



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0298

Issued Date: 10/04/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (2) Employees Must Adhere to Laws, City Policy and Department Policy (Policy that was issued 04/01/15)
OPA Finding	Not Sustained (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (9) Employees Shall Strive to be Professional at all Times (Policy that was issued 04/01/15)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (2) Employees Must Adhere to Laws, City Policy and Department Policy (Policy that was issued 04/01/15)
OPA Finding	Not Sustained (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (9) Employees Shall Strive to be Professional at all Times (Policy that was issued 04/01/15)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #3	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (2) Employees Must Adhere to Laws, City Policy and Department Policy (Policy that was issued 04/01/15)
OPA Finding	Not Sustained (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (9) Employees Shall Strive to be Professional at all Times (Policy that was issued 04/01/15)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employees were dispatched to a “Standby to Assure the Peace” call.

COMPLAINT

The complainant alleged that the Named Employees refused to look at the DV Protection Order (PO) and allowed the subject of the PO to come into her home without her permission. The complainant alleged that the Named Employees acted unprofessionally in their failure to protect her from the subject of the PO in which she was the protected person.

INVESTIGATION

The OPA investigation included the following actions:

1. Interview of the complainant
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

It was alleged that the Named Employees failed to enforce a valid Protection Order (PO) and allowed the complainant’s estranged husband (the subject of the PO) to violate it without arrest. The preponderance of the evidence shows the PO was valid on the date of this incident. Both the complainant (the protected person on the PO) and her ex-husband (the subject) notified the Named Employees there was a court order of some sort (such as a Restraining Order) in place to keep the subject away from the complainant. In fact, the subject, who called 911 asking for a police stand-by, told Dispatch of the existence of an order. However, the PO was not in the computer system at the time of this incident and Dispatch informed the three responding officers of this fact. The PO was entered into the system the following day. The Named Employees

who were on scene relied on the information provided to them by Dispatch and the computer system and told both parties there was no valid order they could enforce. The officers should have asked both the complainant and the subject if they had copies of the order and contacted the Court to determine if the PO was valid and enforceable. The complainant made statements to the officers concerning behavior by the subject that, if true, would be a violation of the PO. The officers, however, did not follow up on these statements on the assumption there was no valid PO in force. Based on this assumption, the Named Employees did not investigate the complainant's allegation that the subject had violated the PO to determine if a mandatory arrest under RCW 26.50 was necessary. In addition, the Named Employees unwittingly aided the subject in violating the PO by arranging and standing by as he entered the complainant's residence to remove his property. The preponderance of the evidence shows that Named Employee #1, #2 and #3 acted in (mistaken) good faith and did not knowingly fail to make a mandatory arrest for violation of a PO. They should receive additional training to assist them with similar situations in the future.

The complainant alleged that the Named Employees acted unprofessionally in their failure to protect her from the subject of a PO in which she was the protected person. Furthermore, the complainant alleged the officers intimidated her into allowing the subject and his sister to come into her home and remove property, some of which the complainant said he had no right to take. The preponderance of the evidence shows that, while there was a PO in place at the time of the incident, the Named Employees relied in good faith on the information they received from the Dispatcher and their in-car computers that there was not a valid PO in place at the time. The evidence further shows that all three officers made it very clear to the complainant she was under no obligation to allow the subject and/or his sister into her (the complainant) residence or permit him to remove any property. The audio recordings from the officers' in-car video systems clearly show the complainant gave voluntary permission for this to take place and that no intimidation or other form of duress was used to obtain her permission. No evidence of unprofessional speech and/or conduct by Named Employee #1, #2 or #3 was detected in the course of this investigation.

FINDINGS

Named Employee #1, #2 and #3

Allegation #1

The evidence showed that Named Employees would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Employees Must Adhere to Laws, City Policy and Department Policy*.

Required Training: Named Employee #1, #2 and #3 would benefit from additional training and counseling on the law and procedures concerning No Contact Orders, Protection Orders and Restraining Orders. Particular attention should be paid on what steps an officer can take to determine whether a valid Order is in place and his or her obligations concerning any alleged violations of such orders.

Allegation #2

No evidence of unprofessional speech and/or conduct by the Named Employees was detected in the course of the investigation. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Employees Shall Strive to be Professional at all Times*.

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.