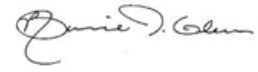

Issued Date: DECEMBER 30, 2024**From:** Deputy Director Bonnie Glenn on Behalf Of Director Gino Betts, Jr.
Office of Police Accountability**Case Number:** 2024OPA-0283

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 6.180 - Searches-General 1. Officers May Only Make Searches Pursuant to a Search Warrant, Unless a Specific Exception Applies

Finding: Sustained

- **Imposed Discipline:** Oral Reprimand

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

Executive Summary:

Named Employee #1 (NE#1) responded to the Complainants' residence to conduct a welfare check, but the Complainants were not home. The Complainants alleged NE#1 broke into their home without a warrant and failed to write a report explaining his actions.

Administrative Note:

On October 17, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of Investigation:

OPA investigated the complaint by reviewing computer-aided dispatch (CAD) call report, body-worn video (BWV), and searching SPD's computer system for any report or field contact form. OPA also interviewed both Complainants—a mother and daughter—as well as NE#1.

NE#1 responded as the primary officer to a 911 call requesting a welfare check on the caller's neighbors, the Complainants. The CAD call remarks noted that the Complainants were last seen five or six days ago, and their dog had been barking for about thirty-six hours, which was unusual.

NE#1, Witness Officer #1 (WO#1), and Witness Officer #2 (WO#2) responded to the

Complainants' home, at which time a dog was heard barking in the background. As NE#1 and WO#1 approached the home, they observed a note on the patio gate reading, "Monday, Dog Barking and Howling nonstop since 0730 a.m. The dog cannot be left alone!" NE#1 knocked on the front door of the home, and WO#1 looked in a window but reported not seeing anyone. NE#1 screened the call with his supervising sergeant. NE#1 learned from a neighbor that the homeowner (Complainant #1) was "in her forties" and that the "dog just barks a lot." NE#1 contacted another neighbor and the 911 caller, who reported not seeing Complainant #1 in a while which was unusual. The 911 caller also reported Complainant had mentioned something about a trip, but was unsure about the timeline, but that Complainant #1 had a plan for someone to watch the dog.

Seattle Fire Department (SFD) members responded at NE#1's request. SFD members looked through upper-level windows. Attempts were made to peacefully enter the home, but these were unsuccessful. SFD decided to breach the front door. SFD members entered the home with NE#1 and the witness officers. No one was located inside. After locating a note on the refrigerator to "take out trash," NE#1 stated to the other officers, "I think she is on vacation." NE#1 filled the dog's bowl with water. SPD and SFD members exited the house, and SFD secured the front door.

NE#1 provided the neighbor with an SPD business card with the case number, explaining no one was inside the home. NE#1 created the following CAD notes immediately after ending his response:

BECAUSE OF REPORTS OF CONTINUAL BARKING BY DOG, WHICH RP SAID IS UNUSUAL (AND ANOTHER COMPLAINT OF BARKING DOG ... ON 7-5 BY DIFFERENT COMPLAINANT, DECISION WAS MADE FOR BREACHING THE DOOR BY SFD TO CHECK ON WELFARE OF [Complainant #1]. SHE WASNT THERE. DOG APPEARED TO HAVE BEEN TAKEN CARE OF. INFORMED NEIGHBOR....

TO LET [Complainant #1] KNOW WHAT HAD HAPPENED AND WHY. LEFT BUSINESS CARD WITH THE NEIGHBOR.

SFD RESPONDED TO BREACH DOOR..HOMEOWNER NOT THERE, DOG IS FINE

Analysis and Conclusions:

Named Employee #1 – Allegation #1

6.180 - Searches-General 1. Officers May Only Make Searches Pursuant to a Search Warrant, Unless a Specific Exception Applies

The Complainant alleged that NE#1 broke into their home without a warrant and failed to write a report explaining his actions.

SPD Policy forbids officers from making warrantless searches unless a specific exception applies. See SPD Policy 6.180(1). When officers make a warrantless search, they are "required

to document in a Report or Field Contact that an exception to the warrant requirement applies.”
Id.

One exception to the search warrant requirement is the “community caretaking search.” SPD Policy permits officers to perform warrantless community caretaking searches when, (1) the officer subjectively believes someone likely needs assistance for health or safety reasons, (2) they attempt to rouse anyone who may be unconscious prior to entering, (3) there is an objective need for assistance, (4) the place searched is associated with the need for the search, (5) there is an imminent threat of substantial bodily injury or substantial damage to property, and (6) a specific person or property needs immediate health or safety assistance. See SPD Policy 6.180-POL-1(1).

OPA finds that NE#1’s decision to search the Complainants’ home was within the community caretaking search policy. While not the clearest fact pattern to suggest the immediate need for health or safety assistance, the evidence clearly showed NE#1 acted out of a subjective belief that Complainant #1 could be inside and be deceased or need emergency medical attention. NE#1 knew the dog had been barking for at least 36 hours and neighbors had not seen Complainant #1 for five or six days, all of which was unusual. Neither SPD nor SFD members could see anyone through the windows. Although these concerns were somewhat mitigated by the possibility the Complainants were away on vacation, the 911 caller did not know the timeframe for this and knew there was a plan to have someone care for the dog. The dog’s non-stop barking suggested something may have been off.

NE#1 screened the issue with his supervisor, summoned SFD, and attempted to knock, look in windows, and enter peaceably. NE#1 searched and found Complainant’s #1’s name and had WO#1 run the name in SPD’s computer system. After these efforts, there was no other way to render assistance but to enter the home. Once inside, the officers and SFD members limited their search to the community caretaking function, even providing water for the dog. Finishing the search, NE#1 provided a business card to a neighbor and documented the search with CAD notes.

In their OPA interviews, the Complainants noted they were both away on vacation and had arranged for someone to care for the dog. They expressed frustration at the situation, including the lack of clear documentation concerning the rationale from SPD. For his part, in his OPA interview, NE#1 explained his reasoning for believing the search itself complied with policy but acknowledged having “no excuse” for not writing a report as required by policy.

OPA finds the warrantless search met the requirements of the community caretaking exception; however, NE#1 failed to document his actions in a report that is required by policy. OPA acknowledges NE#1 took responsibility for failing to write a report and appreciated his candor.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**