



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2015-1586

Issued Date: 09/07/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 5.120 (II.H) Secondary Employment: Responsibilities – Officers are expected to take appropriate law enforcement action whether on-duty or off-duty (Policy that was issued 03/19/2014)
OPA Finding	<b>Sustained</b>
Allegation #2	<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	<b>Sustained</b>
Final Discipline	3 day suspension

#### **INCIDENT SYNOPSIS**

The Named Employee was working off-duty.

#### **COMPLAINT**

The complainant alleged that since the Named Employee did not take any action while working off-duty, the suspect was able to get away.

## **INVESTIGATION**

The OPA investigation included the following actions:

1. Review of the complaint email
2. Interview of the complainant
3. Review of 911 call
4. Review of In-Car Video (ICV)
5. Search for and review of all relevant records and other evidence
6. Interview of SPD employees

## **ANALYSIS AND CONCLUSION**

Although the Named Employee was not on-duty being paid by SPD, he was in a SPD uniform, armed and equipped with a SPD radio and other equipment and working for a private employer (the store) under a secondary work permit approved by his supervisor. The Named Employee clearly had an obligation to follow SPD Policy and conduct himself in a manner consistent with the expectations of the Department. The evidence is clear that the complainant entered the store where the Named Employee was working and told him she had been assaulted. It is also clear the complainant had just been assaulted and followed the assailant down the block and into the store. The complainant says she asked the Named Employee for police assistance as the victim of an assault and pointed out the assailant to the Named Employee. The Named Employee agreed that the complainant told him she had been assaulted. He recalled her asking him, "What are you going to do about it," but did not remember the complainant pointing out the assailant. Furthermore, the complainant asserted that the Named Employee refused to either take action himself or call 911 to summon assistance from an on-duty officer. The complainant made these same allegations to the officer who responded to the scene in response to the 911 call the complainant eventually made on a bystander's phone. The Named Employee remembered the complainant making a disturbance in the store, but did not recall the complainant specifically asking him to call 911 or do anything else for her. The Named Employee had the impression at the time the complainant was in some sort of crisis. He did not think there was any police action he needed to take. The Named Employee did recall seeing the complainant outside the store speaking on a phone after she left. He then heard a police radio call for officers to respond to the store on a report of a woman being assaulted. The Named Employee had a police radio with him which he could have used to summon an on-duty officer to assist the complainant. However, the Named Employee did not take any action or notify radio he was on-scene. The Named Employee knew the complainant was claiming she had been assaulted and that she specifically asked him to do something about it. It was clear to the Named Employee that the complainant was upset and appeared to be in some sort of crisis. The Named Employee also saw the complainant interact or have a confrontation with a man inside the store who then stated it was he who had been assaulted by the complainant. A reasonable officer would conclude from this that a crime (some sort of assault) may have taken place involving the complainant and the man. At this point, the Named Employee had an obligation under SPD Policy 5.120(II.H) to take some sort of law enforcement action to ensure, if

there had been an assault, that the victim and assailant were separated to prevent another assault, that the involved parties were identified, and that a police officer (either the Named Employee or an on-duty officer) investigated and properly reported the alleged assault. The Named Employee did none of this. Instead, he assisted the store personnel with making the complainant leave the store. The alleged assailant got away before he could be identified, thus making it difficult for the follow up detective to seek criminal charges.

As a visible, in-uniform representative of SPD, although being paid by a private employer at the time of the incident, the Named Employee had an obligation to conduct himself in a way that did not “undermine public trust in the Department, the officer, or other officers” (SPD Policy 5.001(9)). By taking no action to assist the complainant in response to her clear statement she had just been assaulted and wanted him to do something, the Named Employee undermined the complainant’s trust that a uniformed SPD officer would help the victim of a crime, even if he was being paid by a private employer at the time. The fact that the Named Employee participated in making the complainant leave the store and the nearby protection of a uniformed police officer, even though the person who had assaulted her was still in the area, further undermined the complainant’s trust that a SPD officer would protect her. The Named Employee’s failure to provide any form of assistance to the complainant, such as using his SPD radio to call for on-duty officers to respond, and, instead, to further the interests of the store who had hired him communicated to the complainant and any of the other persons witnessing this event that uniformed SPD officers working off-duty assignments cannot be counted on to protect crime victims and serve the public’s interests.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

The evidence supports that the Named Employee violated the policy. Therefore a **Sustained** finding was issued for *Secondary Employment: Responsibilities – Officers are expected to take appropriate law enforcement action whether on-duty or off-duty.*

#### Allegation #2

The evidence supports that the Named Employee violated the policy. Therefore a **Sustained** finding was issued for *Employees Shall Strive to be Professional at all Times.*

Discipline imposed: 3 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.*