



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 11, 2019

CASE NUMBER: 2019OPA-0230

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	16.110 - Crisis Intervention 6. Officers May Facilitate Involuntary Mental Health Evaluations	Not Sustained (Lawful and Proper)
# 2	16.110 - Crisis Intervention 16.110–PRO–2 Referring a Subject for an Involuntary Mental Health Evaluation	Not Sustained (Lawful and Proper)
# 3	6.180 - Searches-General 2. There are Specific Exceptions to the Search Warrant Requirement	Not Sustained (Lawful and Proper)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	16.110 - Crisis Intervention 6. Officers May Facilitate Involuntary Mental Health Evaluations	Not Sustained (Lawful and Proper)
# 2	16.110 - Crisis Intervention 16.110–PRO–2 Referring a Subject for an Involuntary Mental Health Evaluation	Not Sustained (Lawful and Proper)
# 3	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 Employees illegally entered the boat he was renting and improperly took him into custody for a mental health evaluation.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’s review and approval, 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.



SUMMARY OF INVESTIGATION:

Named Employee #1 (NE#1), Named Employee #2 (NE#2), and other officers were dispatched to a call concerning a possibly suicidal male. The officers were informed that the male – who is the Complainant in this case – had threatened to overdose by using sleeping pills and alcohol. The dispatched call included information that the matter was originally called into Pierce County by the Complainant’s wife and the Veteran’s Administration (VA) Crisis Hotline. The officers were informed that the Complainant was believed to be located on a boat in Seattle that he was renting through Airbnb. The officers located the boat and they observed the Complainant through one of the boat’s windows. The officers later reported that the Complainant appeared to be deeply asleep and was unresponsive to their efforts to wake him by pounding on the doors and windows of the boat and loudly announcing themselves as SPD officers. The officers observed a pill bottle and alcohol near the Complainant and, based on their belief that he may have followed through on his suicide threat, decided to enter the boat based on the apparent emergency and under the community caretaking exception to the search warrant requirement.

The officers entered the boat’s cabin using an unlocked sliding glass window without making a forced entry. Once inside, they were able to wake the Complainant. The Complainant, who appeared extremely groggy, informed officers that he had called the VA Suicide Hotline. The Complainant told officers that he only took one Ambien, as prescribed, and then went to sleep. The Complainant told NE#1 that he had been going through hardships in recent months, and that he was depressed due to his wife leaving him, losing his job, and becoming homeless. The Complainant admitted that he felt suicidal but added that he was not planning on killing himself that evening. He confirmed, however, that he had a plan to kill himself and that the plan was to overdoes on Ambien while renting a boat. Based on the totality of the information available to them, NE#1 and NE#2 decided to refer the Complainant for an involuntary mental health evaluation. The Complainant was subsequently transported to the Seattle VA hospital. NE#1 and NE#2 cleaned up with the Complainant and locked down the boat prior to departing.

The Complainant later made an OPA complaint. He alleged that the officers made an illegal entry into the boat and that he was improperly detained under the Involuntary Treatment Act (ITA). He contended that the officers’ alleged misconduct caused him to incur significant financial costs. This investigation ensued and included OPA reviewing the underlying paperwork and the officers’ Body Worn Video (BWV).

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

16.110 - Crisis Intervention 6. Officers May Facilitate Involuntary Mental Health Evaluations

SPD Policy 16.110-POL-6 generally states that officers may facilitate involuntary mental health evaluations when appropriate. Direction for when officers may do so is set forth in SPD Policy 16.110-PRO-2 and this policy further references state law. Specifically, the policy references RCW 71.05.153, which states that an involuntary committal is appropriate where an officer:

Receives information alleging that a person, as the result of a mental disorder, presents an imminent likelihood of serious harm, or is in imminent danger because of being gravely disabled, after investigation and evaluation of the specific facts alleged and of the reliability and credibility of the person or persons providing the information if any.



As discussed above, the Named Employees received information indicating that the Complainant was suicidal. When they arrived at the boat, they observed him unresponsive and with a pill bottle and alcohol in his near vicinity. Given these observations and due to the Complainant's later acknowledgement that he was suicidal and had a plan to take his own life, the officers determined that they had the legal ability to take him into custody to have him medically evaluated.

Based on OPA's investigation, I concur that, when evaluating the information available to the Named Employees at the time, they were permitted to involuntarily commit the Complainant both under law and SPD policy. As such, I recommend that this allegation be Not Sustained – Lawful and Proper as against both Named Employees.

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

Named Employee #1 - Allegation #2

16.110 - Crisis Intervention 16.110–PRO–2 Referring a Subject for an Involuntary Mental Health Evaluation

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #1 - Allegation #3

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

SPD Policy 6.180-POL-2 provides that entries into constitutionally protected spaces must be supported by a search warrant. However, the policy recognizes multiple exceptions to the search warrant requirement. While not specifically delineated in the policy, one of the exceptions enshrined in law is community caretaking. As a general matter, community caretaking allows officers to make a warrantless entry when they reasonably believe that the subject represents an imminent threat of harm to himself or others. For the entry to be appropriate, it must not be simply a pretext to conduct an otherwise impermissible search and the officers' belief that the entry is needed to provide aid must be reasonable.

Based on OPA's review of the evidence, including the BWV, I conclude that the Named Employees reasonably believed that the Complainant could have attempted suicide and needed immediate assistance. This was based not only on the information they received concerning this incident, but also from their observations of the Complainant's condition prior to making entry, the pills and alcohol in his near vicinity, and the Complainant's failure to respond to their loud knocking and attempts to gain his attention. This conclusion is consistent with Washington State legal precedent. See, e.g., *State v. Hos*, 154 Wn. App. 238 (2010) (holding that a warrantless entry was permitted under community caretaking when an officer observed a motionless subject through a window and the subject was not responsive to loud knocking and announcements by the officer). Moreover, the Named Employees had no apparent intention of conducting any search of the boat at the time they made entry and did not actually conduct a search to uncover evidence of criminality. This provides further support for a finding that the entry was permissible.



Given the above, I find that the Named Employees acted appropriately when they made entry into the boat to provide medical aid to the Complainant. Even if he did not actually attempt to commit suicide, the officers could not have known that at the time and acted reasonably under the totality of the circumstances. As such, I recommend that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #2 - Allegations #1

16.110 - Crisis Intervention 6. Officers May Facilitate Involuntary Mental Health Evaluations

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #2 - Allegation #2

16.110 - Crisis Intervention 16.110–PRO–2 Referring a Subject for an Involuntary Mental Health Evaluation

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #2 - Allegation #3

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

For the same reasons as stated above (see Named Employee #1, Allegation #3), I recommend that this allegation be Not Sustained – Lawful and Proper.

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