



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 1, 2020

CASE NUMBER: 2020OPA-0141

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	15.185 - Vulnerable Adults-Elder Abuse & Neglect 3. Follow Up Units Investigate Vulnerable Adult Incidents	Not Sustained (Lawful and Proper)

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 the Named Employee improperly sought orders of protection against him.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

15.185 - Vulnerable Adults-Elder Abuse & Neglect 3. Follow Up Units Investigate Vulnerable Adult Incidents

The Complainant alleged that Named Employee #1 (NE#1), who is employed by SPD as a Victim Support Advocate, wrongfully sought orders of protection against him. The Complainant alleged that, as a result, a vulnerable adult (referred to here as the "Subject") was placed in a bad situation, as well as that the Complainant was forced to drop out of school and became homeless. This OPA investigation ensued.

OPA reviewed the various police reports concerning this matter. In the first report, it was documented that the Complainant had recently returned to the Subject's life and was living with him. The Complainant told officers that he believed that the Subject was in danger. The officers' investigation determined that there was no sign of any abuse of the Subject. They also determined that the Complainant was living in the Subject's condo for free and that, if the condo was sold, the Complainant would have nowhere to stay. The Subject's caretaker said that the condo was going to be sold because it was not practical for the Subject, who suffered from Alzheimer's Disease, and it was asserted that this was motivating the Complainant's allegations.

In the second report, officers responded to the Subject's residence. They were informed by the property manager, that the Complainant had been repeatedly accessing the building with a key fob that had since been deactivated. The property manager opined that the Complainant was taking advantage of the Subject's condition in order to find a free place to stay. After interacting with the Complainant and repeatedly telling him not to call the Subject's unit, the officers entered the Subject's apartment and spoke with the Subject and the caretaker. The caretaker said that he was being harassed by the Complainant. The Subject also affirmed that he was not being "controlled" by the caretaker and the officers believed the Subject to be "healthy and lucid" at the time.

The third report documented an incident where the Subject's caregiver called 911 to report that he was with the Complainant and had not been returned to the apartment. The officers located them at a bank. The Complainant reported that they were trying to obtain bank records to show the financial exploitation of the Subject by the

caregiver. After confirming that the Subject was not in danger and appeared safe and healthy, the officers ended the contact and left the bank.

Based on the totality of these reports, NE#1 subsequently sought orders of protection on behalf of the Subject and against the Complainant.

As part of its investigation, OPA also reviewed various emails provided by the Complainant in support of his allegations and claimed damages. OPA found no evidence suggesting that the orders of protection caused the Complainant to drop out of school or to become homeless as he contended.

OPA determined that one of NE#1's fundamental duties was to assist in the protection of vulnerable adults. This included, when appropriate, petitioning the court for orders of protection. Notably, even after NE#1 did so, the orders were only temporarily granted. The court in which the order was sought would then order a hearing date for the parties to appear and for the order to be contested. OPA notes that, as a function of her role, NE#1 possesses civil immunity for her actions as a matter of law unless there is evidence that she acted with malice or otherwise improperly.

Given a review of the totality evidence, OPA finds that NE#1's decision to seek order of protection against the Complainant was reasonable. There was ample evidence suggesting that the Complainant was, himself, trying to take advantage of the Subject. As such, NE#1's actions were appropriate and consistent with the Department's expectations of her conduct. Moreover, even if she was mistaken, she clearly acted in good faith and, accordingly, is entitled to legal immunity. For these reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**