



## CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 28, 2020

CASE NUMBER: 2020OPA-0081

### **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 improperly entered her residence without a warrant.

### **ANALYSIS AND CONCLUSIONS:**

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

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

The Complainant alleged that SPD officers "broke and entered" into her apartment. She contended that the officers did not announce themselves prior to doing so and later tried to "gaslight" her and her friend by stating that they did announce. The complainant further asserted that the entry was based on the officers' asserted belief that she was "suicidal." Based on the Complainant's allegations, OPA initiated this investigation.

OPA determined that Named Employee #1 (NE#1) and other officers responded to the Complainant's apartment. They were dispatched based on a call from the Complainant's case worker. The case worker relayed that she had been receiving texts from the Complainant in which the Complainant was saying that she was going to kill herself. The case worker requested that the officers perform a welfare check.

NE#1 (who was primary) and the other officers met with the case worker. They went to the Complainant's apartment door, where they knocked and announced themselves as SPD officers. When the Complainant did not answer the door or otherwise respond, one of the other officers accessed the apartment with a key obtained from building staff. When they entered the apartment, the officers again announced themselves. They contacted the Complainant who denied that she was suicidal. After performing the welfare check, the officers left the apartment.

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 community caretaking. This exception applies where the need to protect or preserve life, avoid serious injury or protect property in danger of damage justifies an entry that would otherwise be illegal absent an emergency. This exception does not necessarily need to be supported by facts amounting to probable cause – it simply requires the officer's perceiving of a need to render aid or assistance. Further, while this exception permits the entry, it does not provide an additional basis for a search once inside of the residence.



As a starting point, OPA finds that the officers did announce themselves before and after entering the apartment. As such, this aspect of the Complainant's claims is clearly without merit.

In addition, after review of the totality of the evidence, OPA concludes that the officers had a lawful basis to enter the apartment. Given the information relayed to them by the case worker, the officers believed that the Complainant was potentially suicidal and was intending to harm herself. Moreover, they did not receive any response when they knocked on the door. As such, it was appropriate to enter the apartment to determine that the Complainant was safe. While inside, the officers spoke with the Complainant, evaluated her welfare, and left after verifying that she was not in imminent danger. Consistent with policy and law, the officers did not search the apartment for evidence and solely entered the apartment to engage in community caretaking.

Accordingly, for the reasons indicated above, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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