



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2016-1066

Issued Date: 07/24/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 16.090 (6) In-Car Video System: Employees Will Record Police Activity (Policy that was issued March 1, 2016)
OPA Finding	<b>Sustained</b>
Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (9) Standards and Duties: Employees Shall Strive to be Professional at all Times (Policy that was issued April 1, 2015)
OPA Finding	<b>Sustained</b>
Allegation #3	<u>Seattle Police Department Manual</u> 16.090 (2) In-Car Video System: All Employees Operating ICV Must be in Uniform and Wear a Portable Microphone (Policy that was issued March 1, 2016)
OPA Finding	<b>Sustained</b>
Final Discipline	3 Day Suspension

<b>Named Employee #2</b>	
Allegation #1	<u>Seattle Police Department Manual</u> 5.002 (6) Responsibilities of Employees Concerning Complaints of Possible Misconduct: Employees Must Otherwise Report Misconduct (Policy that was issued January 1, 2015)
OPA Finding	<b>Not Sustained</b> (Training Referral)
Final Discipline	N/A

### **INCIDENT SYNOPSIS**

The Named Employee interacted with a subject.

### **COMPLAINT**

The Complainant alleged that Named Employee #1 made a profane and unprofessional comment to a subject in the back of an ambulance transport. Additionally, during OPA intake it was discovered that Named Employee #1 removed his In-Car Video (ICV) microphone and failed to record police activity in violation of SPD Policy and that Named Employee #2 failed to report the misconduct.

### **INVESTIGATION**

The OPA investigation included the following actions:

1. Review of the complaint
2. Review of In-Car Videos (ICV)
3. Search for and review of all relevant records and other evidence
4. Interviews of SPD employees

### **ANALYSIS AND CONCLUSION**

The preponderance of the evidence showed that Named Employee #1 intentionally removed his portable microphone while engaged in police activity and failed to audio record a portion of his interaction with the subject. Named Employee #1 admitted this to OPA, Named Employee #2 corroborated this, and the act was caught on ICV.

The preponderance of the evidence supported the conclusion that Named Employee #1 made a profane and unprofessional comment to the subject. Both AMR attendants recalled Named Employee #1 saying this to the subject. Named Employee #1 denied calling the subject a derogatory term and using profanity, but he did admit to OPA he told the subject he hoped the subject died if he was having a heart attack. Given the intentionality with which Named

Employee #1 made certain his words would not be recorded by removing his portable microphone and handing it to the Student Officer before going inside the ambulance to speak with the subject and Named Employee #1's belief that the subject was faking a heart attack in order to avoid being arrested on a warrant, the OPA Director found the account given by the AMR attendants credible. However, even if Named Employee #1 did not use a derogatory term to refer to the subject, his statement to the subject that he hoped the subject died, was clearly "contemptuous and disrespectful" as prohibited by SPD Policy 5.001(9).

Named Employee #2 should have known that it was against policy to take off one's portable microphone in this situation and should have reported this behavior to his supervisor or to OPA. However, given his limited time as an officer, the fact that he was still in Field Training and the understandable confusion Named Employee #2 had about the possibility of an exemption due to a medical setting, a clear reminder of the requirements of both the ICV policy and the mandatory reporting of misconduct are appropriate under the circumstances.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

A preponderance of the evidence showed that Named Employee #1 intentionally removed his portable microphone while engaged in police activity. Therefore a **Sustained** finding was issued for *In-Car Video System: Employees Will Record Police Activity*.

#### Allegation #2

The preponderance of the evidence supported the conclusion that Named Employee #1's statement to the subject was prohibited by SPD Policy. Therefore a **Sustained** finding was issued for *Standards and Duties: Employees Shall Strive to be Professional at all Times*.

#### Allegation #3

A preponderance of the evidence showed that Named Employee #1 intentionally removed his portable microphone while engaged in police activity. Therefore a **Sustained** finding was issued for *In-Car Video System: All Employees Operating ICV Must be in Uniform and Wear a Portable Microphone*.

**Discipline Imposed:** 3 Day Suspension

### **Named Employee #2**

#### Allegation #1

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Responsibilities of Employees Concerning Complaints of Possible Misconduct: Employees Must Otherwise Report Misconduct*.

**Required Training:** Named Employee #2 should receive from his supervisor a clear reminder of the requirements of both the ICV policy and the mandatory reporting of misconduct.

*NOTE: The Seattle Police Department Manual policies cited for the allegation(s) made for this OPA Investigation are policies that were in effect during the time of the incident. The issued date of the policy is listed.*