



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0057

Issued Date: 08/19/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (9) Employees Shall Strive To Be Professional At All Times (Policy that was issued 04/01/2015)
OPA Finding	Not Sustained (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (12) Employees Shall Not Use Their Position or Authority for Personal Gain (Policy that was issued 04/01/2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employee stopped a Seattle Police Department (SPD) Officer from viewing the surveillance video of a business he is associated with and refused to assist with an investigation.

COMPLAINT

The complainant, a supervisor within the Department, alleged that the Named Employee refused to cooperate with an SPD investigation that took place near the Named Employee's business.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

The Named Employee is employed by the Seattle Police Department (SPD) as a civilian employee and, at the time of this incident, was also the owner of a small business in Seattle. On the date in question, SPD officers were investigating an incident that took place across the street from the Named Employee's private business. A SPD officer approached an employee at the Named Employee's business and inquired about exterior surveillance cameras, hoping there might be video of the incident across the street. The employee allowed the officer to view video from the business' security system. Several minutes after the officer began watching the security video; the Named Employee arrived and contacted the officer. The Named Employee asked the officer to stop watching the video and said he wanted to consult with his attorney before allowing SPD to have access to his videos. An audio recording of this conversation was captured on the officer's In-Car Video (ICV). The Named Employee can be clearly heard telling the officer that he (the Named Employee) works for "the Department." The Named Employee then told the officer that the Department is still talking disparagingly about his business. The Named Employee told OPA during his interview that he did not mean that the SPD was talking disparagingly about the business; rather he meant some people were doing that. The preponderance of the evidence shows that the Named Employee identified himself to the officer as a SPD employee and accused "the Department" of talking disparagingly about his (the Named Employee's) business. The evidence also supports the conclusion that the Named Employee told the officer to stop viewing the business' security video and asked the officer to get either a warrant or a letter from a Captain or Chief asking for the video. The Named Employee had the right, as the owner of the business, to refuse access to his private property without a warrant. The fact the Named Employee worked for SPD did not remove his Fourth Amendment rights with respect to unreasonable search and seizure by the government. While the Department may hope all of its employees will choose to voluntarily cooperate with a police investigation, the Named Employee's choice to exercise his Constitutional right was not an act of unprofessionalism. With respect to the Named Employee's statement to the officer that the Department had been talking disparagingly about his business, the OPA Director did not find the content and context of the statement clearly violated the policy prohibition against behavior that "undermines public trust in the Department, the officer, or other officers" (see SPD Policy §5.001(9)). The Named Employee's statement was made during a private conversation between him and the officer. It was ill-advised and lacked decorum, but did not "publically ridicule" the Department or other employees. Nonetheless, the Named Employee should be

reminded of his obligation to be more judicious and professional in his speech and behavior, given his highly visible public role as a SPD employee.

As the Named Employee was telling the officer to stop looking at the security video, he (the Named Employee) said he was a Department employee. The preponderance of the evidence from this investigation shows that the Named Employee neither asked for nor received any special treatment, favor or other benefit as a result of his position or authority as a SPD employee.

FINDINGS

Named Employee #1

Allegation #1

The evidence shows that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Employees Shall Strive To Be Professional At All Times*.

Required Training: The Named Employee should be clearly reminded of the importance of maintaining a professional level of speech and behavior at all times, especially when he is identified as a SPD employee. It should be pointed out that his particular job assignment as a visible representative of the Department in the community places a special obligation on him to not publically criticize SPD or do anything that might harm the reputation of the Seattle Police Department.

Allegation #2

The preponderance of the evidence from this investigation shows that the Named Employee neither asked for nor received any special treatment, favor or other benefit as a result of his position or authority as a SPD employee. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Employees Shall Not Use Their Position or Authority for Personal Gain*.

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.