



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 10, 2019

CASE NUMBER: 2019OPA-0136

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	6.010 - Arrests - 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained (Lawful and Proper)
# 2	6.010 - Arrests - 3. Officers Shall Advise All Arrestees of Their Full Miranda Rights	Not Sustained (Lawful and Proper)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	6.010 - Arrests - 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained (Lawful and Proper)
# 2	6.010 - Arrests - 3. Officers Shall Advise All Arrestees of Their Full Miranda Rights	Not Sustained (Lawful and Proper)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged that the Named Employees falsely arrested her and failed to read her Miranda warnings.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

6.010 - Arrests - 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest

On December 29, 2018, Named Employee #1 (NE#1) and Named Employee #2 (NE#2) responded to the scene of a domestic violence (DV) assault. The following information was reported to the officers: “FEMALE ROLLING AROUND ON THE GROUND AND HITTING HEAD ON WALL, POSS IN CRISIS, NO WEAPNS SUBJ CURRENTLY IN LIVING ROOM. TRYING TO HIT FAMILY MEMBERS.” NE#1 documented that, when he arrived, he could clearly see from his position



outside the home that a female, later identified as the Complainant, was lying on the floor inside the home and was apparently unconscious. Officers were invited inside the home by the 911 caller, who was the Complainant's brother.

The Complainant's mother reported that the Complainant assaulted her. This account was corroborated by two other witnesses – the Complainant's brother and her son. Given this information, the Named Employees placed the unconscious Complainant under arrest and called for the Seattle Fire Department (SFD) to respond to provide the Complainant with medical treatment. SFD personnel woke up the Complainant. At that time, the Complainant denied that she had assaulted anyone. SFD personnel ultimately informed the officers that the female was cleared for transport to King County Jail. The Complainant's arrest for DV assault was screened by a Sergeant.

As part of its investigation, OPA reviewed the Body Worn Video (BWB) associated with this incident. The video corroborated what was documented by the Named Employees.

OPA also interviewed the Complainant. The Complainant stated that she lives alone but that, on the night of the incident, her brother, mother, and son were over at her house visiting. The Complainant indicated that her mother had previously trespassed on her property and things escalated when her family members would not leave the residence. The Complainant told OPA that she was pushing her family members out of the house and "striking out at them in anger" when she fainted. Per the Complainant, her family then called 911 for an ambulance to take her to a hospital. The Complainant stated that, instead, the police arrived and placed her under arrest. The Complainant believed that she should not have been arrested since her family called 911 for an ambulance and her mother, who was the alleged victim of the DV assault, had been previously trespassed from her home. As discussed below, the Complainant also alleged that she was not read her Miranda warnings, so her civil rights were violated. The Complainant made further allegations pertaining to what took place at King County Jail and which dealt with the conduct of jail employees. OPA informed the Complainant that OPA only had jurisdiction over SPD employees and did not consider these allegations.

SPD Policy 6.010-POL-1 requires that officers have probable cause to believe that a suspect committed a crime when effectuating an arrest. Stated differently, where an arrest is not supported by probable cause, it violates law and Department policy.

Based on the evidence discussed above, NE#1 and NE#2 had clear probable cause to arrest the Complainant for DV assault. This was primarily based on the consistent statements provided by the victim and the two witnesses that established that the Complainant was the primary aggressor. Moreover, given the statements and the DV nature of the offense, the Named Employees were required to arrest the Complainant pursuant to both policy and Washington State law. For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper as against both Named Employees.

Recommended Finding: **Not Sustained (Lawful and Proper)**



Named Employee #1 - Allegation #2

6.010 - Arrests - 3. Officers Shall Advise All Arrestees of Their Full Miranda Rights

The Complainant was arrested while she was unconscious. When the Complainant came to, SFD personnel were providing medical assistance to her. At that time, she complained of pain and repeatedly asked why she was in handcuffs. NE#2 told her that she was under arrest. The Named Employees then spoke with SFD personnel, who continued to treat the Complainant. She complained of pain several more times and repeatedly asked why she was in handcuffs. At that point, neither of the Named Employees responded to her. NE#2 then knelt down, introduced himself, and told the Complainant that she was being audio and video recorded. He further stated the following: "Right now, you are under arrest for domestic violence assault." The Complainant asked who she assaulted and NE#2: "You hit some of your family members." The Complainant stated that she told her family members to leave her home and NE#2 informed her that it was a mandatory arrest situation. The Complainant continued to argue that she owned the home and NE#2 replied: "Honestly, it doesn't matter who owns the home, you can't hit your family." He then told the Complainant that he was going to stand her up and walk her out of the house. The Named Employees began to do so but, during that process, the Complainant either lost consciousness or feigned losing consciousness. She was largely carried to the patrol vehicle and was secured in the rear. The Named Employees' supervisor arrived and NE#2 informed him what had occurred. The supervisor then spoke with the Complainant and, when he did so, he read her Miranda warnings.

SPD Policy 6.010-POL-3 requires that arrestees be read their Miranda warnings "as soon as practical" after being taken into custody.

Neither of the Named Employees read Miranda warnings to the Complainant. Instead, the Named Employees' supervisor did so approximately 14 minutes after the Complainant first regained consciousness. Notably, during much of that time period, the Complainant was being treated by SFD and the Named Employees were not interacting with her. When NE#2 did speak with the Complainant, he did so only to inform her of why she had been arrested. He did not question her or engage in a custodial interrogation. For his part, NE#1 did not appear to have virtually any interaction with the Complainant. All in all, there were only several minutes during which the Complainant was conscious and speaking with the officers and, in total, the actual conversation between the officers and the Complainant lasted only seconds.

Given the Named Employees' need to provide the Complainant with medical treatment, to remove her from the home, and to transport her from the scene, it was reasonable that they did not immediately read her Miranda warnings. She received those warnings within a reasonable amount of time when the supervisor provided them prior to asking her questions during the arrest screening process. Moreover, it is unclear to OPA that she would have even understood the warnings at the time due to her unstable demeanor and her falling in and out of consciousness. This is another reason why the Named Employees providing her with warnings was not practicable at that time.

For the above reasons, I find that the Named Employees acted consistent with this policy and, as such, I recommend that this allegation be Not Sustained – Lawful and Proper against both officers.

Recommended Finding: **Not Sustained (Lawful and Proper)**



Named Employee #2 - Allegations #1

6.010 - Arrests - 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #2 - Allegation #2

6.010 - Arrests - 3. Officers Shall Advise All Arrestees of Their Full Miranda Rights

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**