



## CLOSED CASE SUMMARY

ISSUED DATE:      DECEMBER 22, 2017

CASE NUMBER:     2017OPA-0637

### Allegations of Misconduct & Director’s Findings

**Named Employee #1**

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Inconclusive)
# 2	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Sustained

**Imposed Discipline**

**6 days - Suspension without Pay**

***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 reported concerns she had about a relationship with the Named Employee that involved inappropriate texts and unprofessional behavior with her and her new romantic partner.

### STATEMENT OF FACTS:

On June 27, 2017, the Complainant reported that her ex-boyfriend, Named Employee #1 (NE#1) had been harassing her. She detailed that she had dated NE#1 for several years but that they had broken up and she was now dating someone else. Based on communications (texts and emails) from NE#1, the Complainant reported being afraid for her new boyfriend and her children. The Complainant also reported feeling concern that NE#1 might harm himself. The Complainant provided a written statement concerning this matter to the police.

The Complainant was interviewed by a Department Detective and repeated her allegations of harassment. She reiterated that both she and her current boyfriend were afraid of NE#1 based on his ongoing communications. Her specific allegations are described in detail in the Case Summary. During this interview, the Detective asked the Complainant whether any physical abuse had occurred during her relationship with NE#1, but the Complainant refused to answer the question and stated that her focus was on the harassment.

As part of the investigation, the Complainant provided voicemails and a number of texts and emails from NE#1. Many of these communications consisted of NE#1 trying to locate the Complainant and asking her questions about what she was doing and who she was with. NE#1 appeared particularly interested in whether she was with her new boyfriend. In some of the texts, the Complainant described being fearful of NE#1. NE#1 responded that “80% of my texts were bluffs,” to which the Complainant stated: “I did not know that and when someone is armed and love does crazy things. I am scared.” Even after this text, the messages continued for a number of hours, some clearly accusatory and questioning the Complainant’s whereabouts and whether she was “cheating” on NE#1. NE#1 then wrote one last text



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in which he indicated that he was “signing off.” Based on this text, the Complainant was worried that NE#1 would harm himself.

The criminal investigation was referred to the Seattle City Attorney’s Office. After reviewing the case, the SCAO declined to prosecute on the referred cyberstalking charge. In reaching that determination, the SCAO noted that while NE#1’s behavior was “inappropriate,” he did not make any threats and that “the evidence is insufficient to prove beyond a reasonable doubt that [NE#1] intended to harass, intimidate, torment, or embarrass...”

OPA then commenced its investigation. The Complainant refused to participate in an OPA interview. In her last email correspondence with OPA, she indicated that she was seeking counseling with NE#1. OPA did interview NE#1. The substance of NE#1’s OPA interview is described more fully below and in the Case Summary.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

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

While, as explained below, I find that NE#1’s conduct was unprofessional, there is insufficient evidence in the record to conclude that he violated the law. This is the case even though the standard of proof in this administrative investigation is a preponderance of the evidence, below the beyond a reasonable doubt standard applied by the SCAO.

In reaching my finding, I do not make a determination that criminal conduct did not occur. I simply do not have enough evidence to reach a conclusion one way or the other. Accordingly, I recommend that this allegation be Not Sustained – Inconclusive.

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

**Named Employee #1 - Allegation #2**

***5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times***

The fact that I cannot conclude that NE#1 engaged in criminal behavior does not preclude me from determining that his conduct violated the Department’s professionalism policy.

During his interview, NE#1 explained that his intention on the date in question was to verify that the Complainant was physically okay, not to harass her because she was “cheating.” NE#1 acknowledged the large number of texts that he sent, but indicated that the texts were just purposed to get a response from the Complainant. NE#1 stated that he did not mean to be threatening to the Complainant, but told OPA that he later realized that he used the wrong approach and the wrong words.

NE#1 stated that he went to the Complainant’s home twice – once while on duty when he went inside and remained therein for five to 10 minutes and a second time when he claimed to just have walked around the house and looked in the garage. On the occasion that he went into her home, without the Complainant’s permission and consent, NE#1



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admitted that her children were sleeping inside. OPA noted that he sent the Complainant a text where he indicated that he did not go into her home and that his OPA statement was contrary to that text.

NE#1 told the Complainant that he was going to look up her boyfriend's address, and NE#1 confirmed that he did so on his home computer. NE#1 also stated that he later texted the Complainant's boyfriend. In that text, which NE#1 provided to OPA, he informed the new boyfriend that he had been engaged in a sexual relationship with the Complainant up until recently. He further referenced the Complainant's "dishonesty and infidelity." NE#1 also informed two of the Complainant's other friends of her "infidelity."

Based on OPA's review, the text messages do not refer to any concern by NE#1 as to the possible suicidality of the Complainant. Instead, the texts are focused on the Complainant's whereabouts and whether she is with her new boyfriend.

SPD Policy 5.001-POL-9 requires that SPD employees "strive to be professional at all times." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers." (SPD Policy 5.001-POL-9.)

The repeated texts to the Complainant, while not necessarily criminal, were clearly harassing and unwanted. Moreover, the texts sent to the Complainant's boyfriend and her friends were, in OPA's opinion, purposed to embarrass her. Such conduct, some of which occurred while NE#1 was on duty, is well outside of the expectations of the Department. Here, NE#1's behavior was unprofessional and undermined the public's trust in himself and in the Department as a whole. As such, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**