



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2014-0227

Issued Date: 02/23/2015

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 Use of Force: When Authorized (Policy that was issued prior to 1/1/14)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 Use of Force: When Authorized (Policy that was issued prior to 1/1/14)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #3	
Allegation #1	<u>Seattle Police Department Manual</u> 6.150 Advising Persons of Right to Counsel and Miranda (Policy that was issued prior to 1/1/15)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	N/A

Named Employee #4	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 Use of Force: When Authorized (Policy that was issued prior to 1/1/14)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

INCIDENT SYNOPSIS

The named employees responded to a 911 call in which the complainant was trespassing in the homeowner's yard. When the homeowner asked the complainant to leave, the complainant pulled a knife and the two men fought. After the altercation, the complainant left the scene on a bicycle. Based on a broadcast description, named employee #1 conducted an area search and located the complainant. Named employee #1 was aware that the complainant was reported to have a knife and she ordered the complainant to the ground. The complainant advanced on named employee #1 and she placed her firearm in the low ready position, ordering the complainant to stop his advance. Named employee's #3 and #4 arrived on scene and moved the complainant to the front of a patrol vehicle's In-Car Video and advised the complainant that he was being recorded. The complainant was searched and cuffed while being recorded. Named employee #2 arrived on scene and asked the employees present if the complainant had a knife on him and they answered affirmatively. Named employee #2 asked the complainant if he was injured but the answer was not clear. Named employee #2 read Miranda warnings to the complainant at the South Precinct.

COMPLAINT

The complainant stated that his Constitutional Rights were violated, that he was unlawfully arrested, refused medical attention, and assaulted by officers during his arrest. He further alleged that named officer #1 pointed a gun at him. He also alleged that named employee #3 did not read him his rights.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint letter
2. Review of In-Car Videos
3. Interviews of Witnesses
4. Interviews of SPD employees

ANALYSIS AND CONCLUSION

An officer shall only use the force reasonable, necessary and proportionate to effectively bring an incident or person under control, while protecting the lives of the officer or others. The complainant was armed when he confronted and fought with the homeowner. The complainant was still armed when he was taken into custody. The evidence gathered from all sources, including In-Car Videos, shows that reasonable and necessary force was used by the named employees when they took the complainant into custody. Named employee #1 drew her weapon and held it at the low ready position due to the complainant's aggression toward her and the report that he was armed with a knife. While named employee #3 did not read the Miranda warnings immediately after taking the complainant into custody, it is not clear that "as soon as practical" would preclude named employee #3 from first taking the complainant to the primary investigating officer, named employee #2.

FINDINGS

Named Employee #1

The weight of the evidence showed that named employee #1 used only necessary and proportionate force to bring the incident under control; therefore a finding of **Not Sustained** (Unfounded) was issued for *Use of Force*.

Named Employee #2

The weight of the evidence showed that named employee #2 was lawful & proper in the level of force used to bring the situation under control; therefore a finding of **Not Sustained** (Unfounded) was issued for *Use of Force*.

Named Employee #3

The evidence showed that named employee #3 did take the complainant to the primary investigating officer in order to have the Miranda warnings read to him. However, the policy does state that officers shall give this advisement to all persons taken into custody, regardless of interview, as soon as practical. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Advising Persons of Right to Counsel and Miranda*. The employee's supervisor has been asked to provide the employee with refresher training on when and how to inform an arrestee of his or her Miranda rights.

Named Employee #4

The weight of the evidence showed that named employee #4 was lawful & proper in the level of force used to bring the situation under control; therefore a finding of **Not Sustained** (Unfounded) was issued for *Use of Force*.

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.