



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 16, 2019

CASE NUMBER: 2019OPA-0435

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Unfounded)
# 2	5.001 - Standards and Duties 18. Employees Must Avoid Conflicts of Interest	Not Sustained (Unfounded)

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, who was the subject of a Vulnerable Adult Protection Order filed by the Named Employee, alleged that the Named Employee was unprofessional and created a conflict of interest by forming a mentoring relationship with the Complainant's younger daughter.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant is the former holder of her father's Power of Attorney. Her father – referred to here as the "Victim" – is elderly and suffers from dementia. He lived with the Complainant's two daughters. In 2018, the Complainant's older daughter stole money from the Victim. Named Employee #1 (NE#1), a Victim Advocate with SPD, was assigned to the case and filed a Vulnerable Adult Protection Order ("VAPO") against the older daughter. The Complainant's younger daughter – referred to here as "Witness #1" – continued to live with the Victim and provided care for him. The Complainant, who held the Victim's Power of Attorney during this time, lived in Alaska. On December 13, 2018, NE#1 sent a letter to Witness #1's employer attesting to the challenges Witness #1, who is in her twenties, faced in caring for the Victim. In the letter, NE#1 asked Witness #1's employer to provide her with a flexible schedule so she could care for the Victim. NE#1 provided the letter at Witness #1's request.

In June 2019, Witness #1 emailed NE#1 to inform her that she suspected her mother, the Complainant, of relapsing into drug addiction and misusing the Victim's funds. Witness #1 provided a photograph of deposit slips for several



transactions made by the Complainant using the Victim's money that Witness #1 found suspicious. She told NE#1 that she had asked to see the Complainant's records of the financial transactions that the Complainant made on behalf of the Victim, but that the Complainant refused to allow her to view the records. She also sent NE#1 screenshots of a text conversation between her and the Complainant in which the Complainant became verbally aggressive.

After communicating by email with the Witness #1, NE#1 began the process of drafting a new VAPO with the Complainant listed as the respondent. On June 14, 2019, NE#1 spoke with the Complainant and informed the Complainant that she would be seeking a VAPO against her. According to NE#1's case notes, which OPA obtained and reviewed, the Complainant grew escalated. NE#1's documented that NE#1 told the Complainant she was "sorry we were at this place," and advised the Complainant of her right to testify at the VAPO hearing.

NE#1 also spoke with a family friend – referred to here as Witness #2, who formerly held the Victim's Power of Attorney but had relinquished it in 2017. Witness #2 detailed instances of financial mismanagement by the Complainant, as well as other erratic behavior. The information provided by Witness #2 appeared to corroborate Witness #1's account of the Complainant's behavior.

While drafting the VAPO, NE#1 communicated with Witness #1. In these communications, Witness #1 stated that the situation had put her under extreme stress and was impacting her work. NE#1 replied by email to express sympathy for Witness #1. She offered that Witness #1 could call her "any time," and NE#1 advised her that she would be going to court for the VAPO hearing in a matter of days. The court issued a temporary VAPO revoking the Complainant's power of attorney and restraining her from accessing the Victim's funds. The order was issued after an *ex parte* hearing on June 19, 2019. The order was reissued on July 16, 2019, after a hearing where the Complainant was represented by counsel. It was reissued, with modifications, in August 2019. Witness #2 resumed holding the Power of Attorney for the Victim.

On June 27, shortly after the first hearing, the Complainant contacted OPA. She alleged that NE#1 behaved unprofessionally when, prior to seeking the VAPO, she accepted Witness #1's statements as true without speaking to the Complainant. The Complainant also alleged that NE#1 "buddied up" with Witness #1, which created a conflict of interest. This OPA investigation ensued.

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.)

Based on OPA's review of this case, OPA finds no evidence supporting the conclusion that NE#1 was unprofessional in her handling of this matter. As a Victim Advocate, NE#1's duties included seeking a VAPO when the interests of a vulnerable person required it. No evidence in the record indicates that NE#1 was disrespectful to the Complainant or treated her in a derogatory manner when she did so here. Rather, the evidence establishes that NE#1 treated the Complainant respectfully and advised her that she could testify at a future hearing. Indeed, she further relayed to the Complainant that she could attend the hearing telephonically. Moreover, a review of NE#1's email communications with members of the Victim's family shows that she was kind, caring, and concerned with the wellbeing of the Victim. There is no evidence that she improperly "buddied up" with Witness #1. To the contrary, the evidence indicates that she provided emotional support to someone going through a difficult time and who was required to make very hard decisions. This was consistent with her role as a Victim Advocate. Ultimately, OPA concludes that NE#1's conduct was consistent with the expectations imposed by SPD Policy and the Department.



For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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

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.)

The Complainant alleged that NE#1’s efforts to assist Witness #1 in providing care for the Victim amount to an impermissible conflict of interest. In particular, the Complainant identified the letter sent by NE#1 on Witness #1’s behalf as evidence of an improper personal friendship.

The evidence in this matter does not support a finding that NE#1 and Witness #1 formed a personal relationship that impacted the discharge of NE#1’s duties. All of NE#1’s communications with Witness #1 concerned Witness #1’s efforts to care for the Victim. The letter referenced by the Complainant, which was written at Witness #1’s request, asked that Witness #1’s employer provide her with needed flexibility so that she could act as a caregiver. This was consistent with NE#1’s official duties to ensure that the Victim received adequate care. As such, it is not evidence of improper conduct.

There is a lack of evidence establishing that NE#1 sought the VAPO due to a personal relationship with Witness #1. To the contrary, NE#1 had ample reasons supporting her actions. NE#1 spoke to two witnesses – Witness #1 and Witness #2 – both of whom relayed similar concerns regarding the Complainant’s conduct and her handling of the Victim’s finances. On the strength of this information, NE#1 acted appropriately by seeking to terminate the Complainant’s Power of Attorney before any additional harm could be done. Moreover, as a Victim Advocate, NE#1 did not act as a neutral decisionmaker but rather as a guardian of the Victim’s interests. As such, she had no obligation to seek mitigating information from the Complainant before obtaining the VAPO. Further, that NE#1 was also encouraging and supportive of Witness #1 does not make her conduct the product of a personal friendship. Rather, it showed that NE#1 was sensitive to the enormous stress the situation had imposed on Witness #1, a young person who had been left to care for her ailing grandfather with little support. Notably, none of NE#1’s actions stood to benefit Witness #1, who was not vested with Power of Attorney in the Complainant’s place and who, if the VAPO was granted and Power of Attorney shifted, would not have obtained control of the Victim’s funds.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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