



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary – Supervisor Action

Complaint Number OPA#2015-01225 and OPA#2015-1296

Issued Date: 10/12/2015

Named Employee #1 and #2	
Allegation #1	HOV lane violation
OPA Finding	<b>Management Action</b>
Final Discipline	N/A

#### **INCIDENT SYNOPSIS**

The named employees were observed operating unmarked Seattle Police Department vehicles in HOV lanes with no other passengers.

#### **COMPLAINT**

The complainant alleged that the named employees drove unmarked department vehicles in the HOV lane without the required two or more occupants.

#### **SUPERVISOR ACTION**

For complaints that are classified as Supervisor Action, OPA requires that the employee's Supervisor take certain actions to address the issues that were raised in the complaint. For these cases the named employees' supervisors were asked to review performance expectations with their employees and contact the complainant to explain the actions that were taken and to address the complainant's concerns.

## **ANALYSIS AND CONCLUSION**

The complainant provided the text from the RCW regarding HOV lane usage and the legal exemptions. (There is an associated WAC code with similar language.) The RCW requires that in order to be exempt from the HOV lane requirements, emergency vehicles must be "marked" and operated by on-duty law enforcement personnel. The vehicles used in these instances were not. There currently is no SPD policy or other guidelines regarding employee use of Department issued vehicles in the HOV lanes.

OPA has made the following recommendations to the Chief of Police: OPA recommends that SPD direct its employees to adhere to the RCW and WAC regarding unmarked vehicles and their use in the HOV lanes. Employees operating unmarked SPD vehicles while responding to emergency situations in the HOV lanes should be required to employ the use of the emergency lights and/or siren as a means to notify the public of their emergency response. This expectation should be incorporated into Department policy. OPA recommends that SPD monitor its employees' adherence to all traffic laws and remind them that their driving behavior reflects on the Seattle Police Department.

## **FINDINGS**

The OPA Director's letter of Management Action recommendation to the Chief of Police is attached to this report.

*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.*



September 29, 2015

Chief Kathleen M. O'Toole  
Seattle Police Department  
PO Box 34986  
Seattle, WA 98124-4986

RE: MANAGEMENT ACTION RECOMMENDATION (2015OPA-1225 & 2015OPA-1296)

Dear Chief O'Toole:

In recent weeks, OPA has received complaints from an individual regarding the use of High Occupancy Vehicle (HOV) lanes by SPD employees driving unmarked SPD vehicles with a single occupant (the driver). RCW §46.61.165 in association with WAC §468-510-010 provide a law enforcement exemption to the two or more occupants requirement for HOV lanes. WAC §468-510-010 authorizes, "official marked law enforcement and fire department vehicles equipped with emergency lights and siren, operated by an on-duty state patrol, local, or county law enforcement personnel" to use the HOV lane. The vehicles observed and photographed by the complainant were not marked. In addition, given the circumstances and time of day when the SPD vehicles were observed using the HOV lane, it is possible the drivers were not on-duty.

SPD has no clear policy or published directive regarding employee use of unmarked Department vehicles in the HOV lanes. Based on informal and anecdotal information gathered by OPA, there appears to be a widely held belief among SPD personnel at all levels that the terms "unmarked" and "on-duty" are subject to interpretation.


I recognize that the unauthorized use of HOV lanes is a relatively small matter. Nonetheless, public trust is based on the assurance that SPD employees will hold themselves accountable in both small and large matters. The unauthorized use of a HOV lane by SPD employees in an unmarked vehicle is a highly public and visible contradiction to accountability.

Recommendation: With the goal of aiding SPD to maintain its reservoir of public trust, I recommend that SPD direct its employees to adhere to the RCW and WAC regarding unmarked vehicles and their use in the HOV lanes. Employees operating unmarked SPD vehicles while responding to emergency situations in the HOV lanes should be required to employ the use of the emergency lights and/or siren as a means to notify the public of their emergency response. This expectation should be incorporated into Department policy. In addition, I recommend that SPD monitor its employees' adherence to all traffic laws and remind them that their driving behavior reflects on the Seattle Police Department.

Pierce Murphy  
September 29, 2015  
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Thank you very much for your prompt attention to this matter of public trust and confidence in the professional conduct of the SPD and its employees. Please inform me of your response to this recommendation and, should you decide to take action as a result, the progress of this action.

Sincerely,

A handwritten signature in blue ink, appearing to read "Pierce Murphy". The signature is written in a cursive style with a large initial "P".

Pierce Murphy  
Director, Office of Professional Accountability