



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2016-1325

Issued Date: 06/08/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 6.010 (3) Arrests: Officers Shall Advise All Arrestees of Their Full Miranda Rights (Policy that was issued February 1, 2016)
OPA Finding	<b>Not Sustained</b> (Lawful and Proper)
Allegation #2	<u>Seattle Police Department Manual</u> 15.250 (II) Interpreters/Translators: Contact with Deaf Persons (Policy that was issued September 15, 2016)
OPA Finding	<b>Not Sustained</b> (Training Referral)
Allegation #3	<u>Seattle Police Department Manual</u> 8.100 (1) De-Escalation: When Safe under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for Force (Policy that was issued September 1, 2015)
OPA Finding	<b>Not Sustained</b> (Lawful and Proper)
Final Discipline	N/A

<b>Named Employee #2</b>	
Allegation #1	<u>Seattle Police Department Manual</u> 6.010 (3) Arrests: Officers Shall Advise All Arrestees of Their Full Miranda Rights (Policy that was issued February 1, 2016)
OPA Finding	<b>Not Sustained</b> (Lawful and Proper)
Allegation #2	<u>Seattle Police Department Manual</u> 15.250 (II) Interpreters/Translators: Contact with Deaf Persons (Policy that was issued September 15, 2016)
OPA Finding	<b>Not Sustained</b> (Training Referral)
Allegation #3	<u>Seattle Police Department Manual</u> 8.100 (1) De-Escalation: When Safe under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for Force (Policy that was issued September 1, 2015)
OPA Finding	<b>Not Sustained</b> (Lawful and Proper)
Final Discipline	N/A

### **INCIDENT SYNOPSIS**

The Named Employees were dispatched to the residence of the subject.

### **COMPLAINT**

The complainant, a supervisor within the Department, alleged that the Named Employees may have violated SPD policies pertaining to the Use of Force, advisement of Miranda, and the Use of Interpreters / Translators when contacting a deaf person during an incident.

### **INVESTIGATION**

The OPA investigation included the following actions:

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

## **ANALYSIS AND CONCLUSION**

Given the totality of the circumstances, including the potential for self-harm by the subject if the Named Employees had waited for a translator to arrive and the fact that the Named Employees did not plan to conduct a post-arrest interview of the subject, the OPA Director found their decision to transport the subject directly to the jail without giving the Miranda advisement to be reasonable and judicious.

The Named Employees should have made arrangements through Dispatch to have a qualified interpreter respond to the scene of the incident once they realized they were going to need to speak with a person who was deaf as part of their investigation. In deciding whether or not to recommend a sustained finding, the OPA Director took into consideration the Named Employees' assumption that the subject would be able to make use of her communication device for the purpose of communicating with the police. Based on the officers' past experience with the subject, this was not an unreasonable assumption. Nonetheless, once they understood that the subject did not have access to her communications device, the Named Employees should have contacted Dispatch and requested an interpreter, waiting to begin their interviews until that person arrived.

The preponderance of the evidence showed that the Named Employees used a variety of tactics to attempt to de-escalate the situation and deal with the increasing anxiety of the subject. At a certain point, as the subject began to show signs that she might begin to act on her agitation, the Named Employees made the decision to take her into physical custody in order to reduce the potential she might harm herself or others, as well as to reduce the likelihood the Named Employees would need to use higher levels of force to keep her under control. The OPA Director found the decisions and actions of the Named Employees with respect to de-escalation to be consistent with policy and training.

## **FINDINGS**

### **Named Employees #1 and #2**

#### **Allegation #1**

Given the totality of the circumstances, the Named Employees' decision to transport the subject directly to the jail without giving the Miranda advisement to be reasonable and judicious.

Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Arrests: Officers Shall Advise All Arrestees of Their Full Miranda Rights.*

#### **Allegation #2**

The evidence showed that the Named Employees would benefit from additional training.

Therefore a finding of **Not Sustained** (Training Referral) was issued for *Interpreters/Translators: Contact with Deaf Persons.*

**Required Training:** Named Employees #1 and #2 should receive training and counseling from their supervisor regarding the importance of and process for summoning an interpreter to assist with communicating with persons with hearing impairments as soon as the need becomes manifest to the officer.

Allegation #3

A preponderance of the evidence showed that the Named Employees used a variety of tactics to attempt to de-escalate the situation. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *De-Escalation: When Safe under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for 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.*