



## CLOSED CASE SUMMARY

ISSUED DATE: MARCH 2, 2020

CASE NUMBER: 2020OPA-0024

### **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 (Lawful and Proper)

***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 Employee acted inappropriately when they came to her apartment, including preventing her door from being closed without a warrant to do so.

### **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.

In addition to the Complainant's allegations, OPA determined that the Named Employee did not document her detention of the guest in a Terry Template. OPA also determined that the Named Employee activated her Body Worn Video late and did not document the reason for that late activation in an appropriate report. These matters were referred to the Named Employee's chain of command for handling as a Supervisor Action.

### **ANALYSIS AND CONCLUSIONS:**

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

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

The Complainant initiated this OPA complaint in which she alleged that officers acted inappropriately when they came to her apartment. Specifically, the Complainant alleged that officers knocked repeatedly on her door and that, when she opened the door, an officer stuck his foot inside and prevented her from closing it. She also asserted that it was improper for the officers to speak with a guest in her apartment and for the officers to tell her that, if they had to come back, someone would be arrested and booked into jail. After receipt of this complaint, OPA commenced its investigation.

OPA determined that an anonymous 911 caller asserted that there were the sounds of a physical altercation between a female and male coming from the Complainant's apartment. Officers, including Named Employee #1 (NE#1), responded to the apartment. One of the officers knocked on the door in a normal fashion. The Complainant



asked who it was from behind the closed door and the officers announced themselves. The officer asked the Complainant whether she had called the police and she said no. He asked if she needed assistance and she responded no to that question as well. The officer spoke with NE#1 who told him that, given the nature of the call, they needed to ensure that no one was injured inside of the apartment. The officer again knocked on the door in a normal fashion. He instructed the Complainant to open the door and she yelled that she did not have to. NE#1 told her to allow her guest to exit the apartment. The Complainant continued to yell from the behind the door and did not open it.

At one point, the Complainant briefly opened the door and told the officers to go away. She then closed it. NE#1 told the officer that, if the Complainant did that again, to put his foot in the door in order to prevent her from closing it. NE#1 explained to the officer that their lawful basis to keep the door open was the community caretaking exception to the warrant requirement. The officer knocked again, and the Complainant opened the door. The officer blocked it from closing with his foot. NE#1 told the Complainant that the officers needed to speak with the guest in the apartment. Ultimately, the guest exited.

NE#1 spoke to the guest away from the apartment door. NE#1 verified that there was no physical altercation or other disturbance occurring within the apartment. The guest then re-entered the apartment and she closed the door. The Body Worn Video (BWV) of this incident indicated that, at no point, did any of the officers threaten the Complainant or her guest with arrest.

SPD Policy 6.180-POL-2 concerns searches and seizures, including entries into residences. It specifically references the various exceptions to the search warrant requirement. One such exception is where the officers are engaged in community caretaking.

Based on the information available to them at the time, the officers reasonably believed that a physical altercation had occurred inside of the Complainant's apartment and that someone could be injured. This suspicion was increased by the Complainant's refusal to open the door and, thus, the officers' inability to verify that everyone was safe therein. For these reasons, the officers had a lawful basis to keep the door to the Complainant's apartment open while they ensured that no one was harmed inside.

Moreover, as discussed above, the Complainant's allegations that the officers rudely knocked on her door and that she was threatened with arrest are conclusively disproved by the evidence.

As such, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**