



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 21, 2020

CASE NUMBER: 2020OPA-0176

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	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 alleged that the Named Employee engaged in a conflict of interest by testifying in drug court and getting him terminated from that court.

ADMINISTRATIVE NOTE:

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

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

OPA has investigated two cases involving the Complainant and NE#1. In both cases, NE#1 arrested the Complainant. In the first (2018OPA-0732), the arrest was based the Complainant's commission of drug-related offenses. In the second (2020OPA-0104), the Complainant was arrested for an open warrant based on his failure to comply with conditions of release from drug court.

The Complainant subsequently initiated this complaint, in which he alleged that NE#1 engaged in a conflict of interest when he testified against the Complainant in drug court. The Complainant asserted that, as a result of NE#1's testimony, he was kicked out of drug court. He further asserted that NE#1's conduct constituted harassment against him.

As part of its investigation, OPA determined that, in 2018, the Complainant was removed from drug court after a termination hearing. OPA also determined that it was appropriate and permissible for officers to testify at such termination hearings. OPA contacted the drug court and learned that four SPD officers attended the Complainant's termination hearing. OPA was informed that one of those officers spoke to the presiding judge, who subsequently



removed the Complainant from drug court. OPA could not conclusively determine whether NE#1 was among the officers who attended the termination hearing and/or whether he was the officer who spoke to the judge.

OPA attempted to interview both the Complainant and his girlfriend. However, neither responded to OPA's requests for contact.

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.)

Even if it was true that NE#1 appeared at the Complainant's termination hearing in drug court and testified against him, this would not constitute a conflict of interest. As discussed above, officers are permitted to testify at these hearings and such testimony occurs in the normal course of business. Moreover, NE#1's involvement in the Complainant's arrests provided him with a basis to determine whether termination was appropriate. As such, it is logical that he would use that experience to inform the court's opinion in this matter. This did not, as the Complainant asserted, create an irreconcilable conflict. In addition, OPA finds no evidence that NE#1 engaged in harassing conduct towards the Complainant. Ultimately, that the Complainant was removed from drug court was based predominantly on his actions and his failure to comply with court rules and conditions of release, not malfeasance on the part of NE#E1.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

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