



# OFFICE OF PROFESSIONAL ACCOUNTABILITY

## Closed Case Summary

Complaint Number OPA#2016-1162

Issued Date: 07/03/2017

Named Employee #1	
Allegation #1	<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 April 1, 2015)
OPA Finding	<b>Sustained</b>
Allegation #2	<u>Seattle Police Department Manual</u> 15.180 (3) Primary Investigations: Officers Shall Take Statements in Certain Circumstances (Policy that was issued April 1, 2015)
OPA Finding	<b>Sustained</b>
Allegation #3	<u>Seattle Police Department Manual</u> 15.180 (5) Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report (Policy that was issued April 1, 2015)
OPA Finding	<b>Sustained</b>
Allegation #4	<u>Seattle Police Department Manual</u> 5.001 (2) Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy (RCW 10.99.030) (Policy that was issued April 1, 2015)
OPA Finding	<b>Sustained</b>
Allegation #5	<u>Seattle Police Department Manual</u> 5.001 (5) Standards and Duties: Employees May Use Discretion (Policy that was issued April 1, 2015)
OPA Finding	<b>Sustained</b>
Final Discipline	7 Day Suspension

## **INCIDENT SYNOPSIS**

The Named Employee was dispatched to a Burglary call which was later cleared as a Domestic Violence (DV) incident.

## **COMPLAINT**

The complainant, a supervisor within the Department, alleged that the Named Employee failed to follow Department Policy and RCW 10.99.030 for actions required by law enforcement officers on domestic violence investigation and documentation, by not writing a General Offense Report (GOR), and subsequently, when ordered to write a GOR, failing to document the information required by policy

## **INVESTIGATION**

The OPA investigation included the following actions:

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

## **ANALYSIS AND CONCLUSION**

Named Employee #1 was dispatched as primary officer to a report that a 911 caller (the subject) reported coming home and discovering his home had been broken into by his former boyfriend. Once on scene, Named Employee #1 interviewed the subject and confirmed that the subject had lived with the former boyfriend in a different residence, the former boyfriend did not live with the subject at that time and had never resided in the subject's current home. Named Employee #1 also learned that the former boyfriend had entered the home without an invitation or permission by forcing open a sliding exterior door. Based on what the subject told Named Employee #1 along with evidence of forced entry into the residence, Named Employee #1 had probable cause to believe that the felony crime of Burglary – Domestic Violence had been committed. Even though the subject showed Named Employee #1 the place where the former boyfriend had broken into the house and the damage caused to do so, Named Employee #1 did not search for, identify, photograph or collect any evidence.

SPD Policy 15.180(1) states that, when conducting a Primary Investigation, "Officers Shall Conduct a Thorough and Complete Search for Evidence: All sworn personnel are responsible for knowing how to collect the most common physical evidence that might be encountered on a primary investigation. This includes latent fingerprints. Only evidence that is impractical to collect or submit to the Evidence Unit shall be retained by the owner. Officers shall photograph all evidence that is retained by the owner." As the preponderance of the evidence from the OPA investigation showed, Named Employee #1 was tasked as the primary officer to investigate a

report of Burglary – Domestic Violence. He was obligated as part of that investigation to find and collect evidence of that reported crime.

SPD Policy 15.180(3) states, “Officers shall take victim statements in all domestic violence investigations. Witness statements are mandatory in all domestic violence felony investigations.” As explained above, Named Employee #1 was investigating a reported felony domestic violence burglary. While Named Employee #1 conducted a brief interview with the victim (the subject), he did not obtain a formal and thorough statement from him.

SPD Policy 15.180(5) states, “Officers Shall Document all Primary Investigations on a General Offense Report. [...] All reports must be complete, thorough and accurate.” As stated above, Named Employee #1 was dispatched to conduct a primary investigation into a reported felony domestic violence burglary. Even though the subject told Named Employee #1 he did not want Named Employee #1 to write a GOR, Named Employee #1 was obligated by policy to do so. The preponderance of the evidence from the OPA investigation showed that Named Employee #1 did not complete a GOR for this incident.

RCW 10.99.030(6)(b) states, “A peace officer responding to a domestic violence call shall take a complete offense report including the officer's disposition of the case.” As stated above, the preponderance of the evidence from the OPA investigation showed that Named Employee #1 was dispatched as the primary officer to a report of a felony domestic violence burglary and did not complete a GOR for that incident.

RCW 10.99.030(6)(b) states, “When a peace officer responds to a domestic violence call, the officer shall advise victims of all reasonable means to prevent further abuse, including advising each person of the availability of a shelter or other services in the community, and giving each person immediate notice of the legal rights and remedies available. The notice shall include handing each person a copy of the following statement: [the language that follows is included verbatim in a pamphlet produced by the Seattle Police Department and made available to all SPD officers in every precinct].” The preponderance of the evidence from the OPA investigation showed that Named Employee #1 was dispatched as the primary officer to a report of a felony domestic violence burglary and did not provide the victim (the subject) with the required notice.

SPD Policy 5.001(2) states, “Employees Must Adhere to Laws, City Policy and Department Policy. Employees are responsible for adhering to the following: - Federal laws - State laws - Laws of the City of Seattle - City of Seattle policies - The Seattle Police Manual - Published Directives and Special Orders - Department Training - Applicable collective bargaining agreements and relevant labor laws.” As explained above, the preponderance of the evidence showed that Named Employee #1 failed to follow the requirements of RCW 10.99.030.

SPD Policy 5.001(2) states, “Employees May Use Discretion. Employees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the Department and duties of their office and assignment. The scope of discretion is proportional to the severity of the crime or public safety issue being addressed.” Named Employee #1 told

OPA in his interview that he “used discretion” in deciding not to write a GO Report for this felony domestic violence burglary call to which he was dispatched as the primary officer. Named Employee #1 said he made that decision based on the totality of the circumstances presented to him and in light of the subject’s definitive statement he did not want a report written. As stated above, under RCW a peace officer is required to “take a complete offense report” when responding to a domestic violence call. Named Employee #1 did not have the authority to exempt himself from that requirement and, in so doing, improperly applied his discretion. In addition, the subject told Named Employee #1 that he (the subject) had to buy a house and move to another part of the city in order to get away from the former boyfriend. The subject also described harassing and escalating behavior on the part of the former boyfriend that should have alerted Named Employee #1 to the potential for violence inherent in the situation. Given the seriousness of the situation, Named Employee #1’s use of discretion was unreasonable and not “proportional to the severity of the crime or public safety issue being addressed.”

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

A preponderance of the evidence showed that Named Employee #1 did not search for, identify, photograph or collect any evidence. Therefore a **Sustained** finding was issued for *Primary Investigations: Officers Shall Conduct a Thorough and Complete Search for Evidence*.

#### Allegation #2

A preponderance of the evidence showed that while Named Employee #1 conducted a brief interview with the victim, he did not obtain a formal and thorough statement from him. Therefore a **Sustained** finding was issued for *Primary Investigations: Officers Shall Take Statements in Certain Circumstances*.

#### Allegation #3

A preponderance of the evidence showed that Named Employee #1 did not complete a GOR for this incident. Therefore a **Sustained** finding was issued for *Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report*.

#### Allegation #4

A preponderance of the evidence showed that Named Employee #1 failed to follow the requirements of RCW 10.99.030. Therefore a **Sustained** finding was issued for *Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy*.

#### Allegation #5

Given the seriousness of the situation, Named Employee #1’s use of discretion was unreasonable and not “proportional to the severity of the crime or public safety issue being addressed.” Therefore a **Sustained** finding was issued for *Standards and Duties: Employees May Use Discretion*.

Discipline Imposed: 7 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.*