



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 15, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0254

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	6.185 - Search Warrants	Not Sustained (Lawful and Proper)
# 2	15.410 - Domestic Violence Investigation	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:

The Complainant alleged that officers made an improper entry into her apartment and damaged her door.

ADMINISTRATIVE NOTE:

OPA was unable to identify the Named Employee involved in this case and, as such, added an unknown SPD employee. Given this, the case is not governed by a 180-day deadline. For administrative purposes, OPA sets the deadline as the date of this DCM.

SUMMARY OF INVESTIGATION:

On May 17, 2021, the Complainant called 911 to report that she had been assaulted by her husband and that he violated an order of protection. At that time, officers developed probable cause to arrest the husband; however, he could not be located after an area check was conducted. The Complainant called 911 again to report that her husband was in her apartment and had threatened to kill her dog. Patrol officers notified the Hostage Negotiation Team (HNT) and SWAT. Ultimately, HNT and SWAT took command over the incident. Officers attempted to enter the apartment using a key but were unable to do so. The officers spoke to the Complainant who told them that, if the door was locked, the husband was probably inside. She stated that the door could be opened with a pry bar and that her husband had done that in the past.

The Complainant later came to the scene and spoke with the officers. The Complainant asked if they could enter the home by using the key. A supervisor told her that they could not do so even after trying. The supervisor also said that they tried to lift up the door. The Complainant told them that her bet was that the husband was not there but, if he was, he probably killed himself. The Complainant was asked if she would consent to the officers forcing entry. She declined and said that she wanted to try going in. The officers told her that she could not do so and that they could not have her go in prior to SWAT. They told her that, while she could deny consent, the officers could not leave based on the allegations. She told the officers that they had to lift up the door to make entry because of a broken hinge;



however, she was informed that they already tried this. She later communicated to the officers that she did not think her husband was inside.

A warrant was obtained, and a decision was made to force the door in order to enter the apartment. The door was opened with a crank and then a pry bar. Officers made entry and the dog was recovered. OPA did not observe any property destruction within the apartment during the search. The husband was not located inside. Video captured the aftermath of the entry into the apartment. There were scuff marks on the side of the door; however, the extent of the damage and whether it was still usable was not clear from OPA's review.

The Complainant later filed an OPA complaint concerning this incident. She alleged that the officers should not have entered her apartment and that, when they did so, they left her door damaged and unusable. She stated that this negatively impacted her safety. OPA emailed the Complainant to try to set up an interview; however, she ultimately did not participate. OPA further provided her with information for victim support, which she accepted.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

6.185 - Search Warrants

SPD Policy 6.185 governs searches and entries, including into residences. Here, the Complainant raised concerns with the officers' entry into her apartment and, specifically, the damage caused to her door.

In assessing this allegation, OPA notes that the officers were responding to a serious allegation – domestic violence assault and then a potentially barricaded suspect who threatened to kill the Complainant's dog. The husband was believed to be inside of the apartment with a locked door and, when the officers attempted to make contact, no one responded. While the husband was not actually inside, the officers did not know that at the time.

The video showed that the officers made a number of attempts to enter the apartment and were unable to do so. After they requested and the Complainant refused consent, they sought a warrant and made entry. In addition, as explained to the Complainant, given the nature of the allegations, they could not leave the location even if the Complainant wanted this to occur.

As a threshold matter, OPA notes that the officers did, in fact, have a valid warrant permitting them to access the residence. Accordingly, the entry was legally valid, even without consent from the Complainant.

Further, while damage may have been caused to the door – the extent of which was unclear based on the video, the door's pre-existing defects, and the lack of an interview with the Complainant – this does not yield the entry out of policy. The Complainant's remedy is instead with the courts or through seeking compensation directly from SPD. OPA is hopeful that she will do so and that she will be assisted by the victim support team, whose contact information OPA provided.

With regard to the entry, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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



Named Employee #1 - Allegation #2

15.410 - Domestic Violence Investigation

After further review, OPA does not believe that this allegation is relevant to this case. As such, OPA recommends that it be removed.

Recommended Finding: **Allegation Removed**