because of the multiple mentions and the scale, this will need to be an ongoing conversation between the various departments. We will send updates as the conversation progresses. As of today, we have conducted a site visit (12/8/2022) and held a meeting (12/12/2022) with said departments.