



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 10, 2018

CASE NUMBER: 2017OPA-1121

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Management Action)
# 2	5.001 - Standards and Duties 12. Employees Shall Not Use Their Position or Authority for Personal Gain	Not Sustained (Training Referral)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Management Action)
# 2	5.001 - Standards and Duties 12. Employees Shall Not Use Their Position or Authority for Personal Gain	Not Sustained (Inconclusive)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged that the Named Employee and other Unnamed Employees were using the electric charging stations in the East Precinct garage to charge their personal vehicles, which was a potential violation of City rules and SPD policy.

STATEMENT OF FACTS:

OPA received a complaint from an Anonymous Complainant who alleged that officers were using the East Precinct electric charging stations to charge personal vehicles. Two vehicles were specifically identified. One was determined to be the personal vehicle of Named Employee #1 (NE#1), the second, a BMW, was determined to not belong to anyone listed as a City of Seattle employee. Through its investigation, OPA determined that NE#1 did not pay the City for any of the electric charging that he used for his personal vehicle.

As discussed above, this matter was initiated by an Anonymous Complainant. The Anonymous Complainant did not provide any specific detail as to the date and time of the allegedly improper electric charging. OPA attempted to obtain more detail by emailing the Anonymous Complainant; however, OPA received no further response.

OPA determined that, at the time of the incident, SPD had no policy concerning the use of electric charging stations. This was confirmed by the Department’s Audit Policy and Research Section.



OPA also interviewed the SPD Motor Pool Supervisor. The Motor Pool Supervisor indicated that some Department facilities have charging stations for both private and City vehicles. With regard to the charging stations for private vehicles, a special proxy card must be used to charge at the station. The Motor Pool Supervisor stated that he was unaware as to what type of stations were available at the East Precinct.

The Administrative Lieutenant for the East Precinct told OPA that there were charging stations in the off-site East Precinct garage. He said that this garage was used by Parking Enforcement Officer (PEO) vehicles and police officers' private vehicles. The Administrative Lieutenant stated that the PEOs have electric vehicles and use the charging stations. He indicated that only SPD personnel have access to the garage. Lastly, the Administrative Lieutenant explained that he was not aware of any procedure governing how to use the charging stations or who was and was not permitted to use them.

OPA also interviewed the East Precinct PEO Supervisor, who had knowledge of the charging stations. He explained that while the stations were purposed for PEO vehicles, he had viewed non-PEO vehicles using them. He stated that he believed those vehicles belonged to personnel assigned to the East Precinct Burglary squad. The PEO Supervisor was not aware of any policy governing the charging stations, but he believed that they were for official City vehicles only. The PEO Supervisor confirmed that no proxy card was required to use the charging stations. He also explained that he had seen three vehicles, which appeared to be privately owned, using the stations. He was able to identify two of the vehicles – NE#1's vehicle and the BMW, but could not describe the third or say who it belonged to.

OPA spoke with an individual employed by the City Fleet and Transportation Department. The first individual interviewed stated that the charging stations were initially purposed for PEO vehicles and, when the PEO vehicles were no longer stationed at the East Precinct, the charging stations were left for future City electric vehicles. This individual stated that the charging stations could not be used for private vehicles as it would constitute an improper "gift of public funds." She indicated that, if the Department wanted to allow its employees to access the charging stations for private vehicles, they could enter into an agreement with the City to do so and to compensate the City for the use. SPD has not done so as of this date. She further stated that, while some precincts had signs indicating that charging stations were only for official use, she did not believe that there were any such signs at the East Precinct.

She explained that Electric Vehicle Charging Station Guidelines were provided to all City departments, including SPD, in 2014. These Guidelines, which are included in OPA's casefile, explicitly required that City employees pay for any personal use of the electric charging stations either on a monthly or daily basis.

Lastly, OPA interviewed the Manager of the City Fleet and Transportation Department. She stated that, to her knowledge, SPD, as well as several other City departments, had not implemented any internal plan for the usage of electric charge stations. She told OPA that the City had recently been audited by the State of Washington in this area. As a result, the City has newly developed a policy governing the use of City fuel/charging resources. This new policy, which was issued in late March 2018, is explicitly clear that City fuel/charging resources are to be used by official City vehicles only. Private vehicles are precluded from using these resources. The Manager indicated that it is her expectation that all City agencies and departments will familiarize themselves with and implement this policy as soon as possible. It is unclear from OPA's review whether SPD has gone forward with this process.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

At his OPA interview, NE#1 admitted that he used the electric charging stations for his personal vehicle. NE#1 stated that there were high-speed charging stations in the East Precinct garage for PEO vehicles; however, he further explained that there were other charging outlets that were used by a variety of vehicles, including personal vehicles. NE#1 also indicated that PEO officers did not park in the garage on the weekends and the high-speed charging stations were not being used and were available.

NE#1 stated that he was unaware that private vehicles were forbidden from using the electric charging stations. He cited both the City's commitment to conservation, as well as his conversations that he had with his sergeant. He stated that he did not try to hide his use of the charging station, which he cited as evidence of his lack of knowledge that his conduct was inappropriate.

NE#1 told OPA that he was unaware of any policy that prohibited the use of charging stations for private vehicles. He did state, however, that he believed that City policy allowed for the de minimis use of City resources for an employee's personal benefit (for example, he cited the use of precinct showers and electricity to store and heat food). He stated if had he been told not to use the charging stations, he would have stopped doing so. NE#1 also indicated that he was unaware of any program providing for monthly payroll deductions to use the charging stations. Lastly, NE#1 told OPA that he did not use his position for personal gain in this instance.

OPA interviewed NE#1's sergeant, who confirmed that he knew of NE#1's personal use of the vehicle, but stated that he did not recall telling NE#1 that there was "no problem" with him using the charging station. The sergeant stated that he was unaware with any policy concerning this activity and that he did not have concerns with this conduct until he received notice of this OPA complaint. The sergeant stated that there had not been any guidance on this issue. He recalled that the Administrative Lieutenant had previously provided some directives concerning use of the garage, but that this did not cover the use of charging stations. The sergeant did not know about any monthly payroll deduction program that was available to officers.

SPD Policy 5.001-POL-2 requires that SPD employees adhere to laws, City policy and Department policy. It further mandates that employees comply with the SPD Manual. (SPD Policy 5.001-POL-2.)

As indicated above, the Department did not have a policy governing the use of electric charging stations for personal use. Moreover, the Department provided no guidance in this area to its employees and, apparently, did not inform officers that use of charging stations for personal vehicles was prohibited. As an example, there were no signs in the precinct proscribing the use of the charging stations and supervisors, who were aware of this conduct, did not direct that officers cease doing so. As such, even though I find that NE#1's use of the charging station technically constituted an improper gift of public funds, I do not believe that he was on notice that his actions were contrary to City requirements. SPD should create a policy or explicit guidance in this area to ensure that officers do not engage in such conduct in the future. For these reasons, I recommend that this allegation be Not Sustained – Management Action.



- **Management Action Recommendation:** Based on OPA's investigation, it was evident that not only did SPD not have a policy governing the use of electric charging stations at Department facilities, but it also apparently provided no guidance to its employees in this area. OPA's interview of the Manager of the City of Seattle Fleet and Transportation Department indicated that Electric Vehicle Charging Station Guidelines were provided to SPD in 2014 and that a new City fuel/charging policy was provided to SPD in March 2018. The Department should memorialize these guidelines and City requirements into a Department policy and provide notice of that policy to all SPD employees via an email or e-learning.

Recommended Finding: **Not Sustained (Management Action)**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 12. Employees Shall Not Use Their Position or Authority for Personal Gain

SPD employees are prohibited from using their position or authority for personal gain. (SPD Policy 5.001-POL-12.)

Here, both NE#1 and the other unidentified SPD employees accessed charging stations without paying for them. However, I credit NE#1's account that he was unaware of any policy precluding him from doing so. Indeed, at the time, SPD had no such policy. Moreover, there were no signs at the East Precinct indicating that private vehicle should not be charged. Lastly, NE#1 did not hide his use of the charging stations, told his sergeant that he was using them, and was not told by a supervisor to not do so.

As such, while NE#1 did personally benefit from using a City resource, I do not believe that he did so intentionally and I do not find that he was aware that this conduct was improper. I expect that, given the new Electric Vehicle Charging Station Guidelines and accompanying SPD policy, this conduct will not occur in the future. As such, I believe that a Training Referral is the appropriate result.

- **Training Referral:** NE#1 should be counseled by his chain of command concerning his use of the electric charging stations. While OPA does not conclude that he used City resources for his personal benefit with knowledge that his actions were improper, he functionally accepted a gift of public funds by doing so. I anticipate that NE#1 will not do so in the future and this should be reaffirmed by his chain of command. This counseling should be memorialized in a PAS entry.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #2 - Allegation #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

For the same reasons as discussed above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Management Action. In doing so, I refer to the above Management Action Recommendation. (See *id.*)

Recommended Finding: **Not Sustained (Management Action)**



Named Employee #2 - Allegation #2

5.001 - Standards and Duties 12. Employees Shall Not Use Their Position or Authority for Personal Gain

While a BMW and at least one other unidentified private vehicle were observed using the electric charging stations, the owners of these vehicles were not identified by either SPD or OPA. I assume that these vehicles belong to Department employees, particularly given that access to the garage is restricted and can only be accessed using an officially-issued proxy card. As such, the unidentified individuals were – presumably unintentionally – using City resources for their personal benefit.

Even had OPA been able to identify these officers, I would have recommended that they receive Training Referrals, similar to NE#1. However, as OPA was not able to determine who these officers were, I recommend that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**



Seattle Office of Police Accountability

November 15, 2018

Chief Carmen Best
Seattle Police Department
PO Box 34986
Seattle, WA 98124-4986

RE: MANAGEMENT ACTION RECOMMENDATION

Dear Chief Best:

Please see the below Management Action Recommendation.

Case Number(s)

- 2017OPA-1121

Topic

- Standards & Duties

Summary

- It was alleged that the Named Employee and other Unnamed Employees were using the electric charging stations in the East Precinct garage to charge their personal vehicles.

Analysis

- SPD does not have a policy governing the use of electric charging stations at Department facilities, nor does it provide guidance to its employees in this area.
- Electric Vehicle Charging Station Guidelines were provided to SPD in 2014 and a new City fuel/charging policy was provided to SPD in March 2018, but again, no guidance was given to employees.

Recommendation(s)

- Create a policy or explicit guidance on using Department electric charging stations for personal vehicles; provide notice to all SPD employees via an email or e-learning.

Thank you for your consideration of this matter. I look forward to your response.

Sincerely,

AM

Andrew Myerberg
Director, Office of Police Accountability