



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 7, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0508

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Training Referral
# 2	5.001 - Standards and Duties 5.001-POL 18. Employees Must Avoid Conflicts of Interest	Not Sustained - Training Referral
# 3	5.001 - Standards and Duties 5.001-POL 2. Employees Must Adhere to Laws, City Policy and Department Policy	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:

It was alleged that Named Employee #1 (NE#1) was a passenger in a vehicle that was subjected to a traffic stop in Everett, WA. NE#1 was allegedly in a dating relationship with the driver of the vehicle. The driver of the vehicle allegedly provided Everett officers with a false name as she did not have a driver's license. It is also alleged that the driver and one of the vehicle passengers had criminal records and/or gang affiliations.

ADMINISTRATIVE NOTE:

Due to present OPA staff limitations, this is an abbreviated Director's Certification Memorandum. At the Director's discretion, this Director's Certification Memorandum may be expanded at a later time.

OPA is submitting this Director's Certification Memorandum without a certification from the Office of Inspector General (OIG). OPA's investigation of this matter was delayed and OPA submitted this completed investigation to OIG about four days before the 180-day timeline expired. Accordingly, OPA accepts that it did not provide OIG with adequate time to review this matter for certification. As such a partial certificate was issued which certified the case as objective but not timely or thorough.

ANALYSIS AND CONCLUSIONS:

OPA's analysis is that the preponderance of the evidence does not establish that any policy violations occurred or rose to the level of misconduct.



Named Employee #1 - Allegation #1

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

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.)

While off duty, NE#1 was a passenger in a vehicle that was stopped by an Everett Police Department officer. During the stop, the driver of the vehicle—NE#1’s girlfriend—originally provided a false name until NE#1 identified himself to the Everett Police Department officer and convinced his girlfriend to provide her correct name. Both the driver and another passenger of the vehicle were determined to have criminal records and/or gang affiliations.

OPA referred this incident to SPD for criminal investigation. The incident was investigated by the SPD Intelligence Section, which noted that while this traffic stop was “interesting,” NE#1’s actions were not criminal. The matter was returned to OPA for investigation.

Among other things, OPA reviewed the SPD Intelligence Section Investigation Report. OPA also interviewed NE#1 and NE#1’s girlfriend. OPA finds that, more likely than not, at the time of the Everett traffic stop, NE#1 had just met his girlfriend and had no knowledge of her criminal record or the criminal histories or possible gang affiliations of her vehicle passengers. Moreover, although it appears NE#1 has continued a dating relationship with his girlfriend, the preponderance of the evidence does not demonstrate that she has continued to engage in criminal activity during the period of her relationship with NE#1. In fact, some evidence suggests that her association with NE#1 may have had a positive influence in her life. It would be unrealistic for SPD to require that its employees screen their familial and social contacts to exclude anyone who has ever been convicted of a crime or had a gang affiliation.

Nonetheless, OPA is concerned by the fact that NE#1 was unknowingly present in a vehicle with two people with criminal records and/or gang affiliations. OPA is also concerned by the fact that, when stopped, NE#1’s girlfriend initially provided a false name to law enforcement until NE#1 intervened. Ultimately, OPA recognizes that NE#1’s intervention—to convince his girlfriend to provide accurate information to law enforcement—was positive. But OPA cautions NE#1 that he is held to a high standard by both the Department and the public. This incident is an example of how easy it could be to become entangled in the decisions of other people that could undermine public trust in the officer. OPA finds that NE#1’s presence in the vehicle and intervention in his girlfriend’s interaction with the Everett Police Department officer were possible, but not willful, violations of policy that do not amount to misconduct.

OPA recognizes that some evidence suggests that NE#1 is still in a dating relationship with the vehicle driver. While it is not a policy violation, in itself, for a police officer to date or associate with someone who has previously been convicted of a crime, NE#1 is on notice that any future association with, or off-duty intervention on behalf of, people still involved in criminal activity could place him in a compromising position or constitute a separate violation of law or policy.



Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with NE#1, review SPD Policies 5.001-POL-10 and 5.001-POL-18 with NE#1, and provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented, and this documentation should be documented in BlueTeam.

Recommended Finding: **Not Sustained - Training Referral**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 5.001-POL 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.)

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

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with NE#1, review SPD Policies 5.001-POL-10 and 5.001-POL-18 with NE#1, and provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented, and this documentation should be documented in BlueTeam.

Recommended Finding: **Not Sustained - Training Referral**

Named Employee #1 - Allegation #3

5.001 - Standards and Duties 5.001-POL 2. Employees Must Adhere to Laws, City Policy and Department Policy

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

No evidence suggests that NE#1 violated any laws during the course of this incident.

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

Recommended Finding: **Not Sustained - Unfounded**