



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0983

Issued Date: 03/09/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 16.110 (16.110-PRO-2) Crisis Intervention: Referring a Subject for an Involuntary Mental Health Evaluation (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<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 #2	
Allegation #1	<u>Seattle Police Department Manual</u> 16.110 (16.110-PRO-2) Crisis Intervention: Referring a Subject for an Involuntary Mental Health Evaluation (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #2	<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
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Named Employee #3	
Allegation #1	<u>Seattle Police Department Manual</u> 16.110 (16.110-PRO-2) Crisis Intervention: Referring a Subject for an Involuntary Mental Health Evaluation (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #2	<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 (Lawful and Proper)
Final Discipline	N/A

Named Employee #4	
Allegation #1	<u>Seattle Police Department Manual</u> 16.110 (16.110-PRO-2) Crisis Intervention: Referring a Subject for an Involuntary Mental Health Evaluation (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #2	<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

INCIDENT SYNOPSIS

Named Employees #1 and #3 were called to assist the Seattle Fire Department (SFD). Named Employee #2 reviewed the incident and advised Named Employee #3, and Named Employee #4 screened the report.

COMPLAINT

The complainant alleged that the Named Employees' actions may have violated SPD Policy regarding involuntary detention. The complainant alleged that the Named Employees exacerbated his condition by refusing to be patient and understanding of his medical condition and instead placed a 'medical hold' on him against his will. He complained that the officers were in too big of a hurry to get on to the next call and didn't take time to figure out what was actually going on with him. The complainant believed the employees overreacted and he was frustrated about the way he was treated due to his disability. The complainant sustained medical bills for treatment he did not want and could not pay for.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint
2. Review of In-Car Videos (ICV)
3. Search for and review of all relevant records and other evidence
4. Interviews of SPD employees

ANALYSIS AND CONCLUSION

Named Employee #1 was an assist officer on this call and not responsible for the decision to take the complainant into custody for an involuntary mental health evaluation.

SPD policy requires a Sergeant, when contacted by an officer regarding a potential involuntary mental health evaluation, to review the incident and advise the officer. This was exactly what Named Employee #2 did in this particular case.

Named Employee #2 did not exercise her police authority in any way. That was done by Named Employee #3. It was solely the duty of Named Employee #2 to listen to Named Employee #3's summation of the situation and provide her with advice.

The SPD Crisis Intervention Policy (16.110) states: "Officers are trusted to use their best judgment during behavioral crisis incidents, and the Department recognizes that individual officers will apply their unique set of education, training and experience when handling crisis intervention. The Department acknowledges that officers are not mental health professionals." In other words, SPD expects its officers, when dealing with a person who appears to be experiencing a behavioral crisis, to access the resources available to them and apply their best judgment under the circumstances. As Policy 16.110 states, "Officers are not expected to diagnose a subject with a mental illness, nor are they expected to counsel a distraught subject into composure ... [they] are instructed to consider the crises that subjects may be experiencing during all encounters. Officers must recognize that subjects may require law enforcement assistance and access to community mental health and substance abuse resources. The ideal

resolution for a crisis incident is that the subject is connected with resources that can provide long-term stabilizing support.”

In this particular incident, Named Employee #3 was presented with information from the complainant’s supervisor along with SFD medics indicating that the complainant appeared to be in some sort of behavioral crisis. To be clear, the complainant did not exhibit signs of suicidal ideation or actions in furtherance of such a goal. However, the complainant’s symptoms created a reasonable belief in the mind of Named Employee #3 that the complainant was having some sort of crisis. Its origins, whether medical or mental, were unknown to Named Employee #3. Those symptoms included the sudden onset of a loss of speech (although the complainant was able to communicate in writing), a halting and unsteady gait, and mental confusion. The SFD medics on scene informed Named Employee #3 they had ruled out a stroke as the cause of these symptoms, but felt the symptoms indicated the potential for an unknown and potentially serious medical condition.

There was no doubt the complainant did not wish to go to the hospital and refused to go voluntarily. He clearly communicated this fact to the medics, as well as to Named Employee #3 who was faced with an extremely difficult dilemma. If Named Employee #3 left the complainant where he was and drove away, the complainant might have gotten into his car and driven away. In the mind of Named Employee #3, this was an unacceptable risk, both for the complainant and for the public, should the complainant’s confused state lead him to cause a collision with other vehicles and/or pedestrians. On the other hand, if Named Employee #3 placed the complainant under an involuntary hold for the purposes of a mental health examination, the complainant would be temporarily deprived of his liberty. Washington State Law (RCW 71.05.153) gives peace officers the authority to take a person into custody against their will and deliver them to a hospital if, “a person, as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information.”

Before making a decision with respect to the complainant, Named Employee #3 listened to what the medics and people acquainted with the complainant had to say. Named Employee #3 also made her own observations regarding the complainant’s behavior and condition. Named Employee #3 sought the advice of Named Employee #1, the assist officer on scene who was trained in crisis intervention and, as required by policy, consulted with her supervisor, Named Employee #2.

Taking all the facts in evidence into consideration and given the totality of the circumstances, the OPA Director found that Named Employee #3 acted reasonably and in good faith to apply the criteria for an involuntary evaluation found in the RCW. Named Employee #3 had reason to suspect, in light of several signs indicating the complainant was in an altered mental state, that a mental disorder was making him unable to make decisions about the potentially serious threat to his health. In doing so, Named Employee #3 complied with the requirements of SPD Policy 16.110.

SPD Policy 5.001(5) authorizes officers to use their police powers, “in a reasonable manner consistent with the mission of the Department and duties of their office and assignment.” For the reasons stated above for allegation #1, the OPA Director found that Named Employee #3 sought information and advice and applied her best judgment based on her training and experience to act in a reasonable manner with the intent of safeguarding the wellbeing of the complainant and the safety of the general public.

Named Employee #4 was asked by Named Employee #2 to handle screening the General Offense Report of this incident submitted by Named Employee #3 to ensure the report was thorough, accurate and to evaluate the actions of the officer who authored the report. In light of the OPA Director’s recommendation that Named Employee #3’s decision to take the complainant into custody for an involuntary mental health evaluation was reasonable and consistent with policy, the Director also found that Named Employee #4 reasonably concluded that the actions of Named Employee #3 were proper.

Named Employee #4 did not exercise his police authority in any way. That was done by Named Employee #3. It was the sole duty of Named Employee #4 to review and evaluate the report submitted by Named Employee #3.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that Named Employee #1 was an assist officer on this call and not responsible for the decision to take the complainant into custody for an involuntary mental health evaluation. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Crisis Intervention: Referring a Subject for an Involuntary Mental Health Evaluation*.

Allegation #2

A preponderance of the evidence showed that Named Employee #1 was an assist officer on this call and not responsible for the decision to take the complainant into custody for an involuntary mental health evaluation. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards and Duties: Employees May Use Discretion*.

Named Employee #2

Allegation #1

A preponderance of the evidence showed that Named Employee #2 reviewed the incident and advised as officer as required by policy. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Crisis Intervention: Referring a Subject for an Involuntary Mental Health Evaluation*.

Allegation #2

A preponderance of the evidence showed that Named Employee #2 did not exercise any discretion in this matter. 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 Named Employee #3 acted reasonably and in good faith to apply the criteria for an involuntary evaluation found in the RCW. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Crisis Intervention: Referring a Subject for an Involuntary Mental Health Evaluation*.

Allegation #2

A preponderance of the evidence showed that Named Employee #3 sought information and advice and applied her best judgment based on her training and experience to act in a reasonable manner with the intent of safeguarding the wellbeing of the complainant and the safety of the general public. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Standards and Duties: Employees May Use Discretion*.

Named Employee #4

Allegation #1

A preponderance of the evidence showed that Named Employee #4 reasonably concluded that the actions of Named Employee #3 were proper. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Crisis Intervention: Referring a Subject for an Involuntary Mental Health Evaluation*.

Allegation #2

A preponderance of the evidence showed that Named Employee #4 did not exercise any discretion in this matter. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards and Duties: Employees May Use Discretion*.

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.