



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0452

Issued Date: 11/07/2017

Named Employee #1	
Allegation #1	<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	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (2) Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #3	<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	Not Sustained (Training Referral)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<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	Not Sustained (Unfounded)

Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (2) Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employee contacted the complainant regarding her RV.

COMPLAINT

The complainant reported that her RV was towed by Named Employee #1. She described Named Employee #1 as rude and unprofessional. The complainant also stated that she believed that money, a DVD player and other items were stolen from the RV by Named Employee #1 and/or other unknown officers. Additionally, during OPA's intake, it appeared that there was approximately 17 minutes missing from Named Employee #1's In-Car Video (ICV) from the incident.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

SPD Policy 5.001-POL-9 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-9.)

During a routine patrol, Named Employee #1 observed the complainant's parked RV, which he identified as having expired tabs. (NE#1 OPA Interview, at p. 2.) The vehicle tabs had expired several months prior to that date. (See id.) Named Employee #1, along with two other officers, contacted the occupant of the vehicle, who was identified as the complainant. The complainant exited the vehicle and spoke to the officers. (See id. at pp. 3-4.) Named Employee #1 told the complainant that her vehicle was going to be impounded based on the expired tabs. (See id.) At his OPA interview, Named Employee #1 stated that impoundment was appropriate when tabs

had been expired for 45 days or more. (Id. at p. 3.) When she exited the vehicle, the complainant stated that she was in pain. (See id. at pp. 3-4.) Named Employee #1 asked her whether she wanted him to summon medical attention and the complainant said no. (See id.) However, Named Employee #1 contacted the Seattle Fire Department anyway and asked for medics to respond to the scene. (Id. at p. 8.) Officers entered the RV approximately 3 or 4 times. (See id. at pp. 3-4.) They did so to recover items that the complainant had asked for and to ensure that there were no individuals still in the RV when it was impounded. (See id.) The officers had the complainant's consent to enter the RV. (See id.) Named Employee #1 did not complete an inventory of the RV given the amount of belongings and "debris" inside. (See id. at pp. 4-5.)

Named Employee #1 recounted that he was polite during the interaction and during the impoundment process. (See id. at p. 8.) Both of the other officers stated their belief that Named Employee #1 acted professionally. (See Officer Constantin OPA Interview, at p. 6; see also Officer Muoio OPA Interview, at p. 7.) The complainant, to the contrary, asserted that Named Employee #1 was rude. (See Original Complaint Summary; see also Complainant OPA Interview.) While, as discussed below, Named Employee #1's ICV did not capture his initial interaction with the complainant, portions of the interaction were captured by the other two officers' ICVs. (See Officer Constantin and Officer Muoio Front ICV.) Based on a review of that ICV and on the entirety of the record in this case, the OPA Director concluded, by a preponderance of the evidence, that Named Employee #1 did not engage in behavior that was unprofessional.

The complainant alleged that Named Employee #1 or other unidentified Department employees stole \$60, a portable DVD player, rings and a flag from her RV. (See Original Case Summary.) From a review of ICV, there was no evidence that Named Employee #1 or any other officer removed these objects from the RV. (See NE#1 Front ICV; see also Officer Constantin and Officer Muoio Front ICV.) While arguably the money and rings could have been secreted in a pocket, certainly it would have been evident on ICV if an officer had walked out of the RV with the DVD player or the flag.

At his OPA interview, Named Employee #1 denied taking anything from the RV. (NE#1 OPA Interview, at p. 5.) The two officers, who were also interviewed as part of OPA's investigation, also denied doing so. (See Officer Constantin OPA Interview, at p. 5; see also Officer Muoio OPA Interview, at p. 5.) The OPA Director found that there was no evidence supporting this allegation.

SPD Policy 16.090-POL-1(6) instructs officers to activate their ICV systems and record police activity, including the "response to dispatched calls, starting before the employee arrives on the scene and ending consistent with" the requirements of SPD Policy 16.090-POL-1(8).

During intake, OPA determined that Named Employee #1's ICV was not activated for approximately 17 minutes at the outset of his response to this incident. Named Employee #1 contended that he activated his ICV when he turned on the light bar of his patrol vehicle, and

had no explanation why the ICV did not initially record. (See NE#1 OPA Interview, at pp. 6-7.) A technical review of Named Employee #1's ICV system did not indicate any anomalies and did not yield any evidence that Named Employee #1's light bar was activated at that time. However, in looking at ICV video, Named Employee #1's light bar was, in fact, activated. Based on OPA's investigation, it was possible that Named Employee #1 turned on his ICV when he activated his light bar for the preceding call and at the conclusion of that call he turned off and forgot to re-initiate his ICV, but he believed the ICV was recording because his light bar was activated.

Ultimately, the evidence was inconclusive as to whether Named Employee #1 failed to turn on his ICV and why it did not record the initial portion of his response to this incident. That being said, the OPA Director believed that Named Employee #1 would benefit from additional training regarding the usage of ICV and his affirmative duty to ensure that his ICV has been activated and is properly recording his law enforcement activity.

Based on a review of ICV and the record in this case, the OPA Director did not identify any other SPD employee who engaged in unprofessional behavior. Notably, the complainant did not provide a description of any officer, apart from Named Employee #1, that acted unprofessionally.

Similar to the above allegation, based on a review of ICV and the record in this case, the OPA Director saw no evidence indicating that an unidentified SPD employee stole property from the complainant's RV.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that Named Employee #1 did not engage in behavior that was unprofessional. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards and Duties: Employees Shall Strive to be Professional at all Times*.

Allegation #2

There was no evidence supporting this allegation. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy*.

Allegation #3

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *In-Car Video System: Employees Will Record Police Activity*.

Training Referral: Named Employee #1 should receive additional training concerning the usage of ICV and, specifically, his responsibilities to ensure that his ICV system has been activated prior to engaging in law enforcement activity and that he verify that his ICV is, in fact, recording. Named Employee #1 should also receive counseling from his chain of command on this matter.

Named Employee #2

Allegation #1

A preponderance of the evidence showed that there were no other SPD employees who engaged in unprofessional behavior. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards and Duties: Employees Shall Strive to be Professional at all Times*.

Allegation #2

There was no evidence indicating that an unidentified SPD employee stole property from the complainant's RV. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy*.

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.