



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-1139

Issued Date: 04/27/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 6.180 (2) Searches-General: There are Specific Exceptions to the Search Warrant Requirement (Policy that was issued January 1, 2015)
OPA Finding	Sustained
Allegation #2	<u>Seattle Police Department Manual</u> 15.180 (5) Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report (Policy that was issued April 1, 2015)
OPA Finding	Sustained
Final Discipline	Written Reprimand

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 6.180 (2) Searches-General: There are Specific Exceptions to the Search Warrant Requirement (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 15.180 (5) Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)

Final Discipline	N/A
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INCIDENT SYNOPSIS

The Named Employees responded to investigate a Domestic Violence (DV) burglary.

COMPLAINT

The complainant, the Force Review Unit, alleged that the Named Employees may have violated policy regarding entry into the residence and seizure of evidence while investigating an incident involving a DV burglary. The complainant alleged the report and review didn't contain enough details to justify the Named Employees' actions without a warrant so therefore both actions might be a possible violation policy.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint memo
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

The preponderance of the evidence from this investigation showed that Named Employee #1 entered the residence of the subject without a warrant, clear consent or exigency. ICV audio clearly showed that Named Employee #1 failed to inform the subject of her right to refuse entry to her home. Similarly, ICV audio clearly showed that the subject never gave permission to enter and, in fact, twice said "NO" when asked by Named Employee #1 after he had already crossed the threshold at the front door. Even granting the possibility the subject initially implied consent by turning from the door and beginning to walk into the apartment, once the subject verbally refused permission for the officers to enter the apartment, Named Employee #1 should have exited the apartment and sought a search warrant based on probable cause.

Named Employee #1 was the Primary Officer on this call and wrote the General Offense Report (GOR) for this incident. In the GOR, Named Employee #1 did not mention any of the circumstances surrounding his entry into the subject's apartment, her refusal to give permission to enter, or the basis for seizing the property and the subject. Given that the suspected stolen property was part of what Named Employee #1 relied on to form probable cause to arrest the subject, a "complete, thorough and accurate" GOR as required by policy should have included specific details regarding how Named Employee #1 came to be inside a constitutionally protected area- the subject's apartment- without a warrant or permission.

The preponderance of the evidence from this investigation showed that Named Employee #2 entered the residence of the subject without a warrant. During his interview, the Named Employee indicated he only entered to assist Named Employee #1 in executing an arrest of the subject. Naturally, supporting an officer in performing an arrest is trained to all SPD employees, and could have created some exigency. Regardless, it was concerning that Named Employee #2, a seasoned SPD employee, did not ensure that both he and Named Employee #1 were in compliance with the policy and requirements for a warrantless entry, nor did Named Employee #2 state to Named Employee #1 that they were not following policy or the law.

Named Employee #2 was the backing officer for this incident and not the author of the GOR. Named Employee #2 wrote a brief supplemental for the GOR and described what he saw, heard and did. In his role a backing officer, the OPA Director found his statement contained sufficient detail to meet the requirements of policy that it be, "complete, thorough and accurate."

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that Named Employee #1 entered the residence of the subject without a warrant, clear consent or exigency. Therefore a **Sustained** finding was issued for *Searches-General: There are Specific Exceptions to the Search Warrant Requirement*.

Allegation #2

A preponderance of the evidence showed that Named Employee #1 did not mention any of the circumstances surrounding his entry into the subject's apartment, her refusal to give permission to enter, or the basis for seizing the property and the subject in his GOR. Therefore a **Sustained** finding was issued for *Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report*.

Discipline Imposed: Written Reprimand

Named Employee #2

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 *Searches-General: There are Specific Exceptions to the Search Warrant Requirement*.

Required Training: The Named Employee should receive reminder training on search and seizure policies and legal standards, specifically the exceptions to a search warrant requirement. Additionally, the Named Employee should receive coaching on how to handle situations in which other officers may be engaging in out of policy practices, and how to ensure that the

situation is stopped sufficiently to gain legal standing for actions taken or about to be taken by the officers.

Allegation #2

A preponderance of the evidence showed that Named Employee #2's statement contained sufficient detail to meet the requirements of policy that it be, "complete, thorough and accurate." Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report.*

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.