



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0332

Issued Date: 10/17/2017

Named Employee #1	
Allegation #1	<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 April 1, 2015)
OPA Finding	Sustained
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	Sustained
Final Discipline	Written Reprimand

Named Employee #2	
Allegation #1	<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 April 1, 2015)
OPA Finding	Not Sustained (Training Referral)
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 (Training Referral)

Final Discipline	N/A
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Named Employee #3	
Allegation #1	<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 (Inconclusive)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employees received a dispatch for service at a grocery store.

COMPLAINT

The complainant alleged that it took officers hours to respond to a call of a subject throwing alcohol bottles at customers in a store, and that when the officers arrived they didn't come inside, take a report, or talk to anyone about the incident. Additionally, an Unknown Employee phoned the manager of the store afterwards and stated that "Dispatch dropped the ball."

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 Video (ICV)
4. Interviews of SPD employees

ANALYSIS AND CONCLUSION

SPD Policy 15.180-POL-1 requires that, in primary investigations, officers conduct a thorough and complete search for evidence. Here, both Named Employee #1 and Named Employee #2 stated that they did not enter the store to search for any evidence related to the offenses that had occurred in the store. (See NE#1 OPA Interview, at pp. 12-13; see also NE#2 OPA Interview, at p. 9.) Named Employee #2's explanation for why they did not do so was because the subject had already left the store and was not located during their search of the nearby vicinity. (See NE#2 OPA Interview, at p. 7.) For his part, Named Employee #2 also stated that they were relying on the earlier language in the Computer Aided Dispatch (CAD) that

complainant contact was optional. (See *id.*) Neither provided a compelling explanation as to why they did not follow the call updates that came in, which clearly indicated that an assault victim wanted in-person contact with officers. (See NE#1 OPA Interview, at pp. 13-14; see also NE#2 OPA Interview, at pp. 8-9, 13.) Nor did they explain why they did not read the CAD updates prior clearing the call and clarify with dispatch whether contact was requested. (See NE#1 OPA Interview, at p. 16; see also NE#2 OPA Interview, at p. 13.) Notably, the two witness officers interviewed by OPA both stated that if they had been primary on the call they would have entered the store and conducted a further investigation. (See Officer Fitzgerald OPA Interview, at p. 8; see also Officer Hupf OPA Interview, at p. 11.)

At his OPA interview, Named Employee #1 recognized that, as Named Employee #2's Field Training Officer (FTO), he was required to step in and "override" any situation where his student officer was engaging in acts that were contrary to policy, illegal or otherwise egregious. (NE#1 OPA Interview, at p. 7.) Here, Named Employee #1 had sufficient time and opportunity to review the CAD, recognize that a victim was requesting officer contact, and to direct Named Employee #2 to conduct an investigation in the store and interview the victim. Named Employee #1 later admitted that Named Employee #2 did not do a thorough investigation in this case and concluded, in hindsight, that the call was not handled appropriately. (*Id.* at p. 14.)

When asked whether this call was deliberately "blown off," Named Employee #1 stated: "I don't think so." (*Id.*) However, Named Employee #1 noted that he had received many calls for service from that grocery store and usually when he went to the store in response to those calls "no one even knew what was going on." (*Id.* at p. 15.) Named Employee #1 further stated that, as an FTO, he wanted to give his student officer exposure to a high number of calls and that meant not wasting time with calls, such as some of the prior calls he had responded to at that grocery store, which were a waste of time due to the suspect previously fleeing the area. (*Id.*) While it was important for a student officer to experience a wide variety and quantity of calls, it was more important for that officer to learn how to properly and thoroughly investigate cases.

Named Employee #1 asserted that he believed that it would have been best practice for Named Employee #2 to enter the store and conduct an investigation and that, as Named Employee #2's FTO, he was ultimately responsible for the failure to do so. (*Id.*)

SPD Policy 15.180-POL-5 instructs officers to "document all primary investigations on a General Offense Report." The policy further states that "[a]ll reports must be complete, thorough and accurate." (SPD Policy 15.180-POL-5.) Lastly, the policy mandates that "[o]fficers shall document whether victims of non-custody incidents want to pursue charges, as feasible." (*Id.*)

Here, Named Employee #2 did not create a General Offense Report associated with this incident. He did not enter the store in order to obtain information concerning the crimes at issue, which involved assault and property damage. (See NE#2 OPA Interview, at pp. 9-10.) Further, Named Employee #2 did not interview the victim to determine what had occurred and whether the victim wanted to press charges. Named Employee #2 later recognized that he should have gone into the store to interview the victim employee and should have generated a

General Offense Report. (Id. at p. 10.) Named Employee #1 appeared to reach a similar conclusion at his OPA interview. (See NE#1 OPA Interview, at p. 12.) Ultimately, Named Employee #2's failure to take these investigatory steps was inconsistent with SPD policy.

However, as noted by both Named Employee #1 and Named Employee #2, Named Employee #1 did not override the situation and instruct Named Employee #2 to complete a General Offense Report. (NE#2 OPA Interview, at p. 10; NE#1 OPA Interview, at p. 12.) As Named Employee #2's FTO, Named Employee #1 was responsible for identifying potential violations of policy and taking over the scene to ensure that they were prevented or rectified. Here, even though he had time to remedy the situation, Named Employee #1 did not do so. Accordingly, the OPA Director found that Named Employee #1 was ultimately responsible for this policy violation.

As indicated above, the OPA Director found that Department policy dictated that Named Employee #2 should have entered the store to search for evidence and/or to interview victims or witnesses. While he acted contrary to policy in this instance, the OPA Director further found that his FTO should have overridden the situation, informed Named Employee #2 that his actions were contrary to policy, and instructed him to conduct a thorough and complete investigation. The OPA Director found that Named Employee #1 had more than sufficient time to recognize that Named Employee #2's conduct violated policy and to remedy the issue. Given that Named Employee #1 did not do so, the OPA Director found that Named Employee #1, not Named Employee #2, bore primary responsibility for this violation of policy.

The OPA Director found that SPD Policy 15.180-POL-5 required Named Employee #2 to complete a General Offense Report for this case. However, similar to the above allegation, the OPA Director concluded that given Named Employee #1's role as Named Employee #2's FTO and Named Employee #1's failure to override the situation, he, not Named Employee #2, bore primary responsibility for this violation of policy. The OPA Director found that Named Employee #1 had more than sufficient time to recognize that Named Employee #2's conduct violated policy and to remedy the issue.

It was alleged that at some point after the incident, a Department employee called the grocery store and spoke with the store manager. The store manager relayed through the complainant that during this conversation the Department employee indicated something to the extent of: "dispatch dropped the ball." The complainant interpreted this remark as the officers trying to place the blame for their conduct on dispatch, which she viewed as inappropriate.

The complainant did not know the name of the Department employee that called the store manager. The complainant relayed that the store manager only recalled speaking with the "staff supervisor on duty." The store manager did not respond to OPA's requests for information. Named Employee #1 and Named Employee #2 both denied calling the store (see NE#1 OPA Interview, at pp. 9-10; see also NE#2 OPA Interview, at p. 10), as did two other officers. (See Officer Fitzgerald OPA Interview, at pp. 6-7; see also Officer Hupf OPA Interview, at p. 9.)

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that as a FTO, Named Employee #1 was ultimately responsible for Named Employee #2's failure to do a thorough investigation in this case. Therefore a **Sustained** finding was issued for *Primary Investigations: Officers Shall Conduct a Thorough and Complete Search for Evidence*.

Allegation #2

A preponderance of the evidence showed that Named Employee #1 did not override the situation and instruct Named Employee #2 to complete a General Offense Report. Therefore a **Sustained** finding was issued for *Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report*.

Named Employee #2

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 *Primary Investigations: Officers Shall Conduct a Thorough and Complete Search for Evidence*.

Recommended Training: The OPA Director recommends that Named Employee #2 receives additional training as to the Department's policies concerning primary investigations and, specifically, as to when he is required to conduct a thorough and complete search for evidence and to conduct victim and witness interviews.

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 *Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report*.

Recommended Training: The OPA Director recommends that Named Employee #2 receives additional training as to the Department's policies concerning primary investigations and, specifically, as to when he is required to complete a General Offense Report.

Named Employee #3

Allegation #1

There was not a preponderance of the evidence either supporting or refuting the allegation. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Standards and Duties: 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.