



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 2, 2019

CASE NUMBER: 2019OPA-0225

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	16.110–PRO–3 Taking a Subject into Custody by Order or Verbal/Written Request of a Designated Crisis Responder (DCR)	Not Sustained (Management Action)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	16.110–PRO–3 Taking a Subject into Custody by Order or Verbal/Written Request of a Designated Crisis Responder (DCR)	Not Sustained (Management Action)

Named Employee #3

Allegation(s):		Director’s Findings
# 1	16.110–PRO–3 Taking a Subject into Custody by Order or Verbal/Written Request of a Designated Crisis Responder (DCR)	Not Sustained (Management Action)
# 2	6.280 - Warrant Arrests 1. Only Sworn Police Officers Shall Serve Arrest Warrants	Allegation Removed

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

EXECUTIVE SUMMARY:

It was alleged that the Named Employees effectuated a warrantless entry into an apartment based on a court order permitting a non-emergent mental health hold when the order, standing alone, did not actually provide legal authority for the officers to make that entry.

ADMINISTRATIVE NOTE:

Based on further discussion with the Crisis Response Unit, OPA made changes to some of the terminology used in this DCM to ensure accuracy and to minimize potential confusion. The findings were not affected by these changes.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

16.110-PRO-3 Taking a Subject into Custody by Order or Verbal/Written Request of a Designated Crisis Responder (DCR)

The Complainant alleged that officers entered her residence without her permission and without a warrant. She stated that she was taken into custody and was transported to a hospital for a 72-hour mental health hold. The Complainant alleged that the officers did not let her put clothes or shoes on and did not let her take her keys. The Complainant told OPA that, due to the traumatic nature of this incident, she is no longer sleeping in her apartment because of her fear that this incident could happen again.

Information associated with the call indicated that the officers were dispatched to assist in the involuntary detention of the Complainant. They were informed that the Complainant had “over 100 trashbags” in her apartment, was “hoarding,” and was “unable to take care of herself.” The call notes further indicated that the Complainant did not know officers were coming and that the officers were going to the Complainant’s apartment with King County Designated Crisis Responders (DCRs).

The Body Worn Video (BWV) for this incident showed the Named Employees’ response to the Complainant’s apartment building. Named Employee #3 (NE#3) spoke with the DCRs and was informed that they had a Non-Emergent Detention Order permitting the involuntary detention of the Complainant. NE#3 reviewed the court order and indicated that he knew of the Complainant. The DCRs relayed that the Subject was hoarding and was not taking care of herself. The DCRs lastly stated that the officers would be keyed into the Complainant’s apartment.

BWV showed that Named Employee #1 (NE#1) and Named Employee #2 (NE#2) arrived at the apartment building and all of the Named Employees entered. They obtained additional paperwork from building staff in the main office. The DCRs confirmed with building staff that they and the officers would be keyed into the apartment.

AMR staff arrived on scene and they, with the Named Employees, waited for the elevator. While standing with the AMR staff, NE#3 noted that the order indicated that it permitted a non-emergent detention. NE#3 speculated that this meant that they could not use force to take the Complainant into custody but then noted that he had never seen an order like this. He continued to read the order and conferred with NE#2. They all rode the elevator to the second floor and approached the Complainant’s apartment (the AMR staff had a gurney).

NE#3 knocked and announced. He stated that he was a police officer and needed to talk to the Complainant. The Complainant responded but did not open the door. NE#3 further told the Complainant that he had a court order allowing him to speak with her and, when she again did not allow him access into the apartment, building staff unlocked and opened the door. NE#3 walked inside and made contact with the Complainant. NE#3 calmly explained that the Complainant was going to be detained for up to 72 hours. He told her that he would get her a blanket to wrap herself in. When the Complainant asked why she was being detained, NE#3 informed her that her living conditions were not sanitary. NE#3 asked the Complainant to look behind her and, when he said this, he shined his flashlight into the apartment and illuminated numerous stacked garbage bags.



After a continued back and forth and after the Complainant did not immediately exit her apartment, the other Named Employees entered and escorted her outside. NE#3 explained that no one would access her apartment while she was involuntarily detained and that they would turn off her stove burner in response to her request (no burner appeared to actually be on). The Named Employees walked her to the gurney, and she was assisted on. She was then transported to the hospital.

SPD Policy 16.110-PRO-3 references the procedure for taking a subject into custody based on a verbal or written order. The policy incorporates by reference SPD Policy 16.110-POL-5(8), which states that: "A court order for detention or verbal order from a DCR does not grant legal authority to enter a constitutionally protected area. An order may add to the overall exigency of an incident but should not be used as the only motivator to force entry into a protected area."

As part of its investigation, OPA spoke with the CIT Sergeant. He indicated that the order for the Complainant's detention in this case provided officers with a lawful purpose for contacting the Complainant; however, it did not, standing alone, give the officers a lawful basis to make a warrantless entry into the Complainant's apartment. The CIT Sergeant noted that entry would still be permissible if the officers had information suggesting exigent circumstances or supporting an entry based on community caretaking.

Based on OPA's review of the totality of the evidence, the order for the involuntary commitment of the Complainant did not provide legal authority for the Named Employees to make entry. Moreover, there were no exigent circumstances justifying a warrantless entry or, for that matter, a sufficient basis supporting an entry based on community caretaking. This being said, the Named Employees were clearly confused regarding the nature and scope of the court order. Indeed, NE#3 remarked that he had never seen such an order before. OPA further notes that it has seen misplaced reliance on similar orders in a number of other cases. For this reason, OPA believes that the improper entry in this case is the product of patrol officers' lack of training and familiarity concerning these orders. For this reason, OPA issues the below Management Action Recommendation.

- **Management Action Recommendation:** SPD should provide a training update to the Patrol Bureau concerning Non-Emergent Detention Orders. Specifically, the Department should remind officers that, without additional information supporting community caretaking or exigent circumstances, these orders do not permit a warrantless entry into an otherwise constitutionally protected space.

Recommended Finding: **Not Sustained (Management Action)**

Named Employee #2 - Allegations #1

16.110-PRO-3 Taking a Subject into Custody by Order or Verbal/Written Request of a Designated Crisis Responder (DCR)

I recommend that this allegation be Not Sustained and refer to the above Management Action Recommendation (see Named Employee #1, Allegation #1).

Recommended Finding: **Not Sustained (Management Action)**



Named Employee #3 - Allegations #1

16.110-PRO-3 Taking a Subject into Custody by Order or Verbal/Written Request of a Designated Crisis Responder (DCR)

I recommend that this allegation be Not Sustained and refer to the above Management Action Recommendation (see Named Employee #1, Allegation #1).

Recommended Finding: **Not Sustained (Management Action)**

Named Employee #3 - Allegation #2

6.280 - Warrant Arrests 1. Only Sworn Police Officers Shall Serve Arrest Warrants

This allegation is duplicative of Allegation #1. Moreover, this allegation is inapplicable to this case as no arrest warrant was obtained or served. As such, I recommend that this allegation be removed.

Recommended Finding: **Allegation Removed**