



## **CLOSED CASE SUMMARY**

ISSUED DATE: FEBRUARY 18, 2018

CASE NUMBER: 2017OPA-0867

### **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 b. Exigent Circumstances	Not Sustained (Training Referral)

**Named Employee #2**

Allegation(s):		Director’s Findings
# 1	6.180 - Searches-General 2. There are Specific Exceptions to the Search Warrant Requirement b. Exigent Circumstances	Not Sustained (Training Referral)

***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:**

Named Employee #2, based on advice from his supervisor, Named Employee #1, forced entry into an apartment potentially in violation of SPD policy.

### **ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

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

Officers, including Named Employee #2 (NE#2), were dispatched to the Complainant’s residence based on a 911 call from an anonymous female. The anonymous caller stated that she could hear the Complainant involved in a possible physical altercation and a young child yelling for his parents to stop fighting. The officers responded to the Complainant’s residence and knocked on the door several times and announced that they were police. No one responded. The officer then saw the shadow of someone walking within the apartment. In-Car Video (ICV) captured the officers discussing at that time whether they should break down the door. From my review of the ICV, there did not appear to be any yelling, sound of fighting or breaking objects, or any reason to think that there was ongoing violence in the apartment. Indeed, the officers together determined at that time that they did not have exigent circumstances supporting a forced entry into the apartment. However, based on the officers’ knowledge of previous incidences of violence and drug use in the apartment, they called a supervisor to discuss whether they should make a forced entry into the apartment.

A supervisor, Named Employee #1 (NE#1), arrived at the scene and the officers screened the circumstances of the incident and their inclination to force the door with him. NE#1 decided that it was appropriate to do so based on a “community caretaking” justification. NE#2 then broke a small plastic window next to the door, reached into the



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apartment and unlocked the door from the inside. The officers then made entry into the apartment. Once inside, the officers determined that there was no ongoing assault, disturbance, or, for that matter, any past or present criminal activity. Notably, there was no child in the apartment.

SPD Policy 6.180-POL-2 provides for when searches can be conducted absent a warrant. The justification for entry most germane to this case is where there are exigent circumstances. (SPD Policy 6.180-POL-2(b).) The policy defines exigent circumstances as where “there is probable cause to believe that delay in getting a warrant would result in the loss of evidence, escape of the suspect, or harm to police or public.” (*id.*) Notably, there is no “community caretaking” exception to the warrant requirement. (*See id.*)

Here, the officers were in agreement that there were no exigent circumstances warranting a warrantless entry into the apartment and the forcing of the door. I agree with that conclusion based on the circumstances of this case. The “community caretaking” justification provided by NE#1 for forcing the door was not allowed under SPD policy. As such, when NE#2 forced the door at the advice of NE#1 and the officers entered the apartment, they did so in violation of SPD Policy 6.180.

I understand the concern that underlied NE#1’s instruction to the officers to enter the apartment. However, NE#1, as a supervisor, should know that there is no “community caretaking” exception to the warrant requirement. His instructions to his subordinates were erroneous and were in violation of policy. However, given that NE#2, the other officers, and NE#1 acted, in my opinion, in good faith, I do not believe that that a sustained finding is warranted. Instead, I recommend that NE#1 receive a training referral.

- **Training Referral:** NE#1 should receive re-training concerning when a warrantless entry into a home is warranted. NE#1 should be instructed that there is no “community caretaking” exception to the warrant requirement and, instead, that the officers’ entry must be justified by exigent circumstances or some other permissible reason. This re-training and associated counseling from NE#1’s chain of command should be memorialized in a PAS entry.

Recommended Finding: **Not Sustained (Training Referral)**

#### **Named Employee #2 - Allegation #1**

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

Given that NE#2 forcibly entered the apartment based on guidance from his supervisor, NE#1, as well as given that he acted with good intentions and with a reasonable concern for the safety of the occupants of the apartment, I do not believe that a sustained finding is warranted as against him. Instead, I recommend that NE#2, like NE#1, receive a training referral.

- **Training Referral:** NE#2 should receive re-training concerning when a warrantless entry into a home is warranted. NE#2 should be instructed that there is no “community caretaking” exception to the warrant requirement and, instead, that the officers’ entry must be justified by exigent circumstances or some other permissible reason. This re-training and associated counseling from NE#2’s chain of command should be memorialized in a PAS entry.



**Seattle**  
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## ***CLOSE CASE SUMMARY***

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Recommended Finding: **Not Sustained (Training Referral)**