



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-1497

Issued Date: 07/12/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 6.010 (5) Arrests: Sergeants Must Screen All Arrests Prior to Booking or Release (Policy that was issued February 1, 2016)
OPA Finding	Not Sustained (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 5.140 (2) Bias-Free Policing: Officers Will Not Engage in Bias Based Policing (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 5.140 (2) Bias-Free Policing: Officers Will Not Engage in Bias Based Policing (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 6.150 (1) Advising Persons of Right to Counsel and Miranda: Officers Shall Advise All Arrestees of Their Full Miranda Rights (Policy that was issued January 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> 5.140 (2) Bias-Free Policing: Officers Will Not Engage in Bias Based Policing (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 6.150 (1) Advising Persons of Right to Counsel and Miranda: Officers Shall Advise All Arrestees of Their Full Miranda Rights (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	N/A

INCIDENT SYNOPSIS

Named Employees #2 and #3 were dispatched to investigate a report of a violation of an Anti-Harassment Order. Named Employee #1 conducted the arrest screening for the complainant.

COMPLAINT

The complainant alleged that he was wrongfully arrested due to his race and that the Named Employees did not ask him questions because of his race. The complainant also made allegations that his arrest was not properly screened and he was not read Miranda during his arrest.

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 (ICV)
4. Interviews of SPD employees

ANALYSIS AND CONCLUSION

Named Employee #1 conducted the arrest screening in the holding cell area of the Precinct, after the complainant was transported there from the scene. The preponderance of the evidence indicated that Named Employee #1 completed the necessary supplement. However, it did appear that the officers were operating from an incorrect assumption that DV Property Damage was a mandatory arrest. At this point during the screening process, Named Employee #1 should have informed the officers that this was a discretionary arrest and considered options other than booking the complainant into jail, especially given the “he said; she said” nature of the evidence against the complainant.

The complainant alleged that Named Employee #1 was biased in his decision to approve the arrest of the complainant based on the complainant’s race. Named Employee #1 was the screening sergeant in this case and properly conducted the arrest screening as required by policy. The preponderance of the evidence did not reveal bias as a factor in the actions taken by Named Employee #1.

The complainant alleged that Named Employee #2 was biased in his actions based on the race of the complainant. Named Employee #2 was the primary officer and Named Employee #3 was his Field Training Officer. Named Employee #2 was informed by a female subject that the complainant had damaged her vehicle window with a rock. Based on the information provided by the female subject, the physical evidence of the broken window and the presence of the complainant in the area, Named Employee #2 had probable cause to arrest the complainant. The preponderance of the evidence did not support the allegation that this decision by Named Employee #2 to make the arrest was based on the race of the complainant.

The complainant alleged that Named Employee #2 failed to read him his Miranda Warning. Policy requires that a subject be given their Miranda Warning “as soon as practical” and “prior to a custodial interview.” In this particular incident, Named Employee #2 gave the subject his Miranda Warning after arriving at the Precinct, which according to Named Employee #2, was due to concerns with how upset the victim was being at the scene. This was a decision made by Named Employee #2 and confirmed by Named Employee #3. While it was possible this was as soon as it was practical for Named Employee #2 to provide the warning, the importance of giving Miranda cannot be understated.

The complainant alleged that Named Employee #3 was biased in his actions based on the race of the complainant. Named Employee #3 was present for the decision made by Named Employee #2 and agreed there was sufficient probable cause to arrest the complainant. Therefore, there didn’t appear to be a basis for the allegation that this decision was based on the race of the complainant.

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 *Arrests: Sergeants Must Screen All Arrests Prior to Booking or Release*.

Required Training: Named Employee #1 should receive additional training and counseling from his supervisor about the RCW statute regarding mandatory DV arrests and that DV Property Damage is not being a mandatory arrest.

Allegation #2

A preponderance of the evidence did not reveal bias as a factor in the actions taken by Named Employee #1. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias Based Policing*.

Named Employee #2

Allegation #1

A preponderance of the evidence did not support the allegation that the decision by Named Employee #2 to make the arrest was based on the race of the complainant. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias Based Policing*.

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 *Advising Persons of Right to Counsel and Miranda: Officers Shall Advise All Arrestees of Their Full Miranda Rights*.

Required Training: Named Employee #2's supervisor should review with him the requirements for providing Miranda to a subject and the necessity to do so "as soon as practical." In addition, Named Employee #2 should be counseled that it is important he document any delay in providing Miranda, given this policy requirement. Finally, Named Employee #2 should be given additional training on the RCW statute regarding mandatory arrests and counseled that DV Property Damage is not a mandatory arrest crime.

Named Employee #3

Allegation #1

A preponderance of the evidence showed that there didn't appear to be a basis for the allegation that Named Employee #3's decision was based on the race of the complainant. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias Based Policing*.

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 *Advising Persons of Right to Counsel and Miranda: Officers Shall Advise All Arrestees of Their Full Miranda Rights*.

Required Training: Named Employee #3's supervisor should review with him the requirements for providing Miranda to a subject and the necessity to do so "as soon as practical." In addition, Named Employee #3 should be counseled that it is important to document any delay in providing Miranda, given this policy requirement. Finally, Named Employee #3 should be given additional training on the RCW statute regarding mandatory arrests and counseled that DV Property Damage is not a mandatory arrest crime.

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.