



# OFFICE OF PROFESSIONAL ACCOUNTABILITY

## Closed Case Summary

Complaint Number OPA#2015-1484

Issued Date: 06/29/2016

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 04/01/15)
OPA Finding	<b>Not Sustained</b> (Inconclusive)
Allegation #2	<u>Seattle Police Department Manual</u> 15.180 (1) Primary Investigations: Officers Shall Conduct a Thorough and Complete Search for Evidence (Policy that was issued 04/01/15)
OPA Finding	<b>Sustained</b>
Allegation #3	<u>Seattle Police Department Manual</u> 15.010 (1) Arson Investigations: Officer Responsibilities (Policy that was issued 11/20/07)
OPA Finding	<b>Not Sustained</b> (Training Referral)
Final Discipline	2 day suspension

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (9) Employees Shall Strive to be Professional at all Times (Policy that was issued 04/01/15)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 15.180 (1) Primary Investigations: Officers Shall Conduct a Thorough and Complete Search for Evidence (Policy that was issued 04/01/15)

OPA Finding	<b>Not Sustained</b> (Unfounded)
Allegation #3	<u>Seattle Police Department Manual</u> 15.010 (1) Arson Investigations: Officer Responsibilities (Policy that was issued 11/20/07)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Final Discipline	N/A

<b>Named Employee #3</b>	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (9) Employees Shall Strive to be Professional at all Times (Policy that was issued 04/01/15)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 15.180 (1) Primary Investigations: Officers Shall Conduct a Thorough and Complete Search for Evidence (Policy that was issued 04/01/15)
OPA Finding	<b>Sustained</b>
Allegation #3	<u>Seattle Police Department Manual</u> 15.010 (1) Arson Investigations: Officer Responsibilities (Policy that was issued 11/20/07)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Final Discipline	2 day suspension

### **INCIDENT SYNOPSIS**

The Named Employees responded to an arson call.

### **COMPLAINT**

The complainant alleged that the Named Employees were unprofessional, rude, and made fun of her on In-Car Video (ICV). She stated that she asked the officers to collect evidence related to the investigation. The officers refused to and left it at the scene. Also, there is no indication that the officers checked for private security video at the apartment building.

### **INVESTIGATION**

The OPA investigation included the following actions:

1. Interview of the complainant
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 expressed her strongest dislike for Named Employee #1. It is not clear precisely what it was that Named Employee #1 said and/or did, although the complainant did specifically mention statements allegedly made by Named Employee #1 as he and another officer were walking toward her apartment. Given the poor quality of audio from the various In-Car Video (ICV) recordings available, it was not possible to rule out the possibility Named Employee #1 said or did something unprofessional. The complainant appears to have taken offense at the answer Named Employee #2 gave when she asked if the evidence would be tested if she was killed. Named Employee #2's affirmative answer was accurate and not in itself rude or offensive. The preponderance of the evidence supports the conclusion that Named Employee #2 did not act in a rude, offensive or otherwise unprofessional manner during his contact with the complainant. The complainant expressed a positive impression of Named Employee #3, although the precise reasons for this are unclear. On their way to the call, Named Employee #3 and Named Employee #1 had a conversation, captured on their ICV, about the complainant and their past experiences responding to her calls for police service. Named Employee #3 wondered aloud if the complainant made up some of the things she reported to the police. It appears the complainant listened to the ICV prior to her OPA interview and that the recorded conversation between Named Employee #1 and Named Employee #3 was the primary reason she felt Named Employee #1 had acted unprofessionally. While it is understandable why the complainant was upset and offended when she heard Named Employee #1 and Named Employee #3 speaking about her situation and Named Employee #3 speculating about her veracity, it is considered best practice for officers to share with each other their experiences with or information about anyone involved in a call to which they are responding. Conversations such as this need to be respectful and not mocking, but they also need to be candid and sufficiently unfiltered to ensure responding officers have the information they need before they arrive at the call. Given the totality of the circumstances, this conversation between two responding officers does not rise to the level of being unprofessional as delineated in SPD Policy 5.001 (9).

SPD Policy 15.180 (1) requires officers to both search for and collect evidence "encountered on a primary investigation." The preponderance of the evidence shows the complainant pointed out a partially burned towel and a cigarette she believed were connected with the arson. Named Employee #1, who was the primary officer for this call (evidenced by his actions at the scene, the fact he wrote the General Offense (GO) Report and his admission of such to OPA), did not collect this evidence. Instead, the complainant was asked to retain it. This policy says, "Only evidence that is impractical to collect or submit to the Evidence Unit shall be retained by the owner." In such cases, the policy requires that photos be taken. In this instance, however, there was no practical reason why the towel and the cigarette were not collected and submitted to the Evidence Unit. Under the circumstances, this policy required it and, as primary officer for

the call, Named Employee #1 failed to make certain it was done. Named Employee #1 told OPA he delegated the evidence duties to Named Employee #3 and no longer had responsibility for evidence collection and submission. However, Named Employee #1 was fully aware of the evidence and its importance to the reported crime of possible Domestic Violence arson in an occupied multi-unit apartment building. As primary officer, Named Employee #1 could delegate the task of evidence collection to Named Employee #3, but still was obligated to make certain material evidence known to him was properly collected and submitted to the Evidence Unit. In addition, Named Employee #1 was aware of the presence of a video surveillance camera in the apartment building and the possibility it contained evidence showing who started the fire. Given the time of day, it was reasonable for Named Employee #1 to not attempt waking someone up to retrieve the video evidence. However, it was his responsibility as the primary officer to take reasonable steps to ensure the video evidence was collected as soon as possible before it could be destroyed or over-recorded. Instead, Named Employee #1 did not take affirmative action to ensure the video was recovered as soon as possible. He mentioned in his GO Report that he saw a camera on the outside of the apartment building but did not either make it clear in the report that he had not obtained the video or take some other action to alert a follow-up detective of the need to go obtain the video. Named Employee #2 was not the primary officer for this call and was not assigned any responsibility for the identification and/or collection of evidence. Named Employee #3 failed to collect evidence (the towel and the cigarette) clearly linked by the complainant to the reported arson. There was no practical reason why this evidence could not be collected and turned into the Evidence Unit as required by policy.

SPD Policy 15.010 (1) requires officers to do the following when responding to a fire call that involves arson, is suspicious in nature, involves a death or serious injury, or appears to be of malicious intent: (1) contact a sergeant to screen the incident and notify the Arson/Bomb Squad, (2) write a GO Report and (3) request Fire Department response even if the fire is already out. As the primary officer for this call, Named Employee #1 bore the responsibility to ensure all three of these were accomplished. While a GO Report was written, Named Employee #1 could not recall if he contacted a sergeant to screen the incident and the Fire Department, though requested, were told to cancel their response. This policy exists to make certain the potentially deadly crime of arson is investigated and handled appropriately by insisting that patrol officers, all of whom do not possess expertise in this area, are given appropriate guidance and direction so the arsonist can be identified, captured and prosecuted. Because the evidence does reveal that Named Employee #1 failed to properly ensure all the requirements for an arson investigation were properly completed, the OPA Director recommended a Not Sustained (Training Referral) with an emphasis on Named Employee #1 consulting with a supervisor on anything that might be DV, Arson, or other serious crime related. Neither Named Employee #2 nor Named Employee #3 was the primary officer for this call and neither was assigned any responsibilities of the primary officer for this call.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

The evidence could not prove or disprove that Named Employee #1 was unprofessional in his interaction with the complainant. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Employees Shall Strive to be Professional at all Times*.

#### Allegation #2

The evidence showed that Named Employee #1 did not make efforts to conduct a thorough and complete search for evidence. Therefore a **Sustained** finding was issued for *Primary Investigations: Officers Shall Conduct a Thorough and Complete Search for Evidence*.

#### Allegation #3

The evidence showed that Named Employee #1 would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Arson Investigations: Officer Responsibilities*.

**Required Training:** Named Employee #1 should consult with a supervisor on anything that might be DV, Arson or other serious crime related to ensure all the requirements for an arson investigation is properly completed.

**Discipline imposed:** 2 day suspension

### **Named Employee #2**

#### Allegation #1

The preponderance of the evidence supports the conclusion that Named Employee #2 did not act in a rude, offensive or otherwise unprofessional manner during his contact with the complainant. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Employees Shall Strive to be Professional at all Times*.

#### Allegation #2

The evidence showed that Named Employee #2 was not the primary officer. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Primary Investigations: Officers Shall Conduct a Thorough and Complete Search for Evidence*.

#### Allegation #3

The evidence showed that Named Employee #2 was not the primary officer. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Arson Investigations: Officer Responsibilities*.

### **Named Employee #3**

#### Allegation #1

The evidence showed that conversation between Named Employee #1 and Named Employee #3 did not rise to the level of being unprofessional as delineated in SPD Policy. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Employees Shall Strive to be Professional at all Times*.

#### Allegation #2

The evidence showed that Named Employee #3 did not make efforts to conduct a thorough and complete search for evidence. Therefore a **Sustained** finding was issued for *Primary Investigations: Officers Shall Conduct a Thorough and Complete Search for Evidence*.

#### Allegation #3

The evidence showed that Named Employee #3 was not the primary officer. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Arson Investigations: Officer Responsibilities*.

**Discipline imposed:** 2 day suspension

*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.*