



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2016-0372

Issued Date: 02/13/2017

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 that was issued 04/01/15)
OPA Finding	<b>Not Sustained</b> (Inconclusive)
Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (5) Standards and Duties: Employees May Use Discretion (Policy that was issued 04/01/15)
OPA Finding	<b>Sustained</b>
Allegation #3	<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> (Lawful and Proper)
Allegation #4	<u>Seattle Police Department Manual</u> 15.180 (3) Primary Investigations: Officers Shall Take Statements in Certain Circumstances (Policy that was issued 04/01/15)
OPA Finding	<b>Sustained</b>
Final Discipline	Written Reprimand

## **INCIDENT SYNOPSIS**

The Named Employee responded to a domestic disturbance where both parties claimed they had been assaulted.

## **COMPLAINT**

The complainant, a supervisor within the Department, alleged that the Named Employee did not make an arrest in a domestic violence investigation that mandated an arrest and failed to properly investigate the allegations.

## **INVESTIGATION**

The OPA investigation included the following actions:

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

## **ANALYSIS AND CONCLUSION**

The complainant alleged that the Named Employee failed to comply with the requirements of RCW 10.31.100 Arrest without Warrant. In particular, this statute requires police officers to arrest and take into custody any person 16 or older who the police officer has probable cause to believe has committed an act of domestic assault within the previous four hours. The preponderance of the evidence from this investigation showed that the Named Employee did not sufficiently investigate the conflicting allegations of the two involved parties to determine whether or not probable cause to arrest was present. For this reason, the OPA Director was unable to determine if the Named Employee failed to comply with the requirements of the statute.

The complainant alleged that the Named Employee displayed poor judgment in his decision not to conduct further investigation to resolve the conflicts between the statements made by the two parties to the disturbance. The preponderance of the evidence from this investigation showed that the Named Employee made no attempt to resolve the conflicting accounts of the two parties. He did not question or confront either party regarding these conflicts. This was particularly important because each statement, if true, was either an accusation or admission of domestic assault. Both the RCW and SPD Policy & Training make it clear police officers have an obligation to seriously and thoroughly investigate reports of domestic violence to determine the primary aggressor and make an arrest if probable cause exists. The Named Employee told OPA he saw the situation in this incident as one where the two parties just needed the police to stand by and assure the peace while the female removed her property from the residence. The Named Employee also said, "they [the two parties] were trying to one-up each other as far as

who was the aggressor.” The Named Employee admitted to OPA he should have asked more questions and tried to find out what really happened but he got distracted by other things going on at the scene. In summary, the evidence showed the Named Employee decided to handle this particular call more as a civil standby than a Domestic Assault. He chose to either ignore or not inquire further about statements made by the two parties during the 911 call and at the scene.

The complainant alleged that the Named Employee failed to conduct a thorough search for evidence in this incident. The preponderance of the evidence from this investigation showed that the Named Employee prematurely ended his investigation and decided to approach the call as a civil standby instead of a reported Domestic Assault. In a civil standby, no search for evidence would be necessary. The Named Employee looked for visible evidence of injuries on the two parties and saw none. He also made a mental note regarding the condition of the residence which, in the opinion of the Named Employee, did not show signs of a physical disturbance. Had the Named Employee decided to ask the two persons more probative questions, he may have been led to additional evidence. The Named Employee performed a minimally adequate search for evidence given the circumstances and his decision not to investigate the Domestic Assault aspect of this incident.

The complainant alleged that the Named Employee failed to take a victim statement as required by this policy in all domestic violence investigations. The Named Employee prematurely ended his domestic violence investigation before having enough information to determine if a crime had occurred and, if so, the identity of the primary aggressor. Given this, the Named Employee had an obligation to obtain thorough and complete statements from both parties; something he did not do. One of the two parties may have been the victim. The preponderance of the evidence from this investigation shows that the Named Employee failed to obtain a thorough and complete victim statement.

## **FINDINGS**

### **Named Employee #1**

#### **Allegation #1**

The preponderance of the evidence could not prove or disprove that the Named Employee failed to comply with the requirements of the statute. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Standards and Duties: Employees Must Adhere to Laws, City Policy and Department*.

#### **Allegation #2**

The evidence showed that the Named Employee handled this particular call more as a civil standby than a Domestic Assault. Therefore a **Sustained** finding was issued for *Standards and Duties: Employees May Use Discretion*.

Allegation #3

The evidence showed that the Named Employee performed a minimally adequate search for evidence given the circumstances and his decision not to investigate the Domestic Assault aspect of this incident. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Primary Investigations: Officers Shall Conduct a Thorough and Complete Search for Evidence*.

Allegation #4

The evidence showed that the Named Employee failed to obtain a thorough and complete victim statement. Therefore a **Sustained** finding was issued for *Primary Investigations: Officers Shall Take Statements in Certain Circumstances*.

Discipline Imposed: Written Reprimand

*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.*