



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 22, 2022

FROM: DIRECTOR GINO BETTS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0162

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 (Inconclusive) EXECUTIVE SUMMARY	Not Sustained - Inconclusive
# 2	1.110-POL-1 General Policy 2. Except as May Otherwise Be Authorized Employees Shall Not Release Information to the Media or Related Outlets Other Than as Prescribed by This Policy	Not Sustained - Inconclusive

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:

A media outlet (Media #1) wrote an article suggesting SPD deprioritized sex crimes against adults. Thereafter, NE#1, assigned to SPD's Sexual Assault/Child Abuse Unit (SAU), wrote an internal memo about staffing issues within her unit. She submitted it to the chief of police and her chain-of-command. That memo was also leaked to a major newspaper (Media #2). Media #2 wrote an article covering the issues outlined in NE#1's memo. The Complainant alleged NE#1 leaked the memo to the media in violation of policy.

ADMINISTRATIVE NOTE:

This investigation, as with all OPA investigations, was reviewed and certified by the Office of Inspector General (OIG). OIG found it timely, objective, and thorough.

SUMMARY OF INVESTIGATION:

A. OPA Complaint

On May 26, 2022, the Complainant emailed OPA explaining she was interviewed the day prior by a Media #1 reporter (Reporter #1) and a Media #2 reporter (Reporter #2). During that interview, the reporters apparently possessed NE#1's internal memo and repeatedly referenced it. Specifically, their questions suggested NE#1 was their source: "why would the Sergeant in SAU be saying...", "why did the Sergeant tell us...", and "are you saying the Sergeant lied to us when she said..." Where NE#1 was unauthorized to release Department information to the media, her media communications would violate the Department's media and chain-of-command policies.



B. Media #1

On April 7, 2022, Media #1 published an article written by Reporter #1. That article indicated the Department forwarded fewer cases for prosecution than the prior year. Two anonymous Department employees reported adult sexual assault cases were seldomly assigned.¹ Those sources cited staff deficiencies and shifted priorities, where “visible crimes” like encampment removals took precedence.

C. NE#1’s Memo

NE#1 authored an internal memo, dated April 11, 2022, raising concerns about a staffing shortage in SAU. That memo compared prior staffing levels to current levels: “Up until 2019 the Sexual Assault and Child Abuse Unit was staffed by 1 Lieutenant, 2 Sergeants, 1 Administrative Assistant and 10 Detectives.” “Currently the Sexual Assault and Child Abuse Unit has 1 Sergeant, 1 Administrative Assistant and 4 detectives.” It also outlined the staffing shortage’s impact on SAU’s workload, including several unaddressed callouts². NE#1 further described SAU detective work conditions, noting unsustainable work hours and increased case complexity “in part, due to our society’s use and reliance on digital evidence.” She also noted her inability to assign cases ripe for investigation due to the staffing shortage. The listed recipient was “(chief of police) via Chain of Command.”

D. Media #2

On June 1, 2022, Media #2 published an article written by Reporter #2. That article referenced NE#1’s memo. There is no indication how Reporter #2 obtained that memo. The article compared the Department’s SAU staffing with other law enforcement agencies’, also grappling with retention issues, sex crime unit staffing. It noted NE#1 declined Reporter #2’s interview request. It also cited the Complainant’s description of NE#1’s memo as “not accurate” and a “gross oversimplification.” Further, an anonymous SAU detective described colleagues as “overworked and burned out.” A local prosecutor cited conversations with NE#1 where she “described dozens of cases sitting on her desk, unable to be assigned because of a lack of detectives.”

E. Email Search

OPA requested and reviewed results from searches of all SPD accounts for emails to Reporters #1 and #2. The only relevant emails were correspondences arranging Reporters #1 and #2’s interview of the Complainant.

F. Complainant’s OPA interview³

On June 16, 2002, OPA interviewed the Complainant. The Complainant oversaw several units, including NE#1’s unit. She described departmentwide staffing issues, largely caused by attrition and reassignments to patrol. In April 2022, NE#1 gave the Complainant a memo she authored and addressed to the chief of police. That memo was ultimately leaked to the media. The Complainant and her team had ongoing brainstorming meetings to assess how to workaround staffing shortages. Reporters contacted the Department requesting information. Reporters #1 and #2 interviewed the Complainant. The phrasing of their questions made it apparent someone leaked NE#1’s memo or spoke to them:

¹ Those sources also reported an increase in child abuse cases due to kids returning to school from pandemic related shutdowns. Those cases were higher priority due to investigative duties outlined in Washington state law. See Chapter 26.44 RCW.

² The memo describes callouts as “off-duty phone calls requesting SAU assistance for calls related to sex crimes against children.” At that time, per the memo, SAU responded to 10 out of 27 callouts.

³ This is a summary of the Complainant’s OPA interview. The summary reflects the Complainant’s account, rather than OPA’s assessment of her account.



Why did the sergeant tell us X? Why did the sergeant say that they weren't assigning any adult sexual assault cases, which is not an accurate representation, those cases are being assigned. And there is only one sergeant in the SAU chain of command.

Further, Reporters #1 and #2 referenced specific staffing numbers the Complainant did not provide. The Complainant also challenged the veracity of several claims in NE#1's memo. Specifically, the suggestion there were 30 unassigned adult sex crime cases. Moreover, while the number of SAU detectives decrease so had the number of SAU cases. Following NE#1's memo, the Complainant worked with command staff to create a written plan for triaging cases. NE#1's captain emailed that plan to NE#1, NE#1's lieutenant, and the Complainant. Media #2's article quoted from that plan. It is a policy violation to have unauthorized⁴ media communication, so, after conferring with the chief of police, the Complainant referred the matter to OPA. The Complainant also described the unauthorized media communication's impact on the Department:

It created an inordinate amount of work in the department and had a disproportionate impact. To where we are now. Getting a lot of outside scrutiny and a lot of criticism for sensible business practices. Because there's misinformation out there that we are just having to fight every day to overcome.

G. NE#1's OPA interview⁵

On August 23, 2022, OPA interviewed NE#1.⁶ NE#1's SAU staffing concerns led her to draft the memo. The situation was critical, and NE#1 wanted guidance on how to prioritize cases. NE#1 previously asked her chain-of-command for direction but was told the unit was unlikely to get additional resources. NE#1 wrote the memo on April 11, 2022. She allowed four SAU and three sex offender detailed detectives to proofread it. She left copies on her lieutenant, captain⁷, and assistant chief's (the Complainant) desks. NE#1 also emailed copies to two local prosecutors, who assisted with the memo's references to relevant statutes, her police chief, and union president. NE#1 met with the Complainant, who indicated she agreed with NE#1's assessment outlined in the memo. NE#1 learned about Media #2's article while on vacation.⁸ Around June 30, 2022, NE#1 met with the chief of police about her memo. When NE#1 learned about the Complainant's allegations she arranged a phone call with her. During that call, NE#1 denied speaking with media or leaking the memo. The Complainant explained why she suspected NE#1 did. NE#1 denied knowing how Reporters #1 and #2 obtained her memo. Her only contact with them was a phone call where she declined an interview. Further, NE#1 wrote the memo to prevent the Department from falling out of compliance with state laws governing SAU investigations.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

SPD employees must "strive to be professional at all times." SPD Policy 5.001-POL-10. Further, "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers." *Id.*

⁴ Per the Complainant, only the chief of police and herself could authorize NE#1's media communication. Here, neither did.

⁵ This is a summary of NE#1's OPA interview. The summary reflects NE#1's account, rather than OPA's assessment of her account.

⁶ NE#1's union representative and attorney were present.

⁷ In May 2022, NE#1's captain issued an internal memo offering guidance on prioritizing cases.

⁸ NE#1 vacationed May 25 to June 7, 2002.



Here, NE#1 allegedly leaked information or had other unauthorized communication with media members. If proven, either act would violate the Department's professionalism policy. Specifically, the described acts would clearly undermine public trust in the Department's ability to deliver coordinated responses to media inquiries. As the Complainant told OPA:

The reason that those policies exist is to protect the department and to protect the integrity of the department's mission. They're staffing numbers and to give the command staff the ability to provide information to the media with the big picture of what's going on, not just within one section, but within the entire department. And I think when people violate that policy, they undermine our ability to do that.

However, for the reasons outlined below (see Named Employee #1, Allegation #2), OPA recommends this allegation be Not Sustained – Inconclusive.

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

Named Employee #1 - Allegation #2

1.110 - Public Information 1.110-POL-1 General Policy 2. Except as May Otherwise Be Authorized by the Chief of Police or His or Her Designee, Employees Shall Not Release Information

SPD employees shall not release information to the media other than as prescribed by this policy. SPD Manual 1.110-POL-1 General Policy 2. An exception allows the release of information responsive to a Public Disclosure Act Request or records subpoena coordinated through the Legal Unit. *Id.* Media includes "any person who is an employee, agent, or independent contractor of any newspaper" and "any entity that is in the regular business of news gathering and disseminating news or information to the public by any means, including, but not limited to, print, broadcast, photographic, mechanical, internet, or electronic distribution." SPD Manual 1.110-POL-1 General Policy 1.

Here, following the Complainant's interview with Reporters #1 and #2, she suspected NE#1 either leaked her memo or spoke with them. The Complainant's suspicion was largely based on how Reporters #1 and #2 phrased questions and Media #2's article citing NE#1's captain's case triage memo, which was sent to a select group. According to the Complainant, Reporters #1 and #2's prefaced several questions with "Why did the (SAU sergeant) say..." and "Why did the (SAU sergeant) tell us..." Considering NE#1 was the only SAU sergeant, the Complainant's deductive reasoning is logical. Nevertheless, where several parties possessed NE#1's memo, there is insufficient proof NE#1 "release(d) information to the media." Specifically, NE#1 told OPA she allowed seven detectives to proofread the memo, worked with two prosecutors on legal matters covered within it, and gave copies to her union president, captain, lieutenant, the Complainant, and police chief. 15 people, including NE#1, handled the document prior to Media #2's article. While Reporters #1 and #2's questions implicated NE#1, it is unclear whether those questions were premised on NE#1's memo or an unauthorized communication. Without Reporters #1 and #2 identifying their source, which rarely happens, there is no way to prove NE#1's involvement. Similarly, NE#1's captain's memo was sent to NE#1, a lieutenant, and the Complainant. NE#1 told OPA, during her August 23, 2022 interview, she printed her captain's memo when she received it in May 2002. She also said both memos remained on her desk with her office door open. While OPA notes NE#1's apparent failure to secure the sensitive information contained in both documents, it cannot determine she released either to the media.



Further, Media #1's article predated NE#1's memo by four days and cited two anonymous SAU detectives as sources. Media #2's article also cited an anonymous SAU detective as a source and specifically noted NE#1's refusal to participate.

Accordingly, OPA recommends this allegation be Not Sustained- Inconclusive.

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