



## ***CLOSED CASE SUMMARY***

ISSUED DATE: JANUARY 29, 2020

CASE NUMBER: 2019OPA-0688

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

Allegation(s):		Director's Findings
# 1	15.400-Domestic Violence Court Orders 3. Officers Make Mandatory Arrests for Court Order Violations	Not Sustained (Unfounded)

#### **Named Employee #2**

Allegation(s):		Director's Findings
# 1	15.400-Domestic Violence Court Orders 3. Officers Make Mandatory Arrests for Court Order Violations	Not Sustained (Unfounded)

***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:**

The Complainant alleged that the Named Employees violated policy when they did not arrest her roommate for purportedly violating a court order.

### **ADMINISTRATIVE NOTE:**

This case was designated as an Expedited Investigation. This means that OPA, with the review and approval of the Office of Inspector General for Public Safety, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 - Allegations #1**

##### ***15.400 – Domestic Violence Court Orders 3. Officers Make Mandatory Arrests for Court Order Violations***

On September 18, 2019, the Named Employees responded to a call from the Complainant concerning a possible violation of an order of protection by her roommate. When the officers arrived at the Complainant's residence, the Complainant stated that, two days prior, she had overheard her roommate – the subject of the order – talking with someone on the phone. The Complainant believed that the *person* the roommate was speaking with was their landlord. The Complainant overheard the roommate tell the landlord that the Complainant was going to need to be removed from the residence "by force" and ask the landlord whether there was anyone that could do this. The Complainant also believed that the roommate mentioned breaking the Complainant's knees; however, the Complainant told the officers that she could not be sure of this.

The Complainant explained to the officers that, also on this prior date, the roommate had played her drums very loudly. She believed that the playing of the drums, as well as the conversation with the landlord, was purposed to

harass her and, as such, was in violation of the order. The Complainant further asserted that, on September 17, 2019, the roommate again played her drums loudly. The Complainant stated that she asked the roommate to stop several times but that the roommate refused to do so. Lastly, the Complainant said that, on September 18, she was taking a shower when the water was turned off. While she did not have definitive proof, she believed that the roommate was responsible for this. She asserted that this, if true, also constituted a violation of the order. The officers informed the Complainant that the conduct alleged was insufficient to establish a violation of the order. Specifically, the officers explained that the statements attributed to the roommate were vague threats and, potentially, not threats at all. The officers further indicated that the drum playing did not constitute a violation of the order and that there was an insufficient basis to establish that the roommate turned off the water. The officers told the Complainant that they would document her complaints in a report but that there was not enough evidence to arrest the roommate at that time.

While the officers were at the residence, the landlord arrived. He informed the officers that he was seeking to evict both the Complainant and the roommate for not paying rent. He further told that officers that he had not spoken on the phone with the roommate. The roommate was not at the residence at the time. As they indicated to the Complainant, the officers documented what occurred in a report.

As part of its investigation into this matter, OPA reviewed the Body Worn Video (BWV) that showed the officers' response to the residence and the law enforcement action they took. The BWV corroborated the information in the officers' report.

SPD Policy 15.400-POL-3 requires that officers make mandatory arrests for court order violations. Here, the officers explained why they did not have a sufficient evidence to conclude that the roommate violated the order and, thus, were unable to effectuate an arrest. The officers' explanations are backed up by the BWV. Accordingly, OPA finds that the Named Employees did not act contrary to policy when they declined to arrest the roommate and, as such, OPA recommends that this allegation be Not Sustained – Unfounded as against both NE#1 and NE#2.

Recommended Finding: **Not Sustained (Unfounded)**

**Named Employee #2 - Allegations #1**

***15.400 – Domestic Violence Court Orders 3. Officers Make Mandatory Arrests for Court Order Violations***

For the same reason as stated above (see Named Employee #1, Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**