



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0900

Issued Date: 06/08/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 15.180 (5) Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #2	<u>Seattle Police Department Manual</u> 15.120 (3) Malicious Harassment: Cases of Malicious Harassment and Bias Incidents Shall be Documented on a General Offense Report (Policy that was issued September 19, 2012)
OPA Finding	Not Sustained (Training Referral)
Allegation #3	<u>Seattle Police Department Manual</u> 5.001 (5) Standards and Duties: Employees May Use Discretion (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> 15.120 (3) Malicious Harassment: Cases of Malicious Harassment and Bias Incidents Shall be Documented on a General Offense Report (Policy that was issued September 19, 2012)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 15.180 (5) Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #3	<u>Seattle Police Department Manual</u> 5.001 (5) Standards and Duties: Employees May Use Discretion (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #3	
Allegation #1	<u>Seattle Police Department Manual</u> 15.120 (15.120-TSK-1) Malicious Harassment: Responsibilities of the Patrol Sergeant (Policy that was issued September 19, 2012)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employees responded to a threats disturbance at a local restaurant.

COMPLAINT

The allegations through a community complainant were that the Named Employees (1) didn't conduct a throughout and complete investigation of a possible Malicious Harassment incident, and (2) failed to arrest the suspect for committing a crime; and that the screening Sergeant failed to properly supervise to ensure the officers conducted a thorough investigation at the scene. Additionally, the Named Employees may have failed to comply with the requirements under 15.120 - Malicious Harassment (3), by not properly documenting and routing the offense.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint
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

Named Employee #1 was the primary officer on this call and authored a General Offense Report (GOR) as required by this policy. This GOR adequately reported the information received by Named Employee #1 concerning the incident.

Named Employee #1 labeled the GOR as “Harassment” and marked “Anti-male homosexual (Gay)” in the “Bias” field of the report. Based on the law regarding Malicious Harassment and the training and information materials provided to officers by SPD, the decision by Named Employee #1 not to label this as a Malicious Harassment crime was not completely unreasonable. However, the facts presented to her by the victim, suspect and witnesses easily could have supported a charge of Malicious Harassment. Given the Department’s public commitment to preventing bias crimes and enforcing the laws concerning such acts, Named Employee #1 probably should have considered this to be such a case and handled it accordingly.

The evidence from the OPA investigation showed that the victim, to whom the threat to shoot was made coupled with the use of an anti-gay derogatory term, told Named Employee #1 he wanted charges pressed against the suspect. The evidence also showed it was likely probable cause existed to arrest the suspect for the threat, even though he was not armed at the time. Named Employee #1 acknowledged this during her OPA interview. While this situation did not involve a crime for which an arrest was mandatory and it was entirely within the discretion of Named Employee #1 not to make an arrest, it was clear this decision created an unfavorable impression of SPD on the victim and the complainant.

Named Employee #2 was not the primary officer for this call and had no responsibility to document an offense in a GOR, and did not exercise any discretion in this situation.

The evidence from the OPA investigation showed that Named Employee #3 was not dispatched to this call, nor was he informed by the officers assigned to the call that the call included a report of Malicious Harassment. SPD Policy 15.120-TSK-1 includes a list of responsibilities for Patrol sergeants when they are dispatched to the scene of a reported Malicious Harassment. Given that Named Employee #3 was not dispatched or summoned to the scene for this incident, the obligations listed under this policy did not apply to Named Employee #3.

FINDINGS

Named Employee #1

Allegation #1

The weight of the evidence showed that the GOR adequately reported the information received by Named Employee #1 concerning the incident. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report*.

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 *Malicious Harassment: Cases of Malicious Harassment and Bias Incidents Shall be Documented on a General Offense Report*.

Required Training: Named Employee #1 should receive additional training and counseling from her supervisor regarding the Department's enforcement priorities in the area of bias crimes.

Allegation #3

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 May Use Discretion*.

Required Training: Named Employee #1 should receive coaching from her supervisor based on this situation. In particular, this coaching should touch on the Department's priorities regarding the enforcement of bias crimes and strategies for how to communicate to crime victims a decision not to make an arrest when the victim has requested that one be made.

Named Employee #2

Allegation #1

A preponderance of the evidence showed that Named Employee #2 was not the primary officer for this call and had no responsibility to document an offense in a GOR. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Malicious Harassment: Cases of Malicious Harassment and Bias Incidents Shall be Documented on a General Offense Report*.

Allegation #2

A preponderance of the evidence showed that Named Employee #2 was not the primary officer for this call and had no responsibility to document an offense in a GOR. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report*.

Allegation #3

A preponderance of the evidence showed that Named Employee #2 did not exercise any discretion in this situation. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards and Duties: Employees May Use Discretion*.

Named Employee #3

Allegation #1

A preponderance of the evidence showed that the obligations listed under this policy did not apply to Named Employee #3. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Malicious Harassment: Responsibilities of the Patrol Sergeant*.

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.