

From: Barnett, Wayne
Sent: Thursday, September 22, 2022 10:55 AM
To: Glen Stellmacher < >
Subject: RE: Notice of Ethics Complaint - SPD Chief Adrian Diaz

We've rescheduled the October meeting for the 11th, so as not to conflict with Yom Kippur. Just FYI

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From: Barnett, Wayne <Wayne.Barnett@seattle.gov>
Sent: Wednesday, September 21, 2022 10:16 AM
To: Glen Stellmacher < >
Subject: Re: Notice of Ethics Complaint - SPD Chief Adrian Diaz

The commission will consider your appeal at their October 5 meeting, to be held at 4:00 in Suite 4010 of the Seattle municipal tower. The meeting will also be remote, so we'll send out details on participating remotely as the date approaches.

Wayne Barnett

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From: Glen Stellmacher < >
Sent: Wednesday, September 21, 2022 10:09:12 AM
To: Barnett, Wayne <Wayne.Barnett@seattle.gov>
Subject: Re: FW: Notice of Ethics Complaint - SPD Chief Adrian Diaz

CAUTION: External Email

Wayne,

Protected health information is made confidential under state law. SPD can obtain confidential information through the course of the department investigations under *limited* conditions allowable under state law. Physicians are prohibited from disclosing protected health information without a patient's consent unless there is legitimate investigative purpose for the information or the information can mitigate further threat to life, public health and safety. In this incident, the patient did NOT give consent to release their information to SPD.

SPD obtained protected health information from a physician during the course of their work, without the patient's consent. (Medical test results). The test results indicating that a civilian had consumed a substance is not "generalized knowledge", it is the result of specialized testing only possible by a physician. If I were to ask for medical test results from an SPD officer, these would be considered confidential and exempt from public disclosure under state law. If someone leaked those test results of an SPD officer to the press, that would be considered an unethical disclosure of confidential information.

SPD obtained confidential protected health information through the course of their investigation, and then released this information to the public without consent of the patient.

That is a clear violation of SMC 4.16.070.D.

I respectfully appeal your decision.

Best,

Glen Stellmacher

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From: Barnett, Wayne

Sent: Tuesday, September 20, 2022 2:42 PM

To: Glen Stellmacher < >

Subject: FW: Notice of Ethics Complaint - SPD Chief Adrian Diaz

Dear. Mr. Stellmacher:

We have completed our initial review of the complaint you filed against Seattle Police Chief Adrian Diaz. We are dismissing your complaint without further investigation.

You allege that in November of 2020 Chief Diaz violated SMC 4.16.070.D by releasing confidential information for other than a City purpose. Confidential information is defined by the Ethics Code as "(i) specific information, rather than generalized knowledge, that is not available to a person who files a public records request, and (ii) information made confidential by law."

We find that the released information was not confidential. Personnel at Harborview Medical Center told Seattle police officers that "the subject's medical episode may have been related to a substance the subject ingested prior to the incident." Nothing about the City's subsequent release of that information is unlawful.

Best,
Wayne



Wayne Barnett

Executive Director

Seattle Ethics and Elections Commission

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www.seattle.gov/ethics

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From: Glen Stellmacher <>
Sent: Friday, September 02, 2022 10:28 AM
To: Elections, Ethics <ethicsandelections@seattle.gov>
Subject: Notice of Ethics Complaint - SPD Chief Adrian Diaz

CAUTION: External Email

Dear SEEC,

This is an official notice of intent to file an Ethics complaint alleging Improper Government Action with the Seattle Ethics & Elections Commission (SEEC) alleging serious violation of SMC 4.16.070.D.1. Prohibited Conduct, Disclosure of Confidential Information, against the following individual:

1. Adrian Diaz, Chief of Police

A. Facts of the Case

On 11/4/20, SPD arrested a person near the East Precinct. During the arrest, the person suffered severe injury.

The injured arrestee was taken to Harborview Medical Center.

On 11/5/20, SPD's public affairs team publicly posted the protected health information of the patient and arrestee without the consent of the patient. Indicating that the patient's medical episode was "[potentially related to a substance the subject had ingested prior to police contact.](#)" OPA performed a preliminary investigation into how SPD obtained this protected health information ([2020OPA-0695](#)) and found no violations of SPD policy because SPD Chief Adrian Diaz had personally ordered the release of the information.

In this specific case, OPA found that SPD Chief Adrian Diaz ordered the public release of confidential protected health information, without the authorization of the medical patient. This was purely done to malign the patient and cast doubt as to the cause of the patient's injuries, a position which police are in no professional standing to assert. The cause of injury can only be determined by a doctor and that information is confidential and protected through HIPAA.

Under SMC 4.16.070, "Confidential Information" is defined as specific information, rather than generalized knowledge, that is not available to a person who files a public records request, and information made confidential by law. Confidential protected health information meets both standards of this definition.

Here, in explicitly authorizing the public release of confidential protected health information, without the consent or authorization of the patient, Chief Adrian Diaz violated SMC 4.16.070.D.1. Prohibited Conduct, Disclosure of Confidential Information. The release of this information served no public safety or investigatory purpose, nor can the results of a drug test of a single individual be construed to protect the public from any imminent harm or danger. If SPD's FIT had obtained this information under the guise of an investigation, SPD is prohibited from disclosing confidential information within an ongoing

Appeal of dismissal of Notice of Ethics Complaint

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October 11, 2022

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investigation. Under SPD Policy 1.110-POL-2, the department can only release publicly available information within an ongoing investigation. “Detailed medical information will not be released.” A patient’s confidential protected health information is not publicly available, and test results for substance ingestion are not readily observed information.

Washington state law has clear constraints around the circumstances where confidential protected health information may be obtained by police: <https://www.wsha.org/wp-content/uploads/Law-Enforcement-Guide-2017-11.20.17-FINAL.pdf>

B. Damage to The Public

The disclosure of this confidential information by Chief Diaz sets an extraordinary precedent, that Seattle police can force their way into anyone’s doctor’s office, demand confidential medical information, and then release that information to the public to suit specific goals to malign and denigrate members of the public. Ultimately, that is authoritarianism in action.

As we saw in Minneapolis, MPD initially asserted that George Floyd had a “medical episode” on the scene, that he had consumed drugs and that he had heart disease. These statements were carefully and explicitly made to malign George Floyd and to cast doubt as to the cause of his murder.

Seattle Police, at the Direction of Chief Adrian Diaz, have asserted this same deplorable conduct in this case here.

How would Chief Diaz like to disclose all of his protected health information, test results and screenings to the public without his consent? No one deserves that kind of treatment. Not only is it unethical, shameful behavior, it is explicitly against municipal law.

The city must do more, and codify a prohibition against the public disclosure of confidential protected health information by any department.

Sincerely,

Glen Stellmacher

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Cliff.Duggan@seattle.gov

October 5, 2022