



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2016-0128

Issued Date: 09/08/2016

Named Employee #1	
Allegation #1	<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>Not Sustained</b> (Management Action)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<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>Not Sustained</b> (Inconclusive)
Final Discipline	N/A

Named Employee #3	
Allegation #1	<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>Not Sustained</b> (Training Referral)
Final Discipline	N/A

<b>Named Employee #4</b>	
Allegation #1	<u>Seattle Police Department Manual 5.001 (5) Standards and Duties: Employees May Use Discretion (Policy that was issued 04/01/15)</u>
OPA Finding	<b>Not Sustained</b> (Training Referral)
Final Discipline	N/A

### **INCIDENT SYNOPSIS**

The Named Employees were working in their respective units when they had contact with the complainant.

### **COMPLAINT**

The complainant alleged that the Named Employees failed to act during an incident in which the complainant and other victims/witnesses followed directions given to them by Named Employee #1 and #2 to contact an alleged suspect and set up a "buy bust" in an effort to get their stolen items returned.

### **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. Interviews of SPD employees

### **ANALYSIS AND CONCLUSION**

Named Employee #1, a detective with SPD, was alleged to have told the complainant that they should set up a "buy-bust" operation with the person they believed was offering for sale their stolen tools on-line. Named Employee #1 is alleged to have indicated that SPD does not have the staff resources necessary to directly follow up every time a property crime victim spots his or her stolen items for sale on-line, but that arranging to meet the seller themselves can work, so long as 911 is called about an hour before the arranged meeting with the seller so the police can be there at the time. Named Employee #1 told OPA this is essentially what the complainant was told, with one important difference. Named Employee #1 said SPD does not encourage victims to conduct "buy-bust" operations. Rather, victims are told they can arrange to meet the seller in a public place and then bring the police along while it is determined if the items for sale are, in fact, the victim's property. Named Employee #1 also indicated she has been directed by the supervisor of her unit to make this suggestion to victims in similar situations. The

preponderance of the evidence supports the conclusion that Named Employee #1 acted in a manner consistent with how she has been directed by her supervisor and with past practice in that precinct. The OPA Director had some significant concerns about the wisdom of having a *de facto* Precinct/Department practice of encouraging crime victims to become directly involved in the recovery of their stolen property. Fortunately, in this case, no one was hurt, but it could have turned out very differently. The OPA Director encourages the Department to give careful consideration to the wisdom of this practice and the attendant risks to public safety. If SPD chooses to continue on this course, they should develop and publish clear guidelines and limitations. The OPA Director has written a separate Management Action Recommendation letter to the Chief of Police on this subject, which is attached to this report.

The complainant alleged that Named Employee #2 was on-duty as the precinct desk officer when she came in to talk to someone about finding her stolen property for sale on-line. The complainant alleged Named Employee #2 suggested they consider conducting a "buy-bust" operation themselves to recover their stolen property and then gave them the name and phone number of a detective with whom to speak. Named Employee #2 does not recall this specific contact, and told OPA he would not tell someone to conduct their own "buy-bust" operation. Named Employee #2 told OPA, when people tell him they may have found their stolen items for sale on-line, he refers them to a follow up unit. There is no preponderance of evidence to either support or refute the allegation that Named Employee #2 told the complainant that a "buy-bust" operation would be good idea.

The complainant alleged that, after they flagged down a passing SPD police car driven by Named Employee #3, he refused to stop and assist them; even though they told him it was an urgent matter and they were about to meet a guy they believed was selling their stolen property on-line. The preponderance of the evidence shows that Named Employee #3 had been dispatched to a Priority 1 call and, as such, was not immediately available for this call. However, he should have taken some sort of affirmative action to make certain the complainant and those with her were not going to be in an unsafe situation. At the very least, Named Employee #3 could have contacted his supervisor to let him know what was happening or used his radio to ask Dispatch for more information about the situation. Named Employee #3 would benefit from some coaching from his supervisor to help him think through his alternatives in similar situations.

Named Employee #4 was assigned, at the time of this incident, to the 911 Police Communications Center as a call-taker. It was in this role that Named Employee #4 took a call from the complainant on the non-emergency line. Named Employee #4 told OPA that the complainant asked for SPD assistance to stand by while the complainant and her associates met with a person who was offering items for sale the complainant believed had been stolen during a recent burglary. Named Employee #4 said that she told the complainant that the officers should meet with the complainant some blocks away from the meet location and that she (Named Employee #4) could not guarantee the arrival time of the police officers. Finally, Named Employee #4 told OPA she did not have the ability to dispatch officers as that task was handled by another employee. The complainant alleged she was told by Named Employee #4

that officers had been dispatched, when in fact, they had not been dispatched at the that time. The call was audio recorded and it is clear that Named Employee #4 said, "I'm going to go ahead and send someone out and they will be there as soon as possible. If anything changes, call 911." It appears that there may have been a misunderstanding between the complainant and Named Employee #4. Named Employee #4 says she did not intend to communicate to the complainant that officers were coming immediately. However, it was reasonable for the complainant to assume this based on the phrase, "I'm going to go ahead and send someone out."

## **FINDINGS**

### **Named Employee #1**

#### **Allegation #1**

The preponderance of the evidence supports the conclusion that Named Employee #1 acted in a manner consistent with how she has been directed by her supervisor and with past practice in that precinct. Therefore a finding of **Not Sustained** (Management Action) was issued for *Standards and Duties: Employees May Use Discretion*.

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

### **Named Employee #2**

#### **Allegation #1**

There is no preponderance of evidence to either support or refute the allegation against Named Employee #2. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Standards and Duties: Employees May Use Discretion*.

### **Named Employee #3**

#### **Allegation #1**

The evidence showed that Named Employee #3 would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Standards and Duties: Employees May Use Discretion*.

**Required Training:** Named Employee #3's supervisor should have a discussion with Named Employee #3 using this incident as an opportunity to consider what he (Named Employee #3) could have done differently to get assistance for the complainant and her companions.

**Named Employee #4**

**Allegation #1**

The evidence showed that Named Employee #4 would benefit from additional training.

Therefore a finding of **Not Sustained** (Training Referral) was issued for *Standards and Duties: Employees May Use Discretion*.

**Required Training:** Named Employee #4 should be counseled by her supervisor to be more precise in how she communicates with others. It is recognized that Named Employee #4 is no longer in a call-taking role. Nonetheless, clear communication is an important aspect of all positions within SPD.

*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

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August 25, 2016

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

RE: MANAGEMENT ACTION RECOMMENDATION (2016OPA-0128)

Dear Chief O'Toole:

The Office of Professional Accountability (OPA) recently concluded an investigation into a complaint that Seattle Police Department (SPD) officers encouraged a burglary victim to arrange a meeting with someone the victim believed was selling property taken in the burglary. The stated purpose of such a meeting would be to purchase (recover) the stolen property. However, the meeting would be a rouse; the victim was allegedly instructed by SPD officers to call 911 before meeting with the seller so officers could be on hand to apprehend the seller should the victim confirm the items for sale as stolen property. The victim set up the meeting with the seller and called 911 for assistance. Unfortunately, no officers were available at that time; the victim and several associates went forward with the meeting. During the meeting, a confrontation ensued during which the seller brandished a handgun. Fortunately, no shots were fired and no one was injured. The stolen property was not recovered.

During the OPA investigation, we learned from a SPD detective that it is common practice in at least one precinct for detectives to suggest to victims that they arrange to meet the seller in a public place and bring the police along to determine if the items for sale are, in fact, the victim's property. I have significant concerns about the wisdom of having a *de facto* Precinct/Department practice of encouraging crime victims to become directly involved in the recovery of their stolen property. Fortunately, in this case, no one was hurt, but it could have turned out very differently. I encourage the Department to give careful consideration to the wisdom of this practice and the attendant risks to public safety. If SPD chooses to continue on this course, they should develop and publish clear guidelines and limitations.

Recommendation: I recommend SPD direct all officers to cease recommending to crime victims that they arrange or in any way become involved in recovering property stolen from them. Should SPD decide not to follow this recommendation, I strongly urge the Department to develop and publish clear guidelines and limitations governing this practice so as to decrease the potential risks to involved parties.

Thank you very much for your prompt attention to this matter of public trust and confidence in the professional conduct of the 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,

A handwritten signature in blue ink that reads "Pierce Murphy".

Pierce Murphy  
Director, Office of Professional Accountability