



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 21, 2020

CASE NUMBER: 2019OPA-0077

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	1.110-POL-1 General Policy 2. Except as May Otherwise Be Authorized Employees Shall Not Release Information to the Media or Related Outlets Other Than as Prescribed by This Policy	Not Sustained (Inconclusive)
# 2	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Inconclusive)

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:

The Complainant alleged that an unknown SPD employee released information to the media in violation of policy.

ADMINISTRATIVE NOTE:

The OPA Director recused himself from this case. The responsibility of supervising the investigation and issuing findings was turned over to OPA's Deputy Director of Investigations. The Deputy Director was not employed by OPA and had no access to the information when it was released.

This investigation, as with all OPA investigations, was reviewed and certified by the Office of Inspector General (OIG). The OIG played an active role in that they directed additional investigation prior to certifying it as timely, objective, and thorough.

SUMMARY OF INVESTIGATION:

A. OPA Complaint

This complaint was received by OPA through an online submission. In his submission, the Complainant identified himself as the named subject in OPA case number 2018OPA-0144 and that his complaint pertained to an improper release of information to a Seattle Times reporter by an unknown person. The Complainant claimed that he received a call from the reporter on his personal cellphone informing the Complainant he had an internal SPD document known as a Disciplinary Action Report (DAR) days before it was to be released publicly to the reporter. According to the Complainant, he asked the reporter how the reporter obtained the DAR and was told that it came from one of the reporter's sources in the Department, but the reporter refused to reveal his source to the Complainant. The Complainant wrote that he knows "there are only a certain, small number of people in the Department" with access to the information released to the reporter and that OPA should judiciously investigate this matter. The Complainant specifically alleged that the unknown individual violated Department policy when they turned over a copy of the



DAR from 2018OPA-0144 and provided the reporter with his private cellphone number. After receiving the Complainant's online complaint submission, OPA initiated this investigation.

B. Information Disclosed to the Reporter

An article was published by the Seattle Times on Friday, December 7, 2018 at 8:14 p.m. titled, "*Seattle police sergeant demoted for retaliating against man angry about being towed.*" In the article, the reporter noted that the Seattle Times obtained a copy of the DAR from an anonymous source with knowledge of the case. The DAR was included in the article with the name of the involved officer redacted. The reporter wrote that his source confirmed that the Complainant was the involved officer. According to the article, the Complainant declined to comment except to say he believed the newspaper obtained the DAR through improper means. Additionally, the reporter wrote that the Seattle Times filed a public disclosure request with SPD in October of 2018 for documents related to the associated internal OPA investigation, and that they were scheduled to be released to the Seattle Times on December 12, 2018.

Based on the copy of the DAR in the December 7, 2018 article, which contained a date of October 12, 2018, the document was believed to be the proposed DAR.

C. Complainant Interview

OPA interviewed the Complainant. The Complainant reiterated the information he provided in his original complaint submission. After discussing the matter pertaining to his personal cell phone number with the OPA investigator, the Complainant acknowledged the media has open source options to gather information and stated that he did not necessarily believe that it came from the reporter's anonymous source.

D. Reporter Interview

OPA interviewed the reporter. The reporter explained he never reveals his sources or any information that might lead to their identity. The reporter further explained that the Complainant's phone number was obtained by a Seattle Times researcher who uses a combination of open-source material and subscription-fee databases.

E. The Leaked Document

Based on the copy of the DAR in the December 7, 2018 article, dated October 12, 2018, OPA determined this document is the proposed DAR.

OPA discovered that approximately 27 SPD employees were emailed a copy of the Complainant's proposed DAR. This count does not include the number of administrative personnel who, as part of their job responsibilities, have access to command-level employees' email accounts.

In a follow-up review of SPD emails, OPA, assisted by the OIG, identified a version of the DAR in a November 20, 2018 email sent by Chief Best that appears to be the same electronic version as the one in the December 7, 2018 on-line article. That email was sent to the Mayor, members of the City Council, the City Attorney, the OPA Director, the Inspector General, the CPC Director, and SPD's Employment Counsel. Given the similarities between those two documents, OPA requested all activity associated with the Chief's November 20, 2018 email and the attached DAR



to determine if anyone forwarded either material outside of SPD. OPA's review was negative, meaning there is no evidence to suggest that the DAR was transmitted to the reporter electronically from inside SPD. Given that OPA's jurisdiction only covers SPD employees, it conducted no similar review of those employed by other entities.

Though the above email review was negative, OPA recognizes there are other possible means someone could use to have transmitted the DAR to the reporter other than forwarding the email or attachment to an outside account, such as copying the attachment to an externally connected device such as a USB drive or some other device.

OPA conducted no interviews of potential suspects given that volume of individuals with access to the DAR and the unlikely chance that the anonymous source would acknowledge their role during that process.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

1.110-POL-1 General Policy 2. Except as May Otherwise Be Authorized Employees Shall Not Release Information to the Media or Related Outlets Other Than as Prescribed by This Policy

SPD Policy 1.110-POL-1 General Policy 2 establishes that SPD employees shall not release information to the media other than as prescribed by this policy. This policy includes an exception in that the release of information responsive to a Public Disclosure Act request or records subpoena shall be coordinated through the Legal Unit. (SPD Policy 1.110-POL-1.)

This complaint was filed with OPA because of the Complainant's frustration that someone leaked information about a separate case in which the Complainant was disciplined. While the Complainant recognized that the reporter would eventually obtain the information he used in his December 7, 2018 article, he believed that the individual who released this information against policy should be held accountable. Though the Complainant believed there was a relatively small number of people who could have leaked this information, OPA's investigation revealed that the number of possible suspects was much greater and that it included individuals outside the Department. Given the reporter's unwillingness to reveal his source and that OPA's internal email review and analysis provided no substantive leads, OPA was unable to determine which SPD employee, if any, was responsible for the leak. For these reasons, OPA recommends this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**

Named Employee #1 - Allegation #2

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.)

For the same reasons as stated above (see Named Employee #1, Allegation #1), OPA recommends this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**