



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 20, 2020

CASE NUMBER: 2019OPA-0927

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	6.180 - Searches-General 2. There are Specific Exceptions to the Search Warrant Requirement	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 an unknown SPD employee improperly entered his residence without a warrant.

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

6.180 - Searches-General 2. There are Specific Exceptions to the Search Warrant Requirement

On July 2, 2019, SPD officers went to the Complainant's residence with the purpose of executing a search warrant. The officers obtained a key to the Complainant's residence, which was used to secure access therein and remove electronic devices. Three months later, on October 2, 2019, SPD officers attempted to serve an arrest warrant at the Complainant's residence. However, officers were unable to enter the Complainant's residence on that date, and the Complainant was not placed under arrest. Ultimately, the Complainant was arrested on October 12, 2019, while outside of his residence. At that time, he was taken into custody for an outstanding misdemeanor warrant.

On December 23, 2019, the Complainant initiated a complaint with OPA. In his emailed complaint, the Complainant stated that a specific patrol officer: "enter[ed] [the Complainant's] private property without a search warrant." In a later email communication, the Complainant stated that the incident in question occurred on October 12, and that he was in possession of a recording of the officer who entered his apartment. During an interview at OPA, the Complainant made a correction that the date of his complaint was October 2, rather than October 12. According to the Complainant, on that date, an unknown SPD officer made contact with the concierge for the Complainant's apartment building, informed the concierge that he had a search warrant for the Complainant's apartment, but then failed to present the documentation. The Complainant stated that he was not in his residence when officers arrived, but that his home security system informed him that an entry was made through his front door. He further had

video of the entry, which showed an SPD employee with a marked vest use a key to enter the apartment. The video did not have a date/time stamp.

OPA determined that the patrol officer specifically identified by the Complainant was among the officers who went to the Complainant's residence on October 2 and attempted to effectuate the arrest warrant. This was unsuccessful and neither the patrol officer nor any other SPD employee made entry into the residence at that time. As such, OPA was able to conclusively establish that this patrol officer was not the target of the Complainant's allegation.

OPA further determined that the individual depicted in the video provided by the Complainant was likely a sergeant assigned to SPD's Domestic Violence Unit. However, while this sergeant was involved in the July 2 search warrant execution at the Complainant's residence, he was not present at that location on October 2. Given this date discrepancy, it was unclear whether the sergeant was the individual who the Complainant alleged engaged in misconduct.

Lastly, OPA confirmed that no officer entered the Complainant's residence on October 12 and that he was arrested outside of the building.

According to SPD policy, "searches and seizures generally must be made pursuant to a warrant." (SPD Policy 6.180).

As discussed above, the Complainant's allegations are conclusively disproved by the evidence. First, there is no support for the Complainant's claim that a patrol officer made an improper warrantless entry into his residence on October 2. Indeed, Body Worn Video established that no officer made entry into the Complainant's residence on that date. Second, when officers did make entry on July 2, they did so pursuant to a valid search warrant. As such, it was legally justified and consistent with policy. Third, and last, the evidence is clear that no officer made entry into the Complainant's residence on October 12. Moreover, while he was taken into custody on that date, his arrest was supported by probable cause.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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