



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0739

Issued Date: 01/19/2017

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	Not Sustained (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (6) Standards and Duties: Employees Engaged in Department-Related Activities Identify Themselves When Requested (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Inconclusive)
Allegation #3	<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 #4	<u>Seattle Police Department Manual</u> 8.100 (1) De-escalation: When Safe Under the Totality of the Circumstances and Time and Circumstances Permit, Officer Shall Use De-escalation Tactics in Order to Reduce the Need for Force (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Training Referral)

Allegation #5	<u>Seattle Police Department Manual</u> 6.220 (10) Voluntary Contacts, Terry Stops and Detentions: Officers Must Document All Terry Stops (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employee was working patrol and contacted several individuals.

COMPLAINT

The anonymous complainant alleged the Named Employee was rude and unprofessional, and refused to provide his name and serial number when she requested it from him. During OPA intake it was discovered that the Named Employee may have violated policy by not activating In-Car Video (ICV) to record police activity. Additional intake was received by OPA, which provided additional allegations for failing to document a Terry stop and have proper cover during the stop prior to the anonymous complainant interaction.

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. Interview of SPD employee

ANALYSIS AND CONCLUSION

The Named Employee made contact with an individual (the subject) he knew to frequent the park, often with an open container of an alcoholic beverage in violation of the Seattle Municipal Code. The Named Employee did not activate his ICV when he first made contact with the subject. The Named Employee only activated the ICV when he was confronted by the complainant regarding his (the Named Employee's) police car blocking a driveway. The Named Employee told OPA he had no intention of taking enforcement action when he contacted the subject and considered the contact merely a social contact for which recording is not required. While the Named Employee is correct that activation of the ICV is not required for social contacts, the Named Employee knew the subject often drank alcoholic beverages in the park and, in fact, contacted the subject with the intent to remind him of the prohibition against that. Common sense should have told the Named Employee that it was very likely the subject would

have an open container and that some form of enforcement or warning might be necessary, thus triggering an obligation to record his (the Named Employee's) police activity.

The complainant alleged the Named Employee failed to tell her his name and serial number when she asked for it. The Named Employee told OPA he handed her his business card with that information on it. On the allegation the Named Employee failed to provide the complainant with his name and serial number, the OPA investigation failed to produce a preponderance of evidence to either prove or disprove the allegation.

Based on the ICV audio of the Named Employee's interaction with the complainant, combined with the statement to OPA from the civilian witness, the OPA Director found the preponderance of the evidence from this investigation did not support the allegation the Named Employee was rude or unprofessional in his speech or demeanor.

Allegation #4 was made by a supervisor who looked into this same incident when the complainant called the precinct and asked to speak to a supervisor about her interaction with the Named Employee. The supervisor alleged the Named Employee failed to follow the trained tactic of using "contact and cover" when making contact with a potential violator. The OPA investigation showed that the Named Employee was alone when he contacted the subject and had an interaction about drinking in the park. The Named Employee did not wait for a cover unit and failed to use the contact and cover tactic. Officers are trained to use this tactic for their own safety and to reduce the likelihood force will be required should the person or persons contacted offer resistance or become assaultive. In this particular incident, there was no need for the Named Employee to use force and the situation did not call for any de-escalation tactics. The SPD Chief directed that failure to use tactics and training, in and of itself, is not considered a violation of policy. Nonetheless, the Named Employee should use the tactics for which he has been trained for his own safety and to reduce the necessity to use force.

The Named Employee told OPA his contact with the subject began as merely a social contact, with the Named Employee intending only to give the subject a reminder about drinking in the park. The Named Employee's report adds the information that the Named Employee saw the subject open a bottle inside a paper bag, drink from it and hand it to someone else who took a drink from the same bottle. The Named Employee made contact with the subject and suggested he either leave the park or pour out the contents of the bottle because it was illegal to consume alcohol in the park. When the subject did neither, the Named Employee ordered him to pour it out. At this point, regardless of whether the contact began as social and not investigative, the contact had certainly become a Terry Stop and the Named Employee should have completed a Terry Stop template. Based on the Named Employee's statements in his report and during his OPA interview, it appeared he was not very clear on the difference between a social contact and a Terry Stop, especially when and how a social contact can convert into a Terry Stop.

FINDINGS

Named Employee #1

Allegation #1

The Named Employee would benefit from a reminder to activate his ICV before making contact with someone when there is a possibility police activity might ensue. Therefore a finding of **Not Sustained** (Training Referral) was issued for *In-Car Video System: Employees Will Record Police Activity*.

Allegation #2

The preponderance of evidence failed to either prove or disprove the allegation. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Standards and Duties: Employees Engaged in Department-Related Activities Identify Themselves When Requested*.

Allegation #3

The preponderance of the evidence did not support the allegation the Named Employee was rude or unprofessional in his speech or demeanor. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards and Duties: Employees Shall Strive to be Professional at All Times*.

Allegation #4

The preponderance of the evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *De-escalation: When Safe Under the Totality of the Circumstances and Time and Circumstances Permit, Officer Shall Use De-escalation Tactics in Order to Reduce the Need for Force*.

Allegation #5

The Named Employee would greatly benefit from coaching from an expert on this subject who can help him apply the law and policy in this area to his work as a patrol officer in the field. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Voluntary Contacts, Terry Stops and Detentions: Officers Must Document All Terry Stops*.

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.