



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0358

Issued Date: 11/30/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (5) Standards and Duties: Employees May Use Discretion (Policy that was issued 04/01/15)
OPA Finding	Not Sustained (Inconclusive)
Allegation #2	<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 04/01/15)
OPA Finding	Sustained
Allegation #3	<u>Seattle Police Department Manual</u> 5.001 (12) Standards and Duties: Employees Shall Not Use Their Position or Authority for Personal Gain (Policy that was issued 04/01/15)
OPA Finding	Sustained
Allegation #4	<u>Seattle Police Department Manual</u> 12.050 (2) Criminal Justice Information Systems: Inquiries Through ACCESS, or Any Other Criminal Justice Record System, Are Only to Be Made for Legitimate Law Enforcement Purposes (Policy that was issued 04/01/15)
OPA Finding	Sustained

Allegation #5	<u>Seattle Police Department Manual</u> 16.110-POL-5 (6) Crisis Intervention: Responding to Subjects in Behavioral Crisis - Officers May Facilitate Involuntary Mental Health Evaluations (Policy that was issued 08/01/15)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	8 Day Suspension

INCIDENT SYNOPSIS

The Named Employee sent the subject text messages.

COMPLAINT

The Complainant, a supervisor within the Department, alleged the Named Employee sent inappropriate texts, obtained a personal number through a search of police records in violation of policy, and based on the texts reviewed by OPA, the Named Employee perhaps illegally detained/voluntarily committed individuals.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint memo
2. Review of In-Car Videos (ICV)
3. Search for and review of all relevant records and other evidence
4. Interviews of SPD employees

ANALYSIS AND CONCLUSION

The complainant alleged that the Named Employee may have used his law enforcement power to take one or more persons into involuntary emergency custody. This allegation was based on statements made in a series of text messages sent by the Named Employee to the subject. The subject is an employee of an ambulance service and, at the time of this incident, regularly responded to calls for service from the Seattle Police Department (SPD) to transport people placed into involuntary emergency custody. Two of the text messages left the subject with the impression the Named Employee was subjecting people to involuntary detention without lawful justification merely to get the ambulance service to come in the hopes she (the subject) would be assigned to the call. The Named Employee told OPA he did not recall sending the second of the two messages, but did not deny sending it. A review of past involuntary detentions in which the Named Employee was present revealed two instances in which the basis for the detention was not clearly obvious based on the report. These same incidents were mentioned by the subject and alluded to in a text message sent by the Named Employee. At the same time

sufficient facts listed in the report and visible on In-Car Video raise the possibility an emergency detention was justified.

The complainant alleged the Named Employee invaded the subject's privacy and made her feel uncomfortable and anxious when responding as an ambulance service employee to calls involving SPD. On the date of the incident, the Named Employee sent a series of text messages to the subject. The purpose of the text messages was to initiate a personal, non law enforcement related relationship with the subject. The Named Employee told OPA he did this to see if she wanted to go on a date with him. The preponderance of the evidence from this investigation showed these text messages were not wanted by the subject; she did not request them or do anything a reasonable person could have mistaken to be a request for such a contact. The subject did not give the Named Employee her personal cell phone number to which he sent the unwelcome messages. The preponderance of the evidence showed the Named Employee inappropriately used his law enforcement access to obtain her cell phone number from a police report in which she was listed as a witness and in which the Named Employee had no involvement. As a result of the Named Employee's text messages, the subject expressed to OPA a lack of comfort in responding to calls that may put her into contact with the Named Employee. The subject told OPA that, shortly after receiving the text messages, she went to an SPD call and saw the Named Employee. Feeling awkward and anxious, the subject remained inside the vehicle and was unable to fully perform her duties. The subject also told OPA she requested a transfer to a different assignment, partly for her own convenience and partly in order to reduce the possibility she might encounter the Named Employee at a call. In her reply text message to the Named Employee, the subject made it clear that his messages were unwanted and should stop immediately. The actions and text message statements of the Named Employee clearly caused anxiety and concern for the subject. Her concern was great enough that she raised the issue with her employer and filed a complaint with OPA. SPD and its officers enjoy an effective and professional working relationship with the ambulance service. The actions of the Named Employee not only caused the subject concern and anxiety, they threatened to damage the trust of a vital and valued service partner.

The preponderance of the evidence from this investigation showed that the Named Employee inappropriately used his position as an SPD Officer to obtain the subject's cell phone number so he could send her text messages from his personal cell phone to hers. The purpose of these text messages was completely unrelated to the Named Employee's authority or duties as a Police Officer; it was solely to seek a personal relationship with the subject.

The preponderance of the evidence from this investigation showed that the Named Employee accessed databases and ran the subject's name. The subject was listed as a witness in a report from earlier in the year. The Named Employee was not the author of the report, nor was he involved in any way in the related incident. The subject's cell phone number was listed in the report. The Named Employee told OPA he obtained the subject's cell number from the system on which the report was stored.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence did not exist to either sustain or refuse the allegation. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Standards and Duties: Employees May Use Discretion*.

Allegation #2

The actions of the Named Employee not only caused the subject concern and anxiety, they threatened to damage the trust of a vital and valued service partner. Therefore a **Sustained** finding was issued for *Standards and Duties: Employees Shall Strive to be Professional at all Times*.

Allegation #3

The preponderance of the evidence showed that the purpose of the text messages was completely unrelated to the Named Employee's authority or duties as a Police Officer. Therefore a **Sustained** finding was issued for *Standards and Duties: Employees Shall Not Use Their Position or Authority for Personal Gain*.

Allegation #4

The preponderance of the evidence showed that the purpose of the text messages was completely unrelated to the Named Employee's authority or duties as a Police Officer. Therefore a **Sustained** finding was issued for *Criminal Justice Information Systems: Inquiries Through ACCESS, or Any Other Criminal Justice Record System, Are Only to Be Made for Legitimate Law Enforcement Purposes*.

Allegation #5

A preponderance of the evidence did not exist to either sustain or refuse the allegation. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Crisis Intervention: Responding to Subjects in Behavioral Crisis - Officers May Facilitate Involuntary Mental Health Evaluations*.

Required Training: The Named Employee's supervisor should provide the Named Employee with additional training and supervision regarding the use of this important law enforcement authority.

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.