



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0139

Issued Date: 10/31/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (2) Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Inconclusive)
Allegation #2	<u>Seattle Police Department Manual</u> 15.080 (II) Investigations and Reports: Follow-Up Investigation: Follow-Up Investigation Shall Include Certain Minimum Components (Policy that was issued September 28, 2011)
OPA Finding	Not Sustained (Inconclusive)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 15.080 (II) Investigations and Reports: Follow-Up Investigation: Follow-Up Investigation Shall Include Certain Minimum Components (Policy that was issued September 28, 2011)
OPA Finding	Not Sustained (Management Action)
Final Discipline	N/A

Named Employee #3	
Allegation #1	<u>Seattle Police Department Manual</u> 15.080 (II) Investigations and Reports: Follow-Up Investigation: Follow-Up Investigation Shall Include Certain Minimum Components (Policy that was issued September 28, 2011)
OPA Finding	Not Sustained (Management Action)
Final Discipline	N/A

Named Employee #4	
Allegation #1	<u>Seattle Police Department Manual</u> 15.080 (II) Investigations and Reports: Follow-Up Investigation: Follow-Up Investigation Shall Include Certain Minimum Components (Policy that was issued September 28, 2011)
OPA Finding	Not Sustained (Management Action)
Final Discipline	N/A

INCIDENT SYNOPSIS

Named Employee #1 received a case in Burglary Unit, which was forwarded to Named Employee #2, #3, and #4 in the Domestic Violence (DV) Unit.

COMPLAINT

The complainant, a supervisor within the department, alleged that Named Employee #1 failed to forward a case to the prosecutor within ten days of patrol making the report where there was probable cause that the offense had been committed. Instead, it is alleged that Named Employee #1 inactivated the case without any follow up investigation.

Named Employees #2-4 are alleged to have failed to conduct proper follow-up investigations.

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. Interviews of SPD employees

ANALYSIS AND CONCLUSION

The complainant alleged that Named Employee #1 failed to follow the requirement of a policy which says, "the law enforcement agency shall forward the [domestic violence] offense report to the appropriate prosecutor within ten days of making such report if there is probable cause to believe that an offense has been committed, unless the case is under active investigation." The preponderance of the evidence from this investigation showed Named Employee #1, a supervisor in the Burglary Unit at the time, closed two cases involving allegations of property destruction and burglary without forwarding them to a prosecutor. It appeared there was evidence and information in each of the two cases that might have, with sufficient follow up by a detective, led to probable cause against the suspect. Due to the unavailability of Named Employee #1 for an OPA interview because of a serious medical condition which resulted in his death, it was not clear whether or not Named Employee #1 knew or should have known the relationship between the victim and suspect in the two cases made the allegations domestic violence in nature.

The complainant alleged that Named Employee #1 failed to conduct or ensure was conducted a minimally thorough follow-up investigation into the two cases he closed without assigning them to a detective. As stated above, OPA was unable to interview Named Employee #1 due to a serious medical condition and could not gain sufficient understanding of Named Employee #1's reasons for taking the actions he did.

The complainant alleged that Named Employee #2, #3, and #4 failed to conduct or task another detective to conduct a minimally thorough follow-up investigation with respect to a Domestic Violence (DV) case that was forwarded to them in the DV Unit. The OPA investigation showed that this case did not meet the filing standards for a felony. The DV Unit primarily conducts follow-up investigations for felony cases. All misdemeanor DV cases where probable cause exists are automatically forwarded to the City Prosecutor for review and consideration of misdemeanor charges. OPA's investigation and analysis of this situation revealed that little if any follow-up investigation was normally conducted on misdemeanor domestic violence cases. Neither the DV Unit nor the City Prosecutor have investigators specifically assigned to routinely follow-up on misdemeanor DV cases. As a result, prosecutors must base their charging decision solely on what a Patrol Officer documents in his or her report. In addition, as was the case in this instance, there was no current process to connect together multiple instances of reported misdemeanor DV crimes in different sections that involve the same victim and/or suspect. The Director will be writing a separate Management Action Recommendation letter to the Chief of Police regarding this issue.

FINDINGS

Named Employee #1

Allegation #1

There was no preponderance of evidence to either support or refute the allegation against Named Employee #1. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy.*

Allegation #2

There was no preponderance of evidence to either support or refute the allegation against Named Employee #1. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Investigations and Reports: Follow-Up Investigation: Follow-Up Investigation Shall Include Certain Minimum Components.*

Named Employee #2

Allegation #1

The evidence showed that little if any follow-up investigation was normally conducted on misdemeanor DV cases, and there was no current process to connect together multiple instances of reported misdemeanor DV crimes. Therefore a finding of **Not Sustained** (Management Action) was issued for *Investigations and Reports: Follow-Up Investigation: Follow-Up Investigation Shall Include Certain Minimum Components.*

Named Employee #3

Allegation #1

The evidence showed that little if any follow-up investigation was normally conducted on misdemeanor DV cases, and there was no current process to connect together multiple instances of reported misdemeanor DV crimes. Therefore a finding of **Not Sustained** (Management Action) was issued for *Investigations and Reports: Follow-Up Investigation: Follow-Up Investigation Shall Include Certain Minimum Components.*

Named Employee #4

Allegation #1

The evidence showed that little if any follow-up investigation was normally conducted on misdemeanor DV cases, and there was no current process to connect together multiple instances of reported misdemeanor DV crimes. Therefore a finding of **Not Sustained** (Management Action) was issued for *Investigations and Reports: Follow-Up Investigation: Follow-Up Investigation Shall Include Certain Minimum Components.*

The OPA Director's letter of Management Action recommendation to the Chief of Police is attached to this report.

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.



City of Seattle

Office of Professional Accountability

October 21, 2016

Chief Kathleen M. O'Toole
Seattle Police Department
PO Box 34986
Seattle, WA 98124-4986

RE: MANAGEMENT ACTION RECOMMENDATION (2016OPA-0139)

Dear Chief O'Toole:

The Office of Professional Accountability (OPA) recently completed an investigation into an allegation that a series of misdemeanor domestic violence (DV) reports involving the same victim and suspect did not receive adequate follow-up investigation by the Seattle Police Department (SPD). The reports involved alleged acts of trespassing, damage to property, harassment, and stalking. This complaint investigation was initiated by a referral to OPA from a DV Unit detective who recognized a pattern of related DV cases. This followed an earlier investigation into a complaint by the same victim that SPD Patrol officers had failed to conduct an adequate primary investigation when the victim called 911 to report the suspect had attempted to set fire to the front door of her (the victim) apartment (see OPA case #2015OPA-1484). In its earlier investigation and from the DV Unit referral, OPA learned of several reports the victim had previously made regarding DV-related crimes. While the primary investigations by Patrol officers in those cases were generally good, the absence of any follow-up investigations meant no charges were ever filed against the suspect.

The OPA investigation into allegations of inadequate follow-up investigations led to a surprising and disturbing discovery. With some exceptions, no one in SPD is assigned to conduct follow-up investigations into misdemeanor DV crimes.

When a SPD Patrol officer responds to a DV call, he or she is tasked with the responsibility of conducting a primary investigation. Recorded statements should be taken from victims and witnesses, physical and photographic/video evidence identified and collected, and a complete General Offense Report written. State law mandates a physical arrest be made if probable cause exists to believe someone committed a DV crime. DV General Offense Reports are forwarded to the DV Unit of SPD's Criminal Investigations Bureau.

OPA's investigation and analysis of this situation revealed that little if any follow-up investigation is normally conducted on misdemeanor domestic violence cases. The DV Unit primarily conducts follow-up investigations for felony cases. All misdemeanor DV cases where probable cause exists are automatically forwarded to the City Prosecutor for review and consideration of misdemeanor charges, generally without any follow-up investigation. Even when the report submitted by Patrol identifies the need for additional investigative steps, such as the collection of evidence or interviewing of additional witnesses, it is not unusual for no follow-up investigation to be conducted. This is because neither the DV Unit nor the City Prosecutor have investigators specifically assigned to routinely follow up on misdemeanor DV cases. As a result, prosecutors must base their charging decision solely on what a Patrol Officer documents in his or her General Offense Report. In addition, as was the case in the situation investigated by OPA, SPD has no process to connect multiple instances of reported misdemeanor DV crimes involving the same victim and/or suspect.

Research clearly demonstrates that perpetrators of domestic violence rarely commit a single act. Far more typical is a pattern of physical and psychological abuse, stalking, harassment and other threatening

or controlling behaviors that can escalate and lead to assaults resulting in serious injuries or death. Last year alone, sixty-eight people died from domestic violence in Washington State, bringing the State's total for the last nine years to 563 fatalities. The well-being and safety of victims depends on early identification of abuse and appropriate interventions, including the arrest and prosecution of abusers. This is often a matter of life and death for victims of domestic violence.

With this grim reality in mind, I make the following recommendations to the Seattle Police Department.

Recommendation #1: I recommend SPD take the following measures to strengthen the quality of the primary investigations Patrol officers conduct into reported DV crimes:

- Implement a Domestic Violence Investigations Policy to be added to the Primary Investigations Chapter of the SPD Policy Manual. OPA recognizes development of this policy is already underway by SPD.
- Develop clear procedures and check lists for use by Patrol officers when responding to and investigating reports of DV crimes. This, too, is already under development by SPD.
- Develop resources for Patrol sergeants tasked with screening DV arrests and approving DV General Offense Reports.
- Develop a "Risk Assessment Tool" for use by first responders, sergeants and detectives in spotting potential early indicators of increased risk for DV victims. The DV Unit is already working on development of this tool.
- Develop a "Domestic Violence Investigations and Reporting" training course for Patrol officers and supervisors to cover best practices, policy and procedures relating to DV.
- Make DV Unit detectives available for after-hours response to significant incidents.

Recommendation #2: I recommend SPD evaluate the staffing requirements of the DV Unit to determine what additional supervisory and/or detective personnel are needed to ensure adequate follow-up investigations are conducted when misdemeanor DV cases have the potential for successful prosecution.

Recommendation #3: I recommend SPD engage with the City and County Prosecutors to explore promising best practices in DV investigations and prosecutions that might be successfully adapted for use in Seattle and King County. For example, many jurisdictions have implemented so called "Family Justice Centers" where detectives, prosecutors, and support services for DV victims and their family members are located together in one facility.

Thank you very much for your prompt attention to this matter of public trust and confidence in the professional conduct of SPD and its employees. Please inform me of your response to this recommendation and, should you decide to take action as a result, the progress of this action.

Sincerely,



Pierce Murphy
Director, Office of Professional Accountability