



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 9, 2020

CASE NUMBER: 2019OPA-0723

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	13.080 - Use of Department Vehicles 11. Prohibited Activities During Use of Department Vehicles	Not Sustained (Unfounded)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	13.080 - Use of Department Vehicles 11. Prohibited Activities During Use of Department Vehicles	Not Sustained (Unfounded)

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 Employees drove their SPD vehicles in a manner that was contrary to Department policy.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

13.080 - Use of Department Vehicles 11. Prohibited Activities During Use of Department Vehicles

An anonymous Complainant alleged to OPA that he observed an SPD marked vehicle and an SPD motorcycle race each other in Milton, Washington. The Complainant described that the SPD vehicles cut multiple other vehicles off and drove in an unsafe manner. The Complainant noted that there was no apparent emergency at the time. Based on these allegations, OPA commenced this investigation.

Given the anonymous status of the Complainant, OPA was unable to interview the Complainant to determine more details concerning these allegations. He further provided no pictures or videos supporting his claims.

However, given that the Complainant identified the vehicle number for the SPD vehicle, OPA was able to determine that it was assigned to Named Employee #1 (NE#1) on the date in question. OPA was further able to determine that NE#1 was in the general location described by the Complainant and at the approximate time that the racing allegedly occurred. There was no Body Worn Video or In-Car Video recorded during that timeframe. Given this, OPA interviewed NE#1 concerning the Complainant’s allegations.

NE#1 recounted that he was at a stop light in Milton when he observed a motorcycle officer who was stopped next to him. NE#1 and the motorcycle officer, who NE#1 identified as Named Employee #2 (NE#2), chatted at the light. NE#1 recounted that, at the time, he was in the left lane and NE#2 was beside him in the right lane. NE#1 told OPA that, when the light turned green, NE#2 let NE#1 take a right turn in front of him. NE#1 said that he and NE#2 then

drove next to each other for a period of time. NE#1 confirmed that they did so at or below the posted speed limit. NE#1 denied racing, cutting other vehicles off, or driving in a discourteous or aggressive manner.

NE#2 confirmed NE#1's account of their driving. He stated that he allowed NE#1 to take a right turn in front of him and that they then drove next to each other. NE#2, like NE#1, denied racing, cutting other vehicles off, or driving in a discourteous or aggressive manner.

SPD Policy 13.080-POL-11 governs the use of Department vehicles by SPD employees. Relevant to this case, the policy prohibits officers from: "Driving in a manner that is discourteous or aggressive, unless necessary to effect a recognized law enforcement purpose." (SPD Policy 13.080-POL-11.)

If the Complainant's allegations were true, the Named Employees' actions would have violated this policy. However, both of the Named Employees denied engaging in this conduct and, in doing so, provided consistent and credible accounts. Moreover, the Complainant has offered no additional evidence supporting a determination that the Named Employees did so. Without such evidence, the allegations against the Named Employees have not been proved by a preponderance of the evidence. Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded as against both NE#1 and NE#2.

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

Named Employee #2 - Allegations #1

13.080 - Use of Department Vehicles 11. Prohibited Activities During Use of Department Vehicles

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

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