



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 20, 2018

CASE NUMBER: 2018OPA-0277

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 13. Employees Shall Not Use Their Position or Authority for Personal Gain	Not Sustained (Training Referral)
# 2	5.001 - Standards and Duties 18. Employees Must Avoid Conflicts of Interest	Not Sustained (Training Referral)
# 3	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Training Referral)

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 Employee violated SPD policies when he inquired about a criminal case that was unrelated to his official duties.

STATEMENT OF FACTS:

A Department Lieutenant initiated this complaint with OPA. She stated that her daughter was the victim of a sexual assault. When she met with the prosecutor, the prosecutor asked the Complainant what Named Employee #1 (NE#1), who is a SPD Detective, had to do with the case. The Complainant did not know at the time, but later learned that a nanny formerly employed by NE#1 was the mother of the suspect in the sexual assault. Based on this information, the Complainant contended that NE#1 may have used his position as a Detective to learn information about the criminal case, that he may have engaged in a conflict of interest, and that this behavior in this regard may have been unprofessional.

OPA interviewed the King County Prosecuting Attorney who was assigned to the case. She stated that she received an email from her paralegal indicating that NE#1 had enquired about the case. The prosecutor believed that she also received a voicemail from NE#1. She did not respond to NE#1’s call (this is inconsistent with NE#1’s account, which is described below). She stated that these types of requests were not usual, they were also not unheard of. The prosecutor told OPA that she did not believe that NE#1 was acting with a nefarious purpose when he enquired about the case, but that he simply wanted information to pass on to the suspect’s family. The prosecutor stated that she interacted with NE#1 on several later occasions and that he never brought the case up.

OPA also interviewed NE#1. He stated that he had a conversation with the husband of the nanny. He recalled that the husband told him about the criminal case and asked for advice on how to find out what the status was. NE#1 told him to determine who the case was assigned to and to contact that individual. NE#1 later found out that the case has been



assigned to the King County Prosecuting Attorney's Office. The family again asked him questions about the status and what they could expect next. NE#1 asserted that it was clear that they had little to no information. NE#1 then offered to call the prosecutor.

NE#1 stated that he called the prosecutor and left her a message. She called him back several days later but they did not speak. NE#1 told OPA that, in between the two phone calls, he thought about the situation and decided that it was not a good idea for him to be involved. He did not call the prosecutor back again and never spoke with her about the case. He told the family that he was uncomfortable being involved due to his position as a Detective. He gave them the phone number for the prosecutor's office and did not hear back about the case.

NE#1 told OPA that he had two main purposes for the phone call to the prosecutor. First, was to find out information about the case, which included what the status was, whether charges were being filed, or whether it was just provided to the prosecutor for review. Second, was to determine the nature of the case so that he could decide whether he no longer wanted his child to associate with the family.

With regard to the allegations against him, NE#1 stated that he did not have anything to gain from making the inquiry. He further stated that he did not believe that he had engaged in a conflict of interest. Lastly, he denied that his conduct was unprofessional or that it undermined public trust in the Department.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

5.001 - Standards and Duties 13. Employees Shall Not Use Their Position or Authority for Personal Gain

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

As discussed above, NE#1 denied that he had anything to gain personally from making the inquiry in this case. I do not necessarily agree. By learning information that only he would have had access to given his role as a Detective, he could have given the suspect an advantage in his criminal prosecution. This would have provided a benefit to the suspect and his family and, as these individuals were friends with NE#1, NE#1 would also have benefited from this situation.

NE#1 did not speak with the prosecutor about the case and, accordingly, did not learn any information about the matter and did not relay any information to the family. As such, he did not actually accrue any benefit from his actions. However, his actions, even if ultimately innocuous, had the appearance of impropriety. It was wise for NE#1 to not call the prosecutor back. It would have been significantly better, however, had he never called her in the first place and put himself in this position.

That being said, as NE#1 did not obtain any benefit, I do not recommend that this allegation be Sustained. Instead, I recommend that NE#1 receive a Training Referral.

- **Training Referral:** NE#1 should be counseled concerning this incident by his chain of command. He should be informed that, even if he had the best of intentions, his behavior gave the appearance of impropriety and suggested that he possibly had a conflict of interest and was using his position for personal gain. Such



conduct could also be viewed as undermining public trust in the Department. NE#1 made a good decision when he opted to not speak with the prosecutor; however, his chain of command should discuss with him that the contact he did make was inadvisable and inconsistent with the Department's expectations. I anticipate, based on NE#1's statements to OPA, that he has learned from this incident and will not place himself in such a position again. His chain of command should ensure that this is the case. This counseling should be documented and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 18. Employees Must Avoid Conflicts of Interest

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 engage in enforcement, investigative, or administrative functions that create or give the appearance of conflicts of interest"; and "Employees will not investigate events where they are involved. This also applies where any person with whom the employee has a personal relationship is involved in the event." (SPD Policy 5.001-POL-18.)

By enquiring as to the status of the case, NE#1 could plausibly be construed as "investigating" an incident in which he had a personal relationship with the suspect. As such, this arguably gave the appearance of a conflict of interest. While I do not think that this was what NE#1 intended, the initial decision to contact the prosecutor on behalf of his friends was inadvisable.

For these reasons, I do not believe that NE#1's conduct warrants a Sustained finding; however, I refer to the above Training Referral.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #1 - Allegation #3

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

SPD Policy 5.001-POL-10 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-10.)

Given that NE#1 did not actually speak with the prosecutor and did not convey any information to the family, I do not find that he violated the Department's professionalism policy. However, as discussed above, even if ultimately not improper, I find that this actions had the appearance of impropriety. That being said, I do not feel that NE#1 should receive a Sustained finding and I refer to the Training Referral set forth in Allegation #1.

Recommended Finding: **Not Sustained (Training Referral)**