



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0897

Issued Date: 01/28/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 13.080 (12) Use of Department Vehicles: Employees Will Not Use a Department Vehicle for Reasons Outside the Course and Scope of Their Job Duties. (Policy that was issued February 1, 2016)
OPA Finding	Not Sustained (Management Action)
Allegation #2	<u>Seattle Police Department Manual</u> 13.080 (11) Use of Department Vehicles: Prohibited Activities During Use of Department Vehicles (Policy that was issued February 1, 2016)
OPA Finding	Not Sustained (Management Action)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employee was part of an on-call Unit.

COMPLAINT

The complainant, the Office of Professional Accountability, alleged possible misuse of a department vehicle by the Named Employee in regards to his activities with his ex-wife/girlfriend.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint
2. Search for and review of all relevant records and other evidence
3. Interview of SPD employee

ANALYSIS AND CONCLUSION

Currently, SPD does not have a policy that speaks to employees who have been placed on "standby," provided with a SPD vehicle to drive while on standby, and expected to respond from wherever they are 24/7. While the provisions of both sections applicable in this case appear to apply to all SPD vehicles, the Named Employee presented a compelling argument that it made no sense to give an employee a SPD vehicle to drive so they can respond 24/7 to callouts, but then tell them they can't go about their normal day-to-day activities, like taking kids to school or shopping on a weekend. In addition, there is a long and well-established practice in SPD of having on-call personnel with assigned cars use the SPD car in the same manner as did the Named Employee. The OPA Director will be making a Management Action Recommendation to the Chief of Police that the Department develop policy specifically to address the issue of vehicle use by personnel who are "on-call" and expected to respond right away from wherever they are.

FINDINGS

Named Employee #1

Allegation #1 and #2

SPD does not currently have a policy that speaks to the allegations. Therefore a finding of **Not Sustained** (Management Action) was issued for *Use of Department Vehicles: Employees Will Not Use a Department Vehicle for Reasons Outside the Course and Scope of Their Job Duties*, and *Use of Department Vehicles: Prohibited Activities During Use of Department Vehicles*.

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.



City of Seattle

Office of Professional Accountability

February 13, 2017

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

RE: MANAGEMENT ACTION RECOMMENDATION (2016OPA-0897)

Dear Chief O'Toole:

OPA investigated an allegation that a SPD employee may have been making unauthorized personal use of an unmarked SPD vehicle. In the course of this investigation it was determined that the Named Employee was on 24-hour call, seven days a week due to his specialty assignment and had been assigned a Department vehicle so he could respond directly when called out. The employee was found to have used the Department vehicle while off-duty to drop off and pick up his children at their mother's house as well as a number of other activities that were not job-related but took place while the Named Employee was subject to immediate call out.

Current SPD policy regarding the use of Department vehicles (Section 13.080) states:

Employees Will Not Use a Department Vehicle for Reasons Outside the Course and Scope of Their Job Duties. Reasonable, minor, incidental stops while on duty, or en route to or from work, are permitted. (13.080.12)

Elsewhere, this same section of the policy provides exceptions to this general rule. For example, §13.080.3 allows the Department to assign "take home" vehicles to certain employees due to their "rank or duty responsibilities." Those who are assigned a "take home" vehicle must complete and sign a "take home" vehicle agreement. The agreement lists a number of prohibited activities with respect to the use of the Department vehicle, including "allowing passenger(s) into the vehicle except as authorized by a supervisor." Neither the form nor the policy provides supervisors with guidance with respect to allowing passengers in "take home" Department vehicles. Similarly, §13.080.8 authorizes SPD captains to authorize "overnight use" of a Department vehicle, but provides no specific guidance. Finally, §13.080.7, which prohibits employees from taking Department vehicles outside of the Seattle city limits does not provide a clear exemption for those employees who live outside the City of Seattle and are assigned a "take home" vehicle.

Policy Section 13.080 does not address the situation encountered by the Named Employee in this particular OPA investigation, along with others in SPD who are on-call and expected to respond immediately and directly when summoned. Specifically, current SPD policy does not address the issue of on-call employees with a "take home" Department vehicle who need to attend to the ordinary activities of their personal and family lives (e.g., transporting children or other dependents to and from school and other appointments, family or personal activities with others

that require driving, etc.). The Named Employee in this particular OPA complaint investigation needed to transport his young children to school and other activities. He had a "take home" Department vehicle and was expected to be available to respond directly and quickly when summoned. It would not make sense for him to leave the Department vehicle at home and use his personal car every time he needed to transport his children or engage in other personal activities. Given the geography of the region and the need to sometimes drive significant distances to get places, returning home to pick up the Department vehicle when summoned would make little sense if a timely response was expected.

In the absence of clear policy guidance regarding "take home" vehicles for Department employees who are on call, especially with respect to those who are continuously on call as a result of their position or special expertise, the Named Employee in this OPA case and others like him operate in a gray area and risk being accused of improper use of Department vehicles. For this reason, I make the following recommendation.

Recommendation: I recommend SPD revise Policy Section 13.080 Use of Department Vehicles to address the following issues.

- provide clear guidelines to supervisors for the authorization of non-SPD passengers in Department vehicles
- provide clear guidelines to supervisors for the authorization of temporary overnight use of a Department vehicle
- reconcile the inconsistency between the authorization of a "take home" vehicle and the prohibition against taking a Department vehicle outside the city limits
- provide clear and practical policy guidance and regulations regarding the use of Department vehicles by those who are expected to be on-call and available to respond immediately when summoned

Thank you very much for your prompt attention to this matter of public trust and confidence in the professional conduct of 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,



Pierce Murphy
Director, Office of Professional Accountability

cc: Assistant Chief Lesley Corder
Rebecca Boatright, Senior Police Counsel
Fe Lopez, Community Police Commission Executive Director