



## **CLOSED CASE SUMMARY**

ISSUED DATE: NOVEMBER 5, 2019

CASE NUMBER: 2019OPA-0309

### **Allegations of Misconduct & Director’s Findings**

**Named Employee #1**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	5.175 - Critical Incident Stress Management Communications 3. Communications Between a Department Employee and CISM are Confidential When the CISM Team Member is Acting in an Official Capacity	Not Sustained (Training Referral)

***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 the Named Employee may have divulged confidential information that she learned while serving in a Peer Support role.

#### **ANALYSIS AND CONCLUSIONS:**

##### **Named Employee #1 - Allegations #1**

##### ***5.175 - Critical Incident Stress Management Communications 3. Communications Between a Department Employee and CISM are Confidential When the CISM Team Member is Acting in an Official Capacity***

On December 31, 2018, there was an officer-involved shooting in the North Precinct. An individual was fatally shot by an officer and passed away at the scene. Multiple units responded to the scene, including Named Employee #1 (NE#1). On that date, NE#1 was on-duty as a patrol officer. NE#1 also volunteered as a member of SPD’s Peer Support Team and served as a SPOG Board Member. As a Peer Support Team member, her role was to provide emotional support to officers involved in traumatic incidents, such as the use of deadly force. As a SPOG Representative, her role was to represent the officers and defend their interests in any subsequent administrative investigation into their conduct.

When she arrived at the scene, NE#1 went over the radio and identified herself as a SPOG Representative. She also informed officers at the scene that she was serving in that capacity. In that role, she gathered information concerning the shooting from a number of sources, including other officers. She then called another officer, who was not at the scene but who also worked at the North Precinct. Her Body Worn Video (BWV) revealed that she relayed a number of the details that she had learned to that other officer. NE#1 then located the officer involved in the shooting and sat in a patrol vehicle with him. NE#1 remained in the patrol vehicle for approximately four minutes. At one point, she stated: “I am not going to ask you questions about the shooting call. But I’m here as Guild or Peer Support or both. Whatever you need.” She did not ask him any questions about the shooting.



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NE#1 got out of the vehicle and performed a number of other tasks. She later reentered the patrol vehicle to again sit with the involved officer. At that point, she terminated her BWV consistent with an order from the Department's Force Investigation Team (FIT) permitting her to do so.

FIT conducted an investigation into this shooting. FIT identified concerns with NE#1 taking on multiple roles at the scene and then her relaying of potentially confidential information to an uninvolved officer. FIT referred this matter back to NE#1's chain of command to be addressed. NE#1's supervisor counseled her and documented that discussion in a PAS entry. This incident was next reviewed by the Department's Force Review Board (FRB). The FRB were also concerned with NE#1's conduct and her mixing of her roles. The FRB believed that the sharing of information by NE#1 to the uninvolved officer could have constituted a violation of SPD Policy 5.175. The FRB made a referral to OPA, and this investigation ensued.

As part of its investigation, OPA reviewed the PAS entry issued to NE#1, which detailed the counseling she received for this incident from her supervisor. OPA further interviewed the supervisor. The supervisor provided an overview of the counseling. She asserted her belief that the counseling was effective. The supervisor also noted that, since the counseling, NE#1 had voluntarily removed herself from her Peer Support and Guild roles.

SPD Policy 5.175(3) states that: "Communications between a Department employee and CISM are confidential when the CISM team member is acting in an official capacity."

At the outset of her response to this incident, NE#1 identified herself as Guild Representative. In that capacity, she spoke with several of the officers at the scene. After engaging in those conversations, she called another officer and relayed what she had learned. She then spoke with the involved officer and, during that conversation, identified herself as both a Guild Representative and Peer Support. As such, she clearly mixed her roles during this incident.

That being said, and based on OPA's review of the video, there is no indication that the involved officer disclosed any facts concerning the shooting to NE#1 or that she divulged any confidential information to anyone else. As such, NE#1 did not violate the express terms of this policy.

However, NE#1's conflation of her roles was problematic as the Guild and Peer Support play purposefully distinct functions in the context of an officer-involved shooting. While there is no policy that prevents an employee from working with both Peer Support and the Guild, the clear expectation is that employees will not do so at the same time. While this does not necessarily violate Department policy, it warrants retraining and counseling. As such, OPA issues the below Training Referral.

- **Training Referral:** NE#1's chain of command appears to have already thoughtfully and thoroughly addressed this matter. Moreover, any further retraining seems to have been obviated by NE#1's withdrawal from both her Peer Support and Guild roles. Whether or not to conduct any additional training or counseling is, thus, within the discretion of NE#1's chain of command. To the extent any such retraining or counseling occurs, it should be documented and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**