



## CLOSED CASE SUMMARY

ISSUED DATE: APRIL 26, 2021

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0455

### **Allegations of Misconduct & Director’s Findings**

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Sustained
# 2	12.050 - Criminal Justice Information Systems 2. Inquiries Through ACCESS, or Any Other Criminal Justice Record System, Are Only to Be Made for Legitimate Law Enforcement Purposes	Sustained
# 3	12.040 – Department-Owned Computers, Devices & Software POL-1 General Policy	Sustained
# 4	5.001 - Standards and Duties 13. Employees Shall Not Use Their Position or Authority for Personal Gain	Sustained
<b>Imposed Discipline</b>		
Termination		

***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:**

It was alleged that the Named Employees may have misused Department databases.

### **SUMMARY OF INVESTIGATION:**

The petitioner in a domestic violence (DV) protection order alleged that an SPD employee leaked information to her estranged husband, who was the respondent to the order. The petitioner said that the respondent informed her that he had a friend who looked up her name and told him that there were four DV calls to her home since he moved out. The petitioner learned that Named Employee #1 (NE#1) was the SPD employee who purportedly looked up the calls and informed the respondent of them.

Given the allegations against NE#1, SPD commenced a criminal investigation. It was determined that NE#1 accessed on multiple occasions four general offense reports involving the petitioner and the respondent. The assigned criminal investigator contacted NE#1’s supervisors and determined that she had no legitimate employment reason to access the files and that she was not asked or authorized to do so as part of her work duties. The criminal investigator then conducted multiple interviews, including of the petitioner, the respondent, NE#1, and NE#1’s live-in partner.



The petitioner said that, after their relationship had ended, the respondent called her and bragged about knowing an SPD employee who looked up records for him. The respondent told her that he was now aware of three or four DV reports that she had filed. The petitioner said that the respondent had case numbers and other information that was not publicly available. In particular, he knew that one of the reports involved the petitioner turning over his gun to police, which the petitioner found concerning. The petitioner said that she was informed by the respondent's most recent girlfriend that he was planning to kill the petitioner. This was reported to the FBI. The petitioner said that NE#1's live-in partner was friends with the respondent and opined that this was how the respondent learned about the records.

The criminal investigator then interviewed NE#1. She initially denied knowing who the petitioner and respondent were. NE#1 was shown documentation of her accessing the files, but this did not appear to jog her memory. The criminal investigator noted that her partner and the respondent went fishing together and she stated that she may have heard the respondent's name from that. The criminal investigator told her that it "looks bad" that she accessed the report, and, at that point, NE#1 requested an attorney. After the interview was terminated, the criminal investigator asked NE#1 if she had any questions. She responded that she did not want to get into trouble but that "he kept asking me to look up the cases; I just gave the case number and the name of the detective."

The criminal investigator spoke with the partner and informed him that NE#1 said that she looked up the reports at the partner's request. The partner declined to provide a statement.

The criminal investigator then obtained a statement from the respondent. He acknowledged telling the petitioner that he knew someone at SPD, but he said that he was just "talking shit." He confirmed that he worked with NE#1's partner but denied knowing NE#1 or that she worked for SPD. The respondent said that he never received any confidential information.

Lastly, the criminal investigator spoke with the respondent's most recent girlfriend. She conveyed that the respondent bragged about knowing someone at SPD and indicated that he met the contact through NE#1's partner. The girlfriend was able to overhear a call on the respondent's phone in which he confirmed that the contact was, in fact, NE#1. The girlfriend also overheard a call during which NE#1's partner provided the respondent with a list of case numbers.

Based on the information uncovered during the investigation, the criminal investigator referred the case to both the Seattle City Attorney's Office and the King County Prosecuting Attorney's Office. Both declined to prosecute for various reasons. Subsequently, the case was referred to OPA and this investigation ensued.

As part of its investigation, OPA interviewed NE#1. She admitted accessing the reports and doing so for personal reasons. She told OPA that the respondent was going through a contentious divorce with the petitioner. She said that she learned this through her partner. She said that she became aware that there were allegations of stalking, threats, and weapons possession and she affirmed that she accessed the reports to see whether it was safe for the respondent to be around her home. NE#1 denied providing any information in the reports to her partner. However, she told her partner that the respondent could not come to or park outside of her home.

#### **ANALYSIS AND CONCLUSIONS:**

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

##### ***5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy***



SPD Policy 5.001-POL-2 requires that SPD employees adhere to laws, City policy, and Department policy.

In accessing the reports for a personal reason and utilizing the information therein for personal gain, OPA finds that NE#1 violated multiple city laws and policies, as well as the SPD policies detailed below. Specifically, NE#1 violated several portions of the City's Code of Ethics, including SMC 4.16.070(B)(1) and (B)(2). OPA also believes that NE#1 could have been prosecuted for her conduct and, indeed, the criminal investigator believed that there was probable cause that she engaged in criminal conduct.

OPA also finds it to be extremely concerning that NE#1 appeared to be misleading, if not dishonest, in her communications with the criminal investigator, and that she made knowingly inaccurate statements concerning material facts at her OPA interview in this case. However, those statements will be evaluated in a separate investigation.

Ultimately, OPA finds that NE#1's conduct violated the SMC and, as such, recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

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

***12.050 - Criminal Justice Information Systems 2. Inquiries Through ACCESS, or Any Other Criminal Justice Record System, Are Only to Be Made for Legitimate Law Enforcement Purposes***

SPD Policy 12.050-POL-2 states that: "Inquiries through ACCESS, or any other criminal justice record system, are only to be made for legitimate law enforcement purposes." The policy further explains that: "Inquiries made for personal use, or inappropriate use or dissemination of the information, can result in internal discipline, as well as penalties under Federal and State law."

Here, NE#1 admittedly accessed four general offense reports for personal reasons. This constituted a clear violation of policy. Accordingly, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #1 - Allegation #3**

***12.040 – Department-Owned Computers, Devices & Software POL-1 General Policy***

Under SPD Policy 12.040-POL-1, Department employees must: "Maintain the confidentiality of sensitive information to which they are given access privileges." The policy further instructs that SPD employees must: "Ensure that use of City computers, email and other electronic communications (IM, etc.), Internet access, computer accounts, networks, and information stored, or used on any of these systems is restricted to authorized purposes and defined use limitations."

At her OPA interview, NE#1 said that she only used the information she accessed for her personal edification and did not share it with anyone, including her partner. However, this was contradicted both by the statement she made to



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the criminal investigator and by the recorded conversations engaged in by the respondent in which he confirmed that NE#1 provided the information to her partner who, in turn, passed it on to the respondent.

When weighing the evidence, OPA finds it more likely than not that NE#1 did provide the report numbers and detective names to her partner who then gave the information to the respondent. This constituted a clear violation of this policy.

As such, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #1 - Allegation #4**

***12.050 - Criminal Justice Information Systems 2. Inquiries Through ACCESS, or Any Other Criminal Justice Record System, Are Only to Be Made for Legitimate Law Enforcement Purposes***

SPD employees are prohibited from using their position or authority for personal gain. (SPD Policy 5.001-POL-13.)

Even if NE#1's account is to be believed, she accessed the information in question for non-authorized reasons and, in doing so, derived a personal gain by learning of the respondent's character, which informed her decision to not allow him in or near her home. This, in her recitation of the facts, benefitted her and her family's personal safety.

However, as discussed above, OPA does not believe this account to be accurate and, instead, deems it likely that NE#1 accessed the information as a favor to her partner. This also constituted the use of her position for personal gain and was impermissible.

For these reasons, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**