



CLOSED CASE SUMMARY

ISSUED DATE: MAY 25, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0488

Allegations of Misconduct & Director's Findings

Named Employee #1

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

Named Employee #2

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

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:

This case involved a residence dispute after the Complainant and the Complainant's ex-fiancé, Community Member #1 (CM#1), ended their relationship. The Complainant alleged that the Named Employees were unprofessional and failed to avoid a conflict of interest by facilitating CM#1's entry into a condominium owned by the Complainant.

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 involved employees. As such, OPA did not interview the involved employees in this case.

SUMMARY OF INVESTIGATION:

The Complainant contacted the Interim Chief of Police and Assistant Chief of the Patrol Operations Bureau by email. The Complainant alleged that Named Employee #1 (NE#1) and Named Employee #2 (NE#2) "overwhelmed and pressured" staff at her condominium into allowing CM#1 to enter a unit owned by the Complainant. The Complainant also alleged that both NE#1 and NE#2 were friends with another police officer who was in a relationship with CM#1's



best friend. The Complainant also alleged that NE#1 and NE#2 entered her condominium. The Complainant alleged that this was “a blatant abuse of power, intimidation and lack of due process.” These allegations were forwarded to OPA for investigation.

During the course of this investigation, OPA reviewed the Complaint, Computer Aided Dispatch (CAD) Call Report, Incident Report, SPD Training Digest TD14-00013, and Body Worn Video (BWV). OPA also interviewed the Complainant and a staff member of her condominium, Community Member #2 (CM#2). The entirety of the Named Employees’ response to this incident was recorded on BWV and, as such, the relevant facts of this case are not in credible dispute.

The Named Employees responded to a call that the Complainant had revoked CM#1’s key FOB access so CM#1 could not go home. CM#1 admitted that they were not on the lease but stated that they had lived at the condominium for two-and-a-half years. After arriving at the scene, the Named Employees spoke with both CM#1 and CM#2. CM#1 stated that she had been living with the Complainant at the condominium for two-and-a-half years with the Complainant, with whom she had recently separated. CM#1 explained that she was there for the purpose of collecting her personal effects but was unable to because the Complainant had CM#1’s access to the unit and garage cut off. CM#1 also explained that her possessions were inside, she received mail at the location, and that—after moving out—she would be “essentially homeless.” CM#2 also stated in front of the Named Employees that CM#1 had lived at the condominium “for as long as I’ve known.” The Named Employees explained to CM#2 that CM#1 legally resided at the condominium and was permitted to access the location. CM#2 communicated with the management company for the condominium, who directed CM#2 to allow CM#1 to enter the unit. CM#1’s access to the condominium was then restored. Neither NE#1 or NE#2 entered the unit; both exited the building as CM#1 waited in the lobby for the elevator.

During the course of these events, CM#1 stated to NE#1, “I’ve met you before.” NE#1 responded, “Me? When?” CM#1 replied “My best friend dates [first name].” NE#1 asked, “[first name]?” CM#1 stuttered a response, “[part of last name] . . . [part of last name] . . . [last name].” NE#1 replied, “Okay.” SPD employed an officer with the name CM#1 provided. CM#1 then stated, “We brought him food cause we walked there cause I live here.” NE#1 responded, “Yes. I thought you looked familiar.”

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 – Standards and Duties. 10. Employees Will Strive to be Professional.

The Complainant alleged that NE#1 was unprofessional by improperly facilitating CM#1’s entrance into the unit by overwhelming and pressuring the condominium staff.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. (SPD Policy 5.001-POL-10.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (Id.) Lastly, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (Id.)



Neither Named Employee acted unprofessionally in facilitating CM#1's entrance into the unit. To the contrary, the Named Employee's appropriately explained the relevant tenancy laws to CM#2, possible civil repercussions for violating those law, and then stood by while CM#2 confirmed the correct course of action with building management.

OPA appreciates that the end of personal relationships can be emotional and frequently intersect with complicated social, legal, and property issues. From a legal standpoint, the core question at issue in this case is whether the Named Employees reasonably believed that CM#1 was a "tenant at will" based on her co-occupancy of the condominium. See RCW 7.28; Seattle Police Department Training Digest TD14-00013, *available at* <https://www.seattle.gov/documents/Departments/OPA/manuals/TD14-00013.pdf>. There is no credible dispute that CM#1 was a lawful tenant of the unit or that the Named Employees reasonably believed her to be so. In addition to the CM#1's statement to uniformed police officers that she resided at the condominium, CM#1 possessed a key fob—albeit, inactivated—for the building. Moreover, CM#2 corroborated to the officers that the Complainant had just instructed him not to allow CM#1 in the unit earlier that day, and also that CM#1 received mail at the unit, had possessions within the unit, and had resided there for as long as he knew. Finally, in her interview with OPA, the Complainant confirmed that CM#1 was "at the condo" at least from August until October, when this incident occurred. Moreover, the Complainant was vague about how long CM#1 had resided at the condominium prior to that. While the Complainant may have subjectively—even reasonably—believed that CM#1 was not a legal resident of the condominium, the preponderance of the evidence in this case suggests that the Complainant was incorrect on this point of law.

Moreover, CM#2 told OPA that the Named Employees were "fine" and "just doing their job." CM#2 also stated that his perception was NE#1 was "just trying to inform me about something. . . About something he obviously knew more than I did."

Because of their training and experience, police officers are frequently put in a position of offering common sense advice on civil issues to members of the public. Ultimately, CM#2 conferred with building management and decided on a course of action on this civil issue. The Complainant's disagreement with that course of action—or CM#2 or the building management's reliance on the advice of the Named Employees—did not make the Named Employees' actions here unprofessional.

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

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

Named Employee #1 - Allegation #2

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

The Complainant alleged that NE#1 failed to avoid a conflict 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.)



More likely than not, the Complainant's allegation did not occur as alleged for two reasons. First, based on both the Complainant's allegation and the verbal exchange on BWV, the alleged conflict was that CM#1's "best friend" was in a relationship with an SPD officer and that CM#1 and NE#1 had met in the past. The extremely tenuous relationship between CM#1 and the Named Employees did not objectively "create or give the appearance of conflicts of interest." Even after CM#1 stated that she knew NE#1, NE#1's response made it clear that he did not readily recognize her. Second, the Named Employees had already appeared to make their decision regarding the appropriate legal outcome of this incident prior to CM#1 relaying that she recognized NE#1. This information did not appear to have been a factor for either Named Employee. Moreover, NE#2 screened this incident with an otherwise uninvolved sergeant.

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

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

Named Employee #2 - Allegation #1

5.001 – Standards and Duties. 10. Employees Will Strive to be Professional.

For the reasons set forth above at Named Employee #1, Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #2

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

For the reasons set forth above at Named Employee #1, Allegation #2, OPA recommends that this allegation be Not Sustained – Unfounded.

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