



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0608

Issued Date: 04/14/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 (1) De-Escalation: When Safe under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for Force (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (9) Standards and Duties: Employees Shall Strive to be Professional at all Times (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 5.002 (2) Responsibilities of Employees Concerning Complaints of Possible Misconduct: Employees Will Assist Any Person Who Wishes to File a Complaint (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Unfounded)

Allegation #2	<u>Seattle Police Department Manual</u> 5.002 (5) Responsibilities of Employees Concerning Complaints of Possible Misconduct: Supervisors Will Investigate and Document Certain Allegations of Misconduct (Policy that was issued January 1, 2015)
OPA Finding	Allegation Removed
Allegation #3	<u>Seattle Police Department Manual</u> 5.002 (6) Responsibilities of Employees Concerning Complaints of Possible Misconduct: Employees Must Otherwise Report Misconduct (Policy that was issued January 1, 2015)
OPA Finding	Allegation Removed
Final Discipline	N/A

INCIDENT SYNOPSIS

This complaint stemmed from two separate complaints regarding unrelated incidents that occurred in the same month. OPA combined the complaints into one investigation.

Complaint #1 was forwarded to OPA by a SPD supervisor on behalf of a Community Member Complainant.

Complaint #2 was regarding potentially unprofessional conduct by Named Employee #1.

COMPLAINT

The complainant, a supervisor within the Department, alleged that Named Employee #1 was unprofessional and violated department de-escalation policy during an incident in which he was the target of harassment. During the incident the Named Employee challenged the subject for his repeated verbal harassment by exiting his patrol car and stating, 'If you ever feel the need to step up you go right ahead man, but I have the feeling you may just keep walking, guys like you don't do much when confronted.'

A second allegation of unprofessionalism by the Named Employee resulted from unrelated incidents.

OPA alleged that Named Employee #2 failed to properly report, document and investigate the alleged misconduct.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

The evidence from this investigation showed that Named Employee #1 was being harassed and hounded by the subject for some time. It also appeared that Named Employee #1 used various tactics in an attempt to deflect and de-escalate the offensive and distracting behavior by the subject. These tactics included ignoring him, engaging in conversation, an attempt at humor and direct confrontation. Clearly the subject was dealing with mental health issues that made it difficult for Named Employee #1 to know exactly what would be an effective strategy. On the one hand, Named Employee #1 was to be commended for displaying a substantial amount of patience and restraint in dealing with this subject. On the other hand, Named Employee #1 might have been more help to the subject and reduced the extent of the problem for himself had he reported this to his supervisor earlier and/or sought out resources to help him (Named Employee #1) find an effective means of dealing with the subject and defusing the situation.

There were three separate instances in which it was alleged that Named Employee #1 engaged in behavior that might be considered to be inconsistent with the requirements of SPD Policy 5.001(9). In the first instance, Named Employee #1 shouted out in front of a crowd, "Yes, I'm a gay cop; look at me everyone, I'm a gay cop; soak it in." In the context and setting in which Named Employee #1 said this, the OPA Director did not find the statement to be unprofessional. The subject to which he said this had been harassing Named Employee #1 for quite some time and on that day was shouting offensive speech directed at Named Employee #1 in front of a large number of people. The Named Employee's response, quoted above, was an attempt to defuse and deflect the subject's offensive and harassing behavior. Regardless of whether or not this tactic was effective, the OPA Director did not find it that it rose to the level of unprofessional behavior. The other two instances of potentially unprofessional conduct were contained in written reports authored by Named Employee #1. In one report, Named Employee #1 included the fact that he was eating a candy bar. In another report, Named Employee #1 referred to the FIT Unit as the "elite Force Investigations Team." Neither of these statements, in the OPA Director's opinion, rose to the level of a violation of SPD Policy 5.001(9). However, they did appear as flippant and not appropriate for inclusion in an official police report.

The evidence from this OPA investigation showed that Named Employee #2 met with the subject and discussed his concerns with him. While the subject was not willing to be interviewed by OPA, Named Employee #2's recollection of his interaction with the subject was that the subject did not want to file a complaint against Named Employee #1 after his discussion

with Named Employee #2. Given the documented mental health state of the subject and the history of his harassment of Named Employee #1, the OPA Director was inclined to accept Named Employee #2's recollection that the subject's concerns were resolved by the end of their conversation.

Allegation #2 for Named Employee #2 was removed, as the OPA Director found it to be redundant.

Allegation #3 for Named Employee #2 was removed, as the OPA Director found it to be redundant.

FINDINGS

Named Employee #1

Allegation #1

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *De-Escalation: When Safe under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for Force.*

Required Training: Named Employee #1's supervisor should both commend Named Employee #1 for his patience in dealing with the offensive and distracting behavior of the subject over a long period of time, as well as counsel Named Employee #1 to, in the future, more quickly seek out assistance from his supervisor and other Department resources for help in solving other vexing problems.

Allegation #2

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Standards and Duties: Employees Shall Strive to be Professional at all Times.*

Required Training: Named Employee #1's supervisor should counsel Named Employee #1 to avoid inclusion in any official report comments or statements that may be seen as immature, flippant or lacking in sufficient decorum appropriate for an official police report.

Named Employee #2

Allegation #1

The OPA Director was inclined to accept Named Employee #2's recollection that the subject's concerns were resolved by the end of their conversation. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Responsibilities of Employees Concerning Complaints of Possible Misconduct: Employees Will Assist Any Person Who Wishes to File a Complaint.*

Allegation #2

This Allegation was removed.

Allegation #3

This Allegation was removed.

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.