



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0865

Issued Date: 03/08/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 6.180 (2) Searches – General: There are Specific Exceptions to the Search Warrant Requirement a. Consent Searches (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 6.180 (2) Searches – General: There are Specific Exceptions to the Search Warrant Requirement b. Exigent Circumstances (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 6.180 (2) Searches – General: There are Specific Exceptions to the Search Warrant Requirement a. Consent Searches (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 6.180 (2) Searches – General: There are Specific Exceptions to the Search Warrant Requirement b. Exigent Circumstances (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Unfounded)

Final Discipline	N/A
------------------	-----

Named Employee #3	
Allegation #1	<u>Seattle Police Department Manual</u> 6.180 (2) Searches – General: There are Specific Exceptions to the Search Warrant Requirement a. Consent Searches (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 6.180 (2) Searches – General: There are Specific Exceptions to the Search Warrant Requirement b. Exigent Circumstances (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #4	
Allegation #1	<u>Seattle Police Department Manual</u> 6.180 (2) Searches – General: There are Specific Exceptions to the Search Warrant Requirement a. Consent Searches (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 6.180 (2) Searches – General: There are Specific Exceptions to the Search Warrant Requirement b. Exigent Circumstances (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employees responded to a report of a Domestic Violence assault.

COMPLAINT

The complainant, the Force Review Unit, alleged that they could not determine from the evidence whether the Named Employees had the legal authority to enter the garage and take the subject into custody because it was unclear if the subject actually lived in the garage or if it was considered a common space. Additionally, even if clear consent from the alleged homeowner to enter the garage was granted it was not properly documented with written consent or a recorded statement. Finally, there was no exigency documented that would justify an immediate need to enter the garage.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint memo
2. Review of In-Car Videos (ICV)
3. Search for and review of all relevant records and other evidence
4. Interviews of SPD employees

ANALYSIS AND CONCLUSION

The preponderance of the evidence showed that the arrested subject was not a lawful tenant of the property and did not pay rent. The subject's mother was, in fact, the lawful owner of the home and gave her consent for officers to enter her garage. Named Employee #1 in his interviews indicated that he gained lawful consent from the homeowner to enter the garage and had justified exigent circumstances to enter the garage. Named Employee #4 indicated he had gained lawful consent from the homeowner to enter the garage. However, the homeowner did not sign a consent to search form and her verbalization of consent was not clearly documented on ICV. When an officer wishes to search absent a warrant based on consent, the officer is required by SPD Policy to obtain either written consent or record verbal consent with ICV. Moreover, had exigency been established, Named Employee #1 failed to adequately document the justification for the entry in the General Offense report for this incident. Nonetheless, the preponderance of the evidence supported the conclusion that Named Employee #1 had the homeowner's consent prior to entering the garage. The preponderance of the evidence also indicated that Named Employee #4 believed the authority in which he entered the property was based on consent, not on exigency, which alleviated any need for this justification to be documented.

The preponderance of the evidence showed that Named Employee #1 failed to adequately document the justification for the entry in his report, whether based on exigency or consent.

The preponderance of the evidence indicated that Named Employees #2 and #3 were not party to making the decision to enter the garage and were acting on the reasonable belief Named Employee #1 had obtained consent from the home owner.

FINDINGS

Named Employee #1

Allegation #1

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Searches – General: There are Specific Exceptions to the Search Warrant Requirement a. Consent Searches.*

Required Training: The supervisor should provide Named Employee #1 with appropriate training and counseling regarding the importance of the following – (1) clearly establishing and documenting the standing of a party from whom consent is being obtained, especially in cases involving roommates, renters and cohabitants; (2) obtaining written consent to search whenever possible, and (3) if written consent is not feasible under the circumstances, making certain the request and consent are clearly recorded on In-Car Video (ICV) or some other approved SPD recording device.

Allegation #2

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Searches – General: There are Specific Exceptions to the Search Warrant Requirement a. Exigent Circumstances.*

Required Training: The supervisor should provide Named Employee #1 with appropriate training and counseling regarding the importance of documenting in the General Offense report the specific circumstances and facts which created the exigency to enter a dwelling without warrant and/or consent.

Named Employees #2 and #3

Allegations #1 and #2

A preponderance of the evidence indicated that the Named Employees were not party to making the decision to enter the garage and was acting on the reasonable belief Named Employee #1 had obtained consent from the home owner. Therefore findings of **Not Sustained** (Unfounded) were issued for *Searches – General: There are Specific Exceptions to the Search Warrant Requirement a. Consent Searches* and *Searches – General: There are Specific Exceptions to the Search Warrant Requirement b. Exigent Circumstances.*

Named Employee #4

Allegation #1

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Searches – General: There are Specific Exceptions to the Search Warrant Requirement a. Consent Searches.*

Required Training: The supervisor should provide Named Employee #4 with appropriate training and counseling regarding the importance of the following – (1) clearly establishing and documenting the standing of a party from whom consent is being obtained, especially in cases involving roommates, renters and cohabitants; (2) obtaining written consent to search whenever possible, and (3) if written consent is not feasible under the circumstances, making certain the request and consent are clearly recorded on In-Car Video (ICV) or some other approved SPD recording device.

Allegation #2

A preponderance of the evidence indicated that Named Employee #4 believed the authority in which he entered the property was based on consent, not on exigence, which alleviated any need for this justification to be documented. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Searches – General: There are Specific Exceptions to the Search Warrant Requirement a. Exigent Circumstances.*

NOTE: The Seattle Police Department Manual policies cited for the allegation(s) made for this OPA Investigation are policies that were in effect during the time of the incident. The issued date of the policy is listed.