



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 26, 2018

CASE NUMBER: 2018OPA-0429

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	13.010 - Collisions Involving Department Vehicles 13.010-TSK-1 Department Employee Involved in a Collision	Sustained
# 2	13.080 - Use of Department Vehicles 3. The Department May Assign “Take Home” Vehicles	Sustained
# 3	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 3. Employees Shall Not Discourage, Interfere With, Hinder, or Obstruct Any Person from Filing a Complaint	Not Sustained (Unfounded)
# 4	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Unfounded)
# 5	13.080 - Use of Department Vehicles 12. Employees Will Not Use a Department Vehicle for Reasons Outside the Course and Scope of Their Job Duties	Not Sustained (Training Referral)

Imposed Discipline

Oral Reprimand

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 Named Employee was involved in accident while driving a Department vehicle that he did not immediately report to a supervisor and cause to be investigated. Allegations were also added concerning the Named Employee’s professionalism and whether he discouraged or hindered the Complainant from filing a claim concerning the damage to her vehicle.

ADMINISTRATIVE NOTE:

At the discipline meeting in this matter, the chain of command discussed raised two issues. First, the chain of command pointed out that OPA’s reference to the Named Employee being on “standby” was the incorrect terminology. Instead, the chain of command stated that he was “on-call.” The difference is that standby is for a limited period of time while being on-call is indefinite. OPA made edits to the DCM consistent with the chain of command’s comments.

In addition, OPA agreed that it was appropriate to strike the language from the Training Referral in Allegation #5 concerning the Named Employee’s chain of command evaluating whether to revoke his usage of a take home vehicle. Based on the discussions at the discipline meeting, OPA now understands that this recommendation is inadvisable for several reasons. First, having a take home vehicle is fundamental to the Named Employee’s job duties. Second, the



Named Employee clearly understands the mistake he made and there is no reason to believe that he will ever violate this policy again.

Lastly, OPA corrected an incomplete sentence on pg. 5.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

13.010 - Collisions Involving Department Vehicles 13.010-TSK-1 Department Employee Involved in a Collision

Named Employee #1 (NE#1) was driving a Department issued take home vehicle when he got in an accident with a parked vehicle. NE#1 attempted to locate the owner – who was later identified as the Complainant – and spoke to a neighbor who knew the owner. The neighbor tried to reach the Complainant but was unsuccessful. NE#1 left his contact information with the neighbor, as well as a note for the Complainant. Photographs by a witness indicated that NE#1 had a lawnmower in the back of his assigned vehicle (which was an unmarked pickup truck).

SPD Policy 13.010-TSK-1 sets forth the responsibilities of a Department employee who is involved in a collision while driving a SPD vehicle. Relevant to this case, the policy requires that the officer: notify a supervisor immediately; and remain on scene until relieved by the supervisor.

Here, NE#1 failed to immediately notify a supervisor and to remain on scene until relieved by the supervisor. He acknowledged that he violated policy in this regard and did not have a valid explanation for why he did so. When he failed to take these steps, he acted contrary to the Department's clear directions and expectations, which are in place due to the significant liability that can flow from accidents involving Department vehicles. For these reasons, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #2

13.080 - Use of Department Vehicles 3. The Department May Assign "Take Home" Vehicles

SPD Policy 13.090-POL-3 concerns the assigning of take home vehicles to Department employees. This policy instructs that employees must sign and comply with the Take Home Vehicle Agreement. This agreement sets forth the various limitations on the use of the vehicle by the employee. Included among the prohibited conduct is the following: "Transporting unsecured loads, debris, and other materials and equipment in pick-up truck beds and on vehicles, except in the performance of SPD job duties." The limitations within the agreement are also set forth in SPD Policy 13.080-POL-11.

A photograph taken of the accident by a witness indicated that NE#1 had a lawnmower in the back of the truck. NE#1 explained to OPA that he had been working in the yard that day and was taking his lawnmower to the gas station and was planning on filling both it and his truck up with gas.



As discussed above, the policy and the agreement that NE#1 signed precluded him from transporting equipment in the bed of the truck. When he did so here, he violated policy. As such, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #3

5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 3. Employees Shall Not Discourage, Interfere With, Hinder, or Obstruct Any Person from Filing a Complaint

The Complainant confirmed that a note was left for her and with her neighbor. She stated that she called NE#1 the next morning and that he called her back right away. She stated that the NE#1 was very apologetic and said that he would cover the accident with his insurance. She arranged for a tow truck, but NE#1 called her back and asked her to cancel the tow. He then did not call back until several hours later. He told the Complainant that he had to file a police report. She stated that she had not yet seen that report. They started to go back and forth on the coverage for the car. NE#1 told her about the City claim process. NE#1 started to complete the claim form for her, which she found a little strange. She spoke to an investigator who told her that she was supposed to file the claim forms herself. The investigator informed her that NE#1 was a police officer. She stated that she asked NE#1 some further questions but he did not respond to her and told her that they could not speak anymore because it was an ongoing civil matter.

NE#1 also recalled that he left a note both for the Complainant and her neighbor. He stated that she called him the next morning and he told her that he would use his insurance and, if that did not work, he would pay for the damage out of pocket. He told her that he worked for the City at that time. He recalled that she stated that she was going to call a tow truck. He then spoke to his Lieutenant who told him that there needed to be a police investigation. He contacted the Complainant and told her that he had called the police. She said that she wanted to come to the scene. NE#1 said that he would call her when the police arrived. An Officer and a Sergeant then responded to the scene and conducted the investigation. As discussed, the Complainant was present at least for a portion of the incident.

SPD Policy 5.002-POL-3 precludes Department employees from discouraging, interfering with, hindering, or obstructing any person from filing a complaint.

Based on the above, I find no evidence that NE#1 violated this policy. He accurately communicated with the Complainant until she filed her civil claim and he could no longer do so. Moreover, he tried to assist her in completing some of the claim forms by filling in his personal information. There is no indication from the record that he tried to obstruct or prevent her from filing her claim.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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



Named Employee #1 - Allegation #4

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-10.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (*Id.*) Lastly, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (*Id.*)

Based on my review of the record, I do not believe that there is sufficient evidence establishing that NE#1 was rude, dismissive, or otherwise inappropriate during this incident. While it was unfortunate that he got into an accident and while the Complainant’s frustration with not having a car and the City’s byzantine claim process is understandable, this does not mean that NE#1 was unprofessional. Moreover, while this incident may have undermined the Department in the Complainant’s eyes, NE#1’s conduct in this incident is already fully addressed in the two recommended Sustained findings. As such, it is both unnecessary and unwarranted under the facts of this case to also sustain this allegation.

As such, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #5

13.080 - Use of Department Vehicles 12. Employees Will Not Use a Department Vehicle for Reasons Outside the Course and Scope of Their Job Duties

SPD Policy 13.080-POL-12 states that employees will not use a Department vehicle for reasons outside of the course and scope of their job duties. To that end, the Take Home Car Agreement, which was signed by NE#1, stated the following: “The Seattle Police Department agrees to provide the listed “take home” vehicle to the employee, for his or her use only for performance of required job duties, including commuting to and from work and home.”

It is OPA’s understanding that NE#1 is on-call. This meant that he could be called to a scene if needed at any time. NE#1 indicated to OPA that, on the date in question, he planned to get lunch and then take his truck and lawnmower to fill them up. From a review of the fuel card records, there was no indication that he filled up his vehicle that day.

Moreover, it is OPA’s understanding that NE#1 is on-call. This meant that he could be called to a scene if needed at any time. Even though NE#1 was on-call, it was still impermissible for him to have used the truck in the manner that he did. Notably, had he been called to a scene, he would have either had to go home and drop off the lawnmower or drive to the scene with both in his vehicle. Both of which were counter to the purpose and function of the take home vehicle.



While I find that NE#1 also violated this policy, given that I already recommend that Allegation #1 and Allegation #2 be Sustained, I instead issue a Training Referral here.

- **Training Referral:** NE#1 should receive retraining concerning SPD Policies 13.010 and 13.080. He should be reminded of his obligations when assigned a take home car and, specifically, that he should only use the truck for official work-related duties. He should further be counseled concerning his failure to properly report the accident and his chain of command should ensure that he does so in the future should this happen again. From OPA's review of NE#1's interview transcript, he appeared to understand the significance of this matter and every indication is that he will not repeat this conduct in the future. This retraining and associated counseling should be documented and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**