



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 25, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0652

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 5.001-POL 2. Employees Must Adhere to Laws, City Policy and Department Policy (Eff. 03012018, 05012021)	Sustained
# 2	5.001 - Standards and Duties 5.001-POL 6. Employees May Use Discretion (Eff. 03012018, 05012021)	Sustained
# 3	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional (Eff. 03012018, 05012021)	Sustained
# 4	5.001 - Standards and Duties 5.001-POL 18. Employees Must Avoid Conflicts of Interest (Eff. 03012018, 05012021)	Sustained
Imposed Discipline		
Resigned Prior to Proposed DAR – 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 Named Employee #1 (NE#1) associated with and aided individuals involved in illegal interstate narcotics trafficking.

ADMINISTRATIVE NOTE:

NE#1 emailed OPA on July 18, 2022, stating that he had resigned from SPD on July 13, 2022. Accordingly, NE#1 is no longer employed as an SPD officer and this case is not governed by the SPOG CBA 180-day deadline.

SUMMARY OF INVESTIGATION:

A non-party individual (Reporter) told SPD command staff that NE#1 may be assisting an individual involved in organized retail theft. Specifically, the Reporter stated that his fiancée has a family member, Subject #1 (S#1), who claimed to be involved in organized retail theft. Allegedly, S#1 also told the Reporter’s fiancée that she is very close friends with NE#1, who sometimes assisted her with her crimes. SPD command staff reported this information to OPA and this investigation ensued.



I. SPD Criminal Investigation

Due to the criminal nature of the allegations, OPA referred this matter to SPD for criminal investigation. See SPOG CBA Section 3.7, Criminal Investigations. SPD opened a criminal investigation.

The criminal investigation established that NE#1 had a close personal relationship with S#1 and her ex-husband, Subject #2 (S#2). S#1's only criminal history was in 2011 in a nearby jurisdiction in which S#1 was working as a prostitute and S#2 robbed one of S#1's customers at gunpoint. The criminal investigation determined that S#1 presently works as a part-time card dealer at a casino, earning a small salary. However, S#1's social media presence documented spending on travel, gambling, shopping, and plastic surgery that appeared outside her means. S#2 has an extensive criminal history, including 24 arrests, nine felony convictions, and numerous Suspicious Activity Reports. S#2 also appeared to be living outside his means as Washington State records showed no reported income since 2016, but S#2 drives luxury cars and frequently travels the country by both car and commercial flight.

SPD conducted surveillance on the residence of S#1 and S#2 and established that NE#1 frequently visited the residence, perhaps as often as every other day.

SPD consulted with federal agency partners regarding the matter. In August 2021, a federal search warrant was executed on S#1 and S#2's residence. The residence was not occupied when the warrant was executed because S#1 and S#2 were on vacation out of state, accompanied by NE#1. The search uncovered twenty-two (22) pounds of marijuana and a firearm. Out of hundreds of photographs displayed in the home, NE#1 was the only person not in the nuclear family whose image was displayed. Specifically, there was a picture on the refrigerator that depicted NE#1 and S#1 smiling together while seated on a roller coaster.

Phone records analysis was also conducted. It was determined that S#2 called NE#1 a negligible amount of times (ten calls, about 0% of the total calls made). However, over the course of about fifteen (15) months, it was determined that S#1 called NE#1 eight thousand ninety-five (8095) times, amounting to 8.1% of the contacts. NE#1 was S#1's third highest contact, behind two different numbers for S#1. An analysis of NE#1's phone showed that S#1 was the second most frequent contact (about 15.8% of the total contacts). Both numbers associated with S#2 were contacted by NE#1 ten times each, or 0% of the overall amount.

The Federal Bureau of Investigation (FBI) conducted a financial analysis of NE#1. The analysis did not reveal significant suspicious activity.

Both S#1 and S#2 proffered information concerning NE#1's involvement in their criminal activities. S#2 was interviewed first. At the start of his interview, it was explained to S#2 that no statements could be used against him in a criminal case so long as he was truthful. S#2 acknowledged that he was involved in illegal narcotics trafficking. S#2 stated that NE#1 was a "confidante" of S#1 and that NE#1 "happens to be a cop." S#2 described NE#1 as a "crazy alcoholic who met S#1 when she was working at a casino. Although S#2 initially denied that NE#1 was involved in a narcotics trafficking, S#2 later recounted several instances in which NE#1 participated in crimes. S#2 stated that NE#1



occasionally smoked cannabis with him and S#1. S#2 also stated that NE#1 had seen bags of “tree” (cannabis) in his house and that NE#1 was aware of how S#2 made his living. S#2 also recounted instances in which NE#1 acted as “muscle” for S#1 when she made drug deals at their house. S#2 also recalled an incident in early 2020 in which NE#1 transported drugs and money on behalf of S#2. Specifically, S#2 stated that he did not have a valid driver’s license, so he prefers to have someone with a valid license transport “product.” S#2 said that, typically, this person was S#1. However, S#2 recounted that, on one occasion, NE#1 agreed to drive S#1 and twenty (20) pounds of “tree” to another jurisdiction to complete a narcotics transaction. NE#1 then drove the money back to S#1 and S#2’s residence. S#2 stated that NE#1 was always armed with his firearm, either by having it on his person or in the center console of his vehicle. S#2 stated that NE#1 was not formally compensated for his participation, but that S#1 buys NE#1’s airline tickets when they travel together.

S#1 was also interviewed. S#1 noted that she was still married to S#2, but that they are estranged. S#1 corroborated S#2’s involvement in narcotics trafficking. S#1 admitted that on infrequent occasions, she drove bags to different locations in the greater Seattle area and let unknown individuals retrieve bags from inside her home. At first, S#1 denied that NE#1 had any knowledge of her and S#2’s illegal activities, but later disclosed that there were approximately three to five occasions in the preceding years when NE#1 drove S#1 or accompanied S#1 when she was working as a drug courier for S#2. S#1 stated NE#1 was not paid directly for his involvement, but that she and S#2 would often pay cash for NE#1’s trips and hotels when he vacationed with them. S#1 stated that NE#1 was her best friend and that they communicate daily, including on the date that S#1 was interviewed. S#1 stated that NE#1 had been to her attorney’s office with her. S#1 stated that she found a copy of the search warrant at her home after returning from vacation with S#2 and NE#1. S#1 stated that she showed NE#1 camera footage of the warrant being served and that NE#1 assisted with cleaning up after the warrant execution.

Both the King County Prosecuting Attorney’s Office and United States Attorney’s Office for the Western District of Washington declined to file criminal charges against NE#1. SPD closed its criminal investigation and returned the case to OPA.

II. OPA Investigation

After the criminal referral was returned, OPA commenced its investigation. OPA reviewed the OPA Complaint, SPD Criminal Investigation materials, FBI Financial Analysis of Named Employee, NE#1’s Background and Human Resources Files, NE#1’s Performance Reviews, and Photographs. OPA also interviewed various peripheral witnesses.

OPA attempted to interview NE#1, but NE#1 resigned from SPD prior to the interview and refused to participate. NE#1 was scheduled to be interviewed on July 18, 2022. On July 16, NE#1 emailed the assigned OPA investigator, stating the following:



Hello,

I have resigned/lateraled effective 7/13. Due to confirming with the police guild that I am not a guild member on the date of the OPA interview and will not have representation/Garrity rights and no longer under order to appear for an interview, I will not be at the interview on Monday. I would also like to add that all of the allegations alleged against me are completely and utterly false.

Respectfully,

[NE#1]

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 5.001-POL 2. Employees Must Adhere to Laws, City Policy and Department Policy (Eff. 03012018, 05012021)

It was alleged that NE#1 may have violated either law or policy by participating in narcotics trafficking.

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

The only direct evidence that NE#1 violated the law came from proffer interviews with S#1 and S#2. Specifically, these allegations were that NE#1 transported illegal narcotics and monetary proceeds from narcotics trafficking and that NE#1 served as “muscle” when S#1 acted as a drug courier for S#2. NE#1 provided a blanket denial of these allegations.

OPA finds that, by more than a preponderance of the evidence (elevated standard of review), NE#1 delivered or possessed with intent to deliver a controlled substance. *See, e.g.*, RCW 69.50.401. NE#1 either did this directly or as an accomplice who aided the commission of the underlying crime. *See* RCW 9A.08.020. Although the narcotic at issue was cannabis, there was no evidence to suggest that NE#1, S#1, or S#2 were engaged in activity in compliance with RCW 69.50.360, 69.50.363, or 69.50.366.

Both S#1 and S#2 provided details of NE#1’s involvement in illegal narcotics trafficking. Their statements, made separately at a time after they were estranged, significantly corroborated each other. Moreover, both S#1 and S#2 made their statements regarding NE#1 along with statements against their own penological interests and subject to penalties for falsification. *See* 18 U.S.C. 1001. Significantly, S#1 claimed to be NE#1’s “best friend,” a sentiment that was corroborated by phone records, photographic evidence, social media evidence, and witness interview statements. In summary, their allegations—made with a sufficient level of specificity—bear a number of hallmarks of credibility.

OPA does not find NE#1’s emailed denial credible. For one, NE#1’s denial is vague and, at the very least, incomplete. At least some of the allegations concerned generally associating or travelling with S#1 and S#2. While NE#1 could have provided an explanation about his involvement with S#1 and S#2, its difficult to credit a blanket denial that he was their close friend. Additionally, NE#1 emailed OPA a mere two days before his scheduled interview and explicitly



referenced the absence of *Garrity* rights when declining his interview. Finally, NE#1's denial was made by email without any penalty for falsification and with no opportunity for live follow-up.

OPA finds S#1 and S#2's corroborated statements to be significantly more credible than NE#1's emailed denial.

Accordingly, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 5.001-POL 6. Employees May Use Discretion (Eff. 03012018, 05012021)

It was alleged that NE#1 used unreasonable discretion by failing to take police action despite knowledge of S#1 and S#2's criminal behavior.

As indicated in SPD Policy 5.001-POL-6, "[e]mployees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the department and duties of their office and assignment." This policy further states that "[d]iscretion is proportional to the severity of the crime or public safety issue being addressed." (SPD Policy 5.001-POL-6.)

OPA finds that NE#1 was aware that S#1 and S#2 were engaged in illegal narcotics trafficking. At the very least, NE#1 had probable cause to believe that S#1 and S#2 were engaged in illegal narcotics trafficking. In addition to his own participation in criminal activity (discussed above at Named Employee #1, Allegation #1), NE#1 frequently visited S#1 and S#2's home. Given the amount of marijuana recovered from the home during the search warrant—as well as investigator reports that the smell of marijuana was noticeable even outside the house—the only logical conclusion is that NE#1 would have been aware that the house contained large amounts of cannabis. Moreover, NE#1 would have been aware that neither S#1 nor S#2 were fully employed at a level that could support their lifestyle. Finally, NE#1 would have conclusively known that there was probable cause to believe there was evidence of a crime inside their house when he learned about the search warrant from S#1.

Despite his intimate knowledge of S#1 and S#2's criminal activity, NE#1—a sworn police officer—failed to take any police action or report what he knew to the Department for criminal investigation. Given the seriousness of the criminal activity, this was not an area where NE#1 could exercise discretion.

Accordingly, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #3

5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional (Eff. 03012018, 05012021)

It was alleged that NE#1 was unprofessional.



SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. (SPD Policy 5.001-POL-10.)

NE#1 participated in narcotics trafficking, was an accomplice in narcotics transactions, ignored the illegal activity of two individuals he knew to be involved in narcotics trafficking, and was so close with those individuals that he went on vacation with them and visited their home every other day. This behavior would cause any member of the public to question their trust in NE#1.

Accordingly, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #4

5.001 - Standards and Duties 5.001-POL 18. Employees Must Avoid Conflicts of Interest (Eff. 03012018, 05012021)

It was alleged that NE#1 failed to avoid conflicts of interests.

SPD Policy 5.001-POL-18 requires that Department employees avoid conflicts of interest. In this regard, the policy specifically provides the following: “Employees will not associate with persons or organizations where such association gives the appearance of conflict of interest.” SPD Policy 5.001-POL-18.

SPD is a law enforcement agency. At the core of the conflicts of interest policy, SPD employees should not maintain close personal friendships with individuals engaged in serious, ongoing criminal activity.

NE#1 and S#1—and to a somewhat lesser extent S#2—were extremely close. NE#1 was present at their house almost every other day. NE#1’s photograph was on their refrigerator. NE#1 went on vacation with S#1 and S#2 on a number of occasions at S#1 and S#2’s expense. S#1 stated that NE#1 is his best friend and S#2 described NE#1 as S#1’s “confidante.” Finally, NE#1 was the only non-family member whose picture was displayed at S#1 and S#2’s home. Given this level of contact, any reasonable person would perceive NE#1 as being deeply involved in S#1 and S#2’s lives.

But, for the reasons outlined above at Named Employee #1, Allegation #2, it would stretch credibility to suggest that NE#1 was not fully aware that S#1 and S#2 earned almost all their income from narcotics trafficking. Moreover, NE#1 reaped the benefits of their illegal activity by accepting free travel expenses for vacation. Under these circumstances NE#1 was plainly conflicted between continuing to receive both the monetary and social benefits of his friendship and fulfilling his sworn duty by, at the very least, reporting his knowledge of S#1 and S#2’s illegal activities to law enforcement.

Accordingly, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**