



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2015OPA-1450

Issued Date: 10/05/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (2) Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy – VUCSA (Policy that was issued April 1, 2015)
OPA Finding	Sustained
Allegation #2	<u>Seattle Police Department Manual</u> 5.170 (7) Alcohol and Substance Use: No Employee Shall Use or Possess any Controlled Substance, Except at the Direction of a Medical Authority (Policy that was issued November 21, 2012)
OPA Finding	Sustained
Allegation #3	<u>Seattle Police Department Manual</u> 12.050 (2) Criminal Justice Information Systems: Inquiries Through ACCESS, or Any Other Criminal Justice Record System, Are Only to Be Made for Legitimate Law Enforcement Purposes (Policy that was issued October 1, 2016)
OPA Finding	Sustained
Allegation #4	<u>Seattle Police Department Manual</u> 12.050 (6) Criminal Justice Information Systems: All Employees Shall Adhere to WASIS and NCIC Policies (Policy that was issued October 1, 2016)
OPA Finding	Not Sustained (Inconclusive)

Allegation #5	<u>Seattle Police Department Manual</u> 12.050 (7) Criminal Justice Information Systems: Employees Shall Not Discuss or Provide Information to Any Person Who Is Not a Member of the Criminal Justice System Without [...] (Policy that was issued October 1, 2016)
OPA Finding	Sustained
Allegation #6	<u>Seattle Police Department Manual</u> 1.110 (VII) Media Relations: Release of information to the media (Policy that was issued March 21, 2012)
OPA Finding	Sustained
Allegation #7	<u>Seattle Police Department Manual</u> 5.001 (9) Standards and Duties: Employees Shall Strive to be Professional at all Times (Policy that was issued April 1, 2015)
OPA Finding	Sustained
Allegation #8	<u>Seattle Police Department Manual</u> 5.001 (12) Standards and Duties: Employees Shall Not Use Their Position or Authority for Personal Gain (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Inconclusive)
Allegation #9	<u>Seattle Police Department Manual</u> 5.001 (2) Standards & Duties: Employees Must Adhere to Laws, City Policy and Department Policy – TRESPASS (Policy that was issued April 1, 2015)
OPA Finding	Sustained
Allegation #10	<u>Seattle Police Department Manual</u> 5.001 (2) Standards & Duties: Employees Must Adhere to Laws, City Policy and Department Policy -PATRONIZING A PROSTITUTE (Policy that was issued April 1, 2015)
OPA Finding	Sustained
Allegation #11	<u>Seattle Police Department Manual</u> 5.001 (17) Standards and Duties: Employees Must Avoid Conflicts of Interest (Policy that was issued April 1, 2015)
OPA Finding	Sustained
Allegation #12	<u>Seattle Police Department Manual</u> 5.001 (18) Standards and Duties: Employees Must Disclose Conflicts (Policy that was issued April 1, 2015)
OPA Finding	Sustained

Allegation #13	<u>Seattle Police Department Manual</u> 5.001 (12) Standards and Duties: Employees Shall Not Use Their Position or Authority for Personal Gain (Policy that was issued April 1, 2015)
OPA Finding	Allegation Removed
Allegation #14	<u>Seattle Police Department Manual</u> 5.001 (2) Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy - THEFT (Policy that was issued April 1, 2015)
OPA Finding	Sustained
Final Discipline	Had the Named Employee not resigned, his employment would have been terminated.

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (2) Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy – VUCSA (Policy that was issued April 1, 2015)
OPA Finding	Sustained
Allegation #2	<u>Seattle Police Department Manual</u> 5.170 (7) Alcohol and Substance Use: No Employee Shall Use or Possess any Controlled Substance, Except at the Direction of a Medical Authority (Policy that was issued November 21, 2012)
OPA Finding	Sustained
Allegation #3	<u>Seattle Police Department Manual</u> 5.001 (9) Standards and Duties: Employees Shall Strive to be Professional at all Times (Policy that was issued April 1, 2015)
OPA Finding	Sustained
Final Discipline	Termination

INCIDENT SYNOPSIS

SPD received a complaint via a confidential informant that a police officer was in an adult entertainment establishment with his girlfriend, who was a dancer there, and was possibly selling or using drugs at the establishment.

COMPLAINT

Following a criminal investigation into Named Employee #1's actions, Named Employee #1 was alleged have failed to adhere to Laws, City Policy and Department Policy by engaging in criminal misconduct by violating the controlled substance act, patronizing a prostitute, and computer trespass for providing confidential information on criminal victims to the media without authorization. Furthermore, it was alleged Named Employee #1 violated SPD Policy by accessing Criminal Justice Records Systems (CJRS) for unauthorized purposes, not following Washington State Identification System and Criminal History Section (WASIS) and National Crime Information Center Interstate Identification Index (NCIC) policies and providing information from CJRS to a non-authorized person. It was also alleged that Named Employee #1 violated SPD Policy by using and/or possessing controlled substances not prescribed to him by a medical authority; using his position as a SPD officer to gain access to contraband; releasing law enforcement confidential information to the media without authorization; engaging in behavior that undermined public trust in the Department, him and/or other officers; associating with persons engaged in illegal activity that created either an actual conflict of interest or the appearance of one; failing to disclose to his supervisor the existence of such a conflict of interest; using his position as a SPD officer to gain access to and/or use narcotic field test equipment for personal and/or illegal purposes without authorization; and violating the law by taking from SPD for his own personal use one or more narcotic field test kits without permission.

During the same criminal investigation, information was obtained regarding a second employee. Named Employee #2 is alleged to have failed to adhere to Laws, City Policy and Department Policy by engaging in criminal misconduct by violating the controlled substance act and violating SPD Policy by using and/or possessing controlled substances not prescribed to him by a medical authority, and engaging in behavior that undermined public trust in the Department, him and/or other officers.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint memo
2. Search for and review of all relevant records and other evidence
3. Interviews of SPD employees

ANALYSIS AND CONCLUSION

It was alleged that Named Employee #1 possessed and used controlled substances in violation of state and federal laws. These allegations were investigated by the Vice Unit along with Major Crimes Task Force (MCTF) and the Federal Public Corruption Task Force. The investigation revealed that Named Employee #1 was involved in a relationship with a dancer at a strip club.

An undercover operation was initiated and the dancer was arrested for selling heroin and prostitution. During the post arrest interview the dancer stated that she was the live-in girlfriend of Named Employee #1. She provided information that she used cocaine and methylenedioxy-methamphetamine (MDMA) with Named Employee #1, and that she used cocaine with another Seattle Police officer, Named Employee #2. Based on this information Named Employee #1 was interviewed and relieved from duty. During the interview Named Employee #1 admitted to using both cocaine and MDMA in violation of state and federal laws. Named Employee #1 confirmed that Named Employee #2 used cocaine with him on a number of occasions. A search warrant was served on Named Employee #1's apartment and cellphone. During a search of his apartment, detectives located cocaine residue, heroin, MDMA and marijuana. The cocaine residue and MDMA was on a plate and in a night stand next to Named Employee #1's bed. On this same plate, and intermixed with the cocaine, was a membership card belonging to Named Employee #1. Next to this plate was a plastic baggie and a plastic sheet, both of which contained trace amounts of suspected cocaine. This suspected cocaine field tested positive for the presence of cocaine. In a drawer of the same computer desk, MCTF officers located several plastic baggies. One of the baggies contained pills of suspected MDMA. Also located within this drawer were two passports, and a Seattle Police patch, belonging to Named Employee #1. One of the passports was current, the other expired. Additionally, a narcotics field test kit of the type used by SPD was located within the drawer. There were no items identifying the dancer located within the drawer. On top of the residence's refrigerator detectives found a glasses case. Inside the case were two pipes, a baggie containing suspected marijuana, and an SPD patrol business card with the Named Employee's name hand written on it. These substances were tested by the Washington State Patrol (WSP) crime lab and were positive for the presence of heroin, cocaine and MDMA.

In January 2017, Named Employee #1 was charged with Violation of the Uniform Controlled Substances Act, a class C felony, and Computer Trespass in the Second Degree, a gross misdemeanor. In February 2017, Named Employee #1 entered into a plea agreement with the King County Prosecutors office. He pled guilty to a reduced charge of Solicitation to Possess a Controlled Substance and Computer Trespass in the Second Degree. Named Employee #1 was sentenced to 364 days with 334 suspended. He served 30 days in work release and is currently on probation for two years.

Named Employee #1 retired from the Seattle Police Department in March 2017. Following his resignation, he declined to participate in this OPA investigation. Several attempts were made to contact him and the dancer without success. These findings were based on Named Employee #1's own admission, the evidence recovered from his apartment, the criminal investigation, and King County District Court records. While employed as a Seattle Police Department officer, Named Employee #1 engaged in conduct that violated state and federal laws. Named Employee #1 unlawfully possessed cocaine, MDMA and marijuana. Regardless of the negotiated plea deal Named Employee #1 ultimately agreed to, his actions constituted a felony violation of the Uniform Controlled Substances Act.

It was alleged that Named Employee #1 used cocaine, marijuana and MDMA without the direction of a Medical Authority. During the investigation into illegal activities at the strip club information was provided that a Seattle Police officer was using and/or selling drugs at the club. The investigation revealed that Named Employee #1 was living with one of the dancers at the club. She was arrested during an undercover operation for selling heroin to an undercover detective. During her post arrest interview she stated that she was the live-in girlfriend of Named Employee #1. She told detectives that she used cocaine with both Named Employee #1 and Named Employee #2, she said that she also saw Named Employee #1 use MDMA. Named Employee #1 was interviewed and admitted to using cocaine and MDMA. At no time did Named Employee #1 say he had a medical reason for using or possessing these controlled substances. A search warrant was served on Named Employee #1's apartment. During the service of the warrant, detectives recovered heroin, cocaine, MDMA and marijuana from his residence. These substances were tested by the WSP crime lab and were positive for the presence of heroin, cocaine and MDMA.

It was alleged that Named Employee #1 accessed the Criminal Justice Information Systems without a legitimate law enforcement purpose. During the service of a search warrant on Named Employee #1's cell phone, several digital images of victim information displayed on a Mobile Data Computer (MDC) were located. The information pictured on the Named Employee's cell phone was obtained through the CJIS data base. The images of confidential information were transmitted to a local television reporter. The CJIS database may only be accessed for legitimate law enforcement purposes; access for any other purpose is a violation of state law and Department policy. The reporter acknowledged receiving the information from Named Employee #1, claiming it was part of his "due diligence" as a reporter when researching articles for his news agency. While this information may have been helpful for the reporter's stories and to his own benefit and that of his employer, it clearly did not serve any legitimate law enforcement purpose. Named Employee #1 admitted to running names through CJIS to obtain contact information at the request of the reporter. Named Employee #1 knew that this was a violation of Department policy and state law and made no attempt to justify his actions.

In January 2017, Named Employee #1 was charged with Computer Trespass in the Second Degree, a gross misdemeanor. In February 2017, Named Employee #1 entered into a plea agreement with the King County Prosecutors office. He pled guilty to Computer Trespass in the Second Degree. In his plea agreement Named Employee #1 signed a statement that stated, in part, "also during a time intervening between 10/19/15 and 2/11/16, without authorization, I intentionally gained access to a computer system or electronic database of the Seattle Police Department."

It was alleged that Named Employee #1 provided confidential CJIS information to a reporter from the news. Named Employee #1 provided information from a Seattle Police Department database pertaining to contact information for victims of crimes. SPD Policy 12.050(6) relates to the WASIS and NCIC databases that store criminal history information. While it was possible that Named Employee #1 disclosed information relating to criminal histories, there was no corroborating evidence to support a sustained finding.

It was alleged that Named Employee #1 provided CJIS information to a person who was a reporter for a local news station and did not have proper authorization to disclose the information. Detectives served a search warrant on Named Employee #1's cell phone pursuant to the investigation into his illegal drug activity. Several pictures of a MDC containing victim information were located on his phone. This information was found to have been texted to a cell phone number belonging to a reporter at a local television station. The reporter acknowledged receiving the information from Named Employee #1. Named Employee #1 admitted to running names and case numbers for the reporter, then providing him with the information he obtained through CJIS. Named Employee #1 did not have authorization to provide this information to the media.

It was alleged that Named Employee #1 was unprofessional when he lived with and had an intimate sexual relationship with a prostitute who was addicted to heroin, engaged in illegal activities and accessed SPD databases for a reporter outside of the criminal justice system. Seattle Police Department employees, especially sworn members, are expected to conduct themselves in a manner that supports the Department's core values. Whether on- or off-duty, an officer's behavior can reflect either positively or negatively on the Department. The public expects and the Department demands that officers conform to the laws they are sworn to uphold. When an officer engages in activities that are clearly illegal, it undermines public trust and erodes the confidence of the communities served by the Department. Named Employee #1 chose to live with and have an intimate relationship with a person addicted to an illegal controlled substance and actively engaged in prostitution. The employees of a strip club where this person worked knew Named Employee #1 was a Seattle Police Department officer. The employees of the strip club also knew Named Employee #1 was involved in using, purchasing and/or distributing illegal substances. In fact, it was rumored he was selling drugs at the club. Named Employee #1's behavior, as a known representative of the Seattle Police Department, was egregious and unprofessional. It is difficult to overstate the harm done to the reputation of the Department as a result of his behavior.

It was alleged that Named Employee #1 used his position as a Seattle Police Officer to obtain benefits for personal gain when he provided information to a news reporter. While it seemed unlikely a police officer such as Named Employee #1 would violate the law, SPD policy, and the public trust by providing crime victims' confidential personal information without some quid-pro-quo arrangement, the OPA investigation was unable to interview the two people most likely to know of any such arrangement. Named Employee #1 and the reporter would not cooperate in this investigation. As a result, there was insufficient evidence to either prove or disprove the allegation that Named Employee #1 received something in return for the confidential information provided.

It was alleged that Named Employee #1 violated city and state law by engaging in acts of prostitution. During the service of a search warrant on Named Employee #1's cellphone, several texts relating to sexual activities for a fee were discovered. Named Employee #1 had numerous texts to woman he found on a publication well known for advertising sex workers.

Named Employee #1 used an alias when sending these text messages, making arrangements to meet these sex workers at various hotels and discussing the price. In several texts, Named Employee #1 indicated he only has time for a "QV," which is common street slang for a "quicke". In many of the texts, Named Employee #1 referenced previous encounters with the sex workers and, based on their responses, the sex workers appeared to know him. As a condition of the plea agreement entered into by Named Employee #1 when he made his guilty plea, Named Employee #1 agreed to attend and provide proof of completion of a "Stopping Sexual Exploitation" class. Given the context of his text messages, this appeared to be an acknowledgement by Named Employee #1 that he had been patronizing prostitutes.

It was alleged that Named Employee #1 had a conflict of interest when he engaged in behavior contrary to the standards of a Seattle Police Department officer. Specifically, that Named Employee #1 engaged in illegal activities, lived with and had an intimate relationship with someone engaged in illegal activity and frequented an establishment known for allowing illegal activity. Officers are required to avoid situations that may create a conflict of interest. The mere appearance of a conflict of interest can erode the public's confidence in the Department's ability to fairly enforce the laws without bias. Named Employee #1 frequented an establishment that had a reputation of allowing illegal sex acts to occur on premise. He was known to the employees to be a Seattle Police officer; in addition, he was dating a woman who worked as a dancer at the club and was addicted to heroin. This could give the impression that the officer would not be able to perform his duties to uphold the law, as it would lead a reasonable person to believe that Named Employee #1 would tend to allow such behavior to continue unabated. This by itself created an impression of a conflict of interest. The fact that Named Employee #1 was engaged in illegal activities himself created an actual conflict of interest.

Named Employee #1 failed to disclose that he was living with and had an intimate relationship with a person who was engaged in prostitution and drug activity. Furthermore, Named Employee #1 did not disclose that he frequented an establishment that was known for allowing illegal sex acts and drug activity.

Because allegation #13 was the same as allegation #8, it was removed.

It was alleged that Named Employee #1 took a narcotics test kit from the Seattle Police Department for personal use. During the service of a search warrant on Named Employee #1's apartment, detectives found a test kit in Named Employee #1's night stand. It was the same type of test kit issued to officers by the Seattle Police Department to test controlled substances seized during investigations. It was unlikely that the Named Employee purchased a test kit for his own use and there would be no legitimate purpose for a patrol officer to have a test kit at his or her residence. It was more likely that Named Employee #1 took the kit from his workplace in order to test product that he was purchasing for his own consumption. Since Named Employee #1 declined to participate in this investigation, no alternative explanation was available.

It was alleged that Named Employee #2 used cocaine in violation of state and federal law. The Vice Unit along with MCTF and the Federal Public Corruption Task Force investigated a

complaint involving an unidentified Seattle Police Department officer who was involved in using and/or selling drugs. The investigation revealed that Named Employee #1 was involved in a relationship with a dancer at a strip club. An undercover operation was initiated and the dancer was arrested for selling heroin and prostitution. During the post arrest interview of the subject, she stated that she was the live-in girlfriend of Named Employee #1. She provided information that she used cocaine and MDMA with Named Employee #1, and that she used cocaine with another Seattle Police Department officer, Named Employee #2. Based on this information, Named Employee #1 was interviewed and relieved from duty. During his interview, Named Employee #1 admitted to using both cocaine and MDMA in violation of state and federal laws. Named Employee #1 confirmed that Named Employee #2 used cocaine with him on a number of occasions. Named Employee #2 was contacted the following day and relieved of duty. During his interview with OPA, Named Employee #2 admitted that he used cocaine on a number of occasions. Named Employee #2 did not have a valid medical reason for using cocaine, he admitted he used it illegally in violation of state and federal law. Had Named Employee #2 been criminally charged for his actions, he would have been guilty of a felony under state law. Named Employee #2 denied ever using MDMA with Named Employee #1, or at any time with any other person.

The complainant alleged that Named Employee #2 was unprofessional when he engaged in illegal activities with another member of the Seattle Police Department (Named Employee #1). Seattle Police Department employees, especially sworn members, are expected to conduct themselves in a manner that supports the Department's core values. Whether on- or off-duty, an officer's behavior can reflect either positively or negatively on the Department. The public expects and the Department demands that officers conform to the laws they are sworn to uphold. When an officer engages in activities that are clearly illegal, it undermines the public trust and erodes the confidence of the communities served by the Department. Named Employee #2 chose to possess and consume illegal substances, associate with another officer who was engaged in illegal activities, and ignore the obvious conflicts of interests involved. Named Employee #2's behavior was egregious and unprofessional in violation of SPD policy.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that the Named Employee's actions constituted a felony violation of the Uniform Controlled Substances Act. Therefore a **Sustained** finding was issued for *Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy – VUCSA*.

Allegation #2

A preponderance of the evidence showed that the Named Employee unlawfully possessed cocaine, MDMA and marijuana. Therefore a **Sustained** finding was issued for *Alcohol and*

Substance Use: No Employee Shall Use or Possess any Controlled Substance, Except at the Direction of a Medical Authority.

Allegation #3

A preponderance of the evidence showed that the Named Employee ran names through CJIS to obtain contact information at the request of a reporter. Therefore a **Sustained** finding was issued for *Criminal Justice Information Systems: Inquiries Through ACCESS, or Any Other Criminal Justice Record System, Are Only to Be Made for Legitimate Law Enforcement Purposes.*

Allegation #4

There was not a preponderance of the evidence either supporting or refuting the allegation. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Criminal Justice Information Systems: All Employees Shall Adhere to WASIS and NCIC Policies.*

Allegation #5

A preponderance of the evidence showed that the Named Employee provided information obtained through an SPD database to a person who was not a member of the Criminal Justice system. Therefore a **Sustained** finding was issued for *Criminal Justice Information Systems: Employees Shall Not Discuss or Provide Information to Any Person Who Is Not a Member of the Criminal Justice System Without [...].*

Allegation #6

A preponderance of the evidence showed that the Named Employee did not have authorization to provide information to the media. Therefore a **Sustained** finding was issued for *Media Relations: Release of information to the media.*

Allegation #7

A preponderance of the evidence showed that the Named Employee's behavior, as a known representative of the Seattle Police Department, was egregious and unprofessional. Therefore a **Sustained** finding was issued for *Standards and Duties: Employees Shall Strive to be Professional at all Times.*

Allegation #8

There was not a preponderance of the evidence either supporting or refuting the allegation. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Standards and Duties: Employees Shall Not Use Their Position or Authority for Personal Gain.*

Allegation #9

A preponderance of the evidence showed that the Named Employee unlawfully accessed a SPD database for personal reasons. Therefore a **Sustained** finding was issued for *Standards & Duties: Employees Must Adhere to Laws, City Policy and Department Policy – TRESPASS.*

Allegation #10

A preponderance of the evidence showed that the Named Employee sent numerous texts to a woman from a publication known for advertising sex workers, used an alias, discussed money, used common terms for hiring prostitutes, and entered a plea agreement. Therefore a **Sustained** finding was issued for *Standards & Duties: Employees Must Adhere to Laws, City Policy and Department Policy -PATRONIZING A PROSTITUTE.*

Allegation #11

A preponderance of the evidence showed that the Named Employee was engaged in illegal activities, which created a conflict of interest. Therefore a **Sustained** finding was issued for *Standards and Duties: Employees Must Avoid Conflicts of Interest.*

Allegation #12

A preponderance of the evidence showed that there was no record that the Named Employee ever disclosed his conflict of interest to the Seattle Police Department. Therefore **Sustained** finding was issued for *Standards and Duties: Employees Must Disclose Conflicts.*

Allegation #13

This allegation was removed.

Allegation #14

A preponderance of the evidence showed that it was more likely the Named Employee took the kit from his workplace. Therefore **Sustained** finding was issued for *Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy – THEFT.*

Discipline Imposed: Had the Named Employee not resigned, his employment would have been terminated.

Named Employee #2

Allegation #1

A preponderance of the evidence showed that the Named Employee committed a felony violation of state law. Therefore **Sustained** finding was issued for *Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy – VUCSA.*

Allegation #2

A preponderance of the evidence showed that the Named Employee used cocaine illegally in violation of state and federal law. Therefore **Sustained** finding was issued for *Alcohol and Substance Use: No Employee Shall Use or Possess any Controlled Substance, Except at the Direction of a Medical Authority.*

Allegation #3

A preponderance of the evidence showed that the Named Employee's behavior was egregious and unprofessional. Therefore **Sustained** finding was issued for *Standards and Duties: Employees Shall Strive to be Professional at all Times.*

Discipline Imposed: Termination

NOTE: The Seattle Police Department Manual policies cited for the allegation(s) made for this OPA Investigation are policies that were in effect during the time of the incident. The issued date of the policy is listed.