



## OFFICE OF POLICE ACCOUNTABILITY

### Closed Case Summary

Complaint Number 2017OPA-0429

Issued Date: 11/07/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 12.050 (2) Criminal Justice Information Systems: Inquiries Through ACCESS, or Any Other Criminal Justice Record System, Are Only to Be Made for Legitimate Law Enforcement Purposes (Policy that was issued October 1, 2016)
OPA Finding	<b>Not Sustained</b> (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 12.050 (6) Criminal Justice Information Systems: All Employees Shall Adhere to WASIS and NCIC Policies (Policy that was issued October 1, 2016)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Allegation #3	<u>Seattle Police Department Manual</u> 12.050 (7) Criminal Justice Information Systems: Employees Shall Not Discuss or Provide Information to Any Person Who Is Not a Member [...] (Policy that was issued October 1, 2016)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Allegation #4	<u>Seattle Police Department Manual</u> 12.050 (8) Criminal Justice Information Systems: Criminal Records Releases Are Restricted (Policy that was issued October 1, 2016)
OPA Finding	<b>Not Sustained</b> (Unfounded)

Allegation #5	<u>Seattle Police Department Manual</u> 5.001 (9) Standards and Duties: Employees Shall Strive to be Professional at all Times (Policy that was issued April 1, 2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Final Discipline	N/A

### **INCIDENT SYNOPSIS**

A subpoena was filed in King County Superior Court by an attorney. This subpoena included photographs and screenshots from a Department computer of computer-aided dispatch (CAD) logs.

### **COMPLAINT**

The complainant, the Chief of Police, alleged that an unknown employee may have provided restricted and confidential information to an attorney that resulted in confidential Criminal Justice Information to be published in court documents. The complainant further alleged that this unknown employee may have inappropriately released screen shots of Computer Aided Dispatch (CAD) data and that this leaking of information reflects undermined the public's trust in the Seattle Police Department. During its investigation, OPA developed information that indicated that Named Employee #1 may have been the unknown employee.

### **INVESTIGATION**

The OPA investigation included the following actions:

1. Review of the complaint email
2. Search for and review of all relevant records and other evidence
3. Interviews of SPD employees

### **ANALYSIS AND CONCLUSION**

The subpoena in question was described in an article in The Stranger, published that same day, as alleging a cover-up between the Mayor, a number of the Mayor's staffers and Police Chief Kathleen O'Toole of conduct that had occurred at the Mayor's private residence the previous summer. This article further stated that the attorney, who had once worked at the King County Prosecuting Attorney's Office, had obtained the CAD data "from an anonymous source." Based on the nature of the information in question, this source was determined to be an employee of the Seattle Police Department. During its investigation, OPA contacted the attorney about interviewing her concerning the improperly and illegally accessed CAD information that she

obtained and as to the identity of this “anonymous source.” The attorney did not respond to OPA’s request.

OPA obtained information concerning all of the officers that had accessed the CAD data referenced in the subpoena. Four officers were ultimately identified as doing so. One of those officers was logged to the call and ran the case number on the date of the incident at the Mayor’s residence. That officer was not believed to have been the responsible individual. The three other officers, which included Named Employee #1, were not involved with and had no association with the case.

Based on further investigation, OPA believed that the evidence suggested that Named Employee #1 was possibly the individual that had improperly provided the information. The following evidence supported such a conclusion:

- It was undisputed (and admitted) that Named Employee #1 ran the case number;
- Named Employee #1 claimed that he ran the case both from the Traffic Unit and his patrol vehicle;
- SPD IT informed OPA that Named Employee #1 ran the case from a computer at the Traffic Unit; and
- OPA observed the computer that Named Employee #1 was alleged to have run the case from and believed that the reflection at the bottom of the monitor matched the reflection shown in the photograph included in the subpoena.

At his OPA interview, Named Employee #1 admitted that he ran the case both from a desktop computer in the Traffic Unit and from the mobile computer in his patrol vehicle. Named Employee #1 stated that he had no connection to the case or to any investigation at the Mayor’s residence. Named Employee #1 denied taking photographs or screenshots of the CAD data and providing that information to anyone outside of the Department.

OPA later sought Named Employee #1’s GPS location information. OPA learned that, at the time the case was run, Named Employee #1 was not at the Traffic Unit but was instead in a vehicle in the near vicinity of the East Precinct. OPA requested that SPD IT perform another check of where Named Employee #1 ran the case from. This time SPD IT informed OPA that the case was run from a mobile computer, not a desktop computer at the Traffic Unit. SPD IT further determined that the desktop computer from which the case was originally believed to have been run was inactive at that time and Named Employee #1 was logged off. It was unclear why SPD IT provided conflicting information to OPA at different stages of the investigation. It also appeared that Named Employee #1, himself, was confused about how many times and from where he accessed the case. At his OPA interview, Named Employee #1 stated that he accessed the case both from a desktop and mobile computer; however, SPD IT’s records only showed access from a mobile computer. The source or reason for this confusion was not evident.

Regardless of this confusion, the OPA Director believed that the evidence indicated by a preponderance of the evidence that Named Employee #1 was not the officer who improperly and illegally provided the CAD information to the attorney.

The OPA Director noted, however, that Named Employee #1 had a minimal, if not non-existent, law enforcement reason for accessing this case. When asked why he did so, Named Employee #1 stated the following:

Uhm, I was aware that the Mayor's Office—house was being guarded, and I spent a lot of time working in the East Precinct. And so, I felt it was necessary to be informed as to what was happening there. I, I continually heard officers discussing things that were happening at his residence and for my safety and as well as my general professional knowledge, I felt it was important to be aware of what was occurring there because I do back Patrol on cars quite a bit.

While this seemed to fall well below the legitimate law enforcement reasons contemplated by the policy and it appeared, in the OPA Director's opinion, that Named Employee #1 accessed this case for personal rather than professional reasons, the Director did not feel that a sustained finding was warranted.

The alleged conduct in this case was very serious and violated a number of Department policies. A Department employee who was entrusted with sensitive and confidential material as a function of his employment provided that information to an attorney outside of the Department. Not only was this behavior inappropriate and unethical, but it was illegal. Such behavior was contrary to the mission of the Department, undermined community confidence, and was absolutely unacceptable.

OPA is continuing to investigate this case to determine who the unnamed employee was that engaged in this conduct; however, at this point, it appeared clear to the OPA Director that Named Employee #1 was not the responsible party.

SPD Policy 5.001-POL-9 requires that SPD employees "strive to be professional at all times." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers." (SPD Policy 5.001-POL-9.).

As explained above, the OPA Director found, by a preponderance of the evidence, that Named Employee #1 did not take and disseminate the screen shots and photographs in question. Accordingly, he did not engage in conduct that was in violation of SPD's professionalism policy.

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

**Training Referral:** Named Employee #1 should receive counseling from his chain of command concerning his decision to access this case and regarding whether his stated purpose for doing so meets the Department's expectations of a legitimate law enforcement reason.

#### Allegation #2

A preponderance of the evidence showed that Named Employee #1 was not the officer who improperly and illegally provided the CAD information to an attorney outside of the Department. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Criminal Justice Information Systems: All Employees Shall Adhere to WASIS and NCIC Policies.*

#### Allegation #3

A preponderance of the evidence showed that Named Employee #1 was not the officer who improperly and illegally provided the CAD information to an attorney outside of the Department. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Criminal Justice Information Systems: Employees Shall Not Discuss or Provide Information to Any Person Who Is Not a Member [...].*

#### Allegation #4

A preponderance of the evidence showed that Named Employee #1 was not the officer who improperly and illegally provided the CAD information to an attorney outside of the Department. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Criminal Justice Information Systems: Criminal Records Releases Are Restricted.*

#### Allegation #5

A preponderance of the evidence showed that Named Employee #1 did not engage in conduct that was in violation of SPD's professionalism policy. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards and Duties: Employees Shall Strive to be Professional at all Times.*

*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.*