

Dear Members of the Seattle Ethics and Elections Commission:

I write to appeal the Executive Director’s dismissal of my SEEC complaint. The Director’s decision lacks any rational basis because he dismissed my complaint just over 24 hours after I filed it, without doing any preliminary investigation whatsoever. I encourage members of the Commission to review my complaint before making any decision, as it includes over 40 exhibits including video evidence.

My complaint relates the investigation by Seattle’s Office of Police Accountability (OPA) into former SPD Officer Daniel Auderer. Specifically, it concerns evidence that the OPA Director, Gino Betts, spent over \$10,000 in city money on a public relations campaign that was intended to build his personal “brand” and tarnish the public reputation of Officer Auderer, who was at that time a political opponent. It is true that Officer Auderer made offensive remarks, and is not a popular individual. I also have seen news reports that litigation has been threatened in connection with that termination. But none of this affects the SEEC’s Director’s duties and responsibilities, nor does it affect Gino Betts’ obligations under the Ethics Code.

I. Unlawful Expenditures

My complaint explains at length how OPA Director Gino Betts spent at least \$5500—possibly over \$10,000—on media training to improve his personal brand. The Director dismissed my complaint because: “[i]t is common for people in positions that regularly deal with the media to receive training in how to do so effectively” and “[t]his office has never pursued an allegation that spending money on training is a violation of the Ethics Code.”

The Director’s reasoning is a non-sequitur. The SEEC’s own advisory opinions—make it clear that even city officers who have public-facing positions (such as elected officials) do not have *carte blanche* to spend taxpayer money on efforts to advance their own careers and/or

political agendas. Specifically, the SEEC has explained that if an elected city official deletes comments critical of the official from an official city social media page or website, that is a misuse of city resources because:

If the official deletes critical comments and leaves up supporting comments, then the site loses its value to the public. **It becomes a site for making the official look good, which is of value to his or her campaign, but is not of value to the public.**

Op. Seattle Ethics & Elect. Comm'n 11-02E at 4 (2011) ("Social Media Opinion"). Thus, if a city official—even an elected official who must deal with media—spends public money to “mak[e] the official look good,” that spending serves no public purpose.

A video of the training in question was included with my complaint, which I encourage members of the Commission to review. In the training, a consultant developed “talking points” and explained to Mr. Betts that he should *not* provide detailed information to the public, but should provide journalists with “great quotes” and a “strong sound byte.” Files relating to this training were saved in a subfolder about Mr. Betts’ “branding.”

Moreover, the evidence provided with my complaint also showed that the Betts spent this money not just on general media training, but on training for a media campaign targeting one particular city employee—then-SPD Officer Daniel Auderer. At the time, Auderer was the Vice President of the Seattle Police Officer’s Guild, and therefore one of the OPA Director’s most significant political opponents. If Betts spent thousands of dollars in city money to target a political opponent, that is clearly not a city purpose.

Finally, the Director’s claim that “[t]his office has never pursued an allegation that spending money on training is a violation of the Ethics Code” should be afforded no weight. What if a department head spent \$50,000 in city money on leadership training for himself at a resort in

Hawaii? Obviously, the SEEC has made clear, the question of misuse of city resources is both a question of *kind* and of the *amount* expended.¹ Here, the Director has no idea exactly how much Betts spent on media training, nor does he know what purpose this training purportedly served, because no preliminary investigation whatsoever was done. Until that minimum level of work has been done, the Director’s decision lacks a rational basis.

II. Release of Confidential Information

The exhibits and argument in my complaint also establish by a preponderance of the evidence that Betts released a non-public document—a director’s certification memo, also known as a DCM—to a journalist at the Seattle Times. The Director rejected this complaint because “[t]his office has never pursued an allegation that someone has improperly released public information to the media to the media in advance of its release to the public” and “I don’t believe this is a case that merits the Commission’s expenditure of time and energy.”

The Director’s response simply assumes the conclusion: that the information released was “public information.” As my complaint explains, the DCM was (as a matter of law) *not* public information when Betts released it. The DCM *could* have *eventually* been disclosed through the public records process, but as a matter of fact *was not* and *could not* have not been disclosed that way at the time it was actually released to the Times. And under the City’s contract with SPOG, which was passed by the city council and thus has the force of law, release of identifiable information about an SPD officer is only permitted “if the information is requested pursuant to a

¹ Compare <https://www.seattle.gov/ethics/ethics/frequently-asked-questions#resourcesuseof> at Question 1 (“City telephones or email may be used for calls to meet the demands of daily living. Personal use should be limited and occasional, and should not cost the City money or interfere with City work.”) with Question 6 (“Employees cannot use City tools, equipment, or supplies, *except for phones and computers within the above limits*, for personal purposes. Use of other tools or equipment costs the City in wear and tear. If the equipment is not available to the public on the same terms, employees cannot use it.”).

specific public disclosure request and **shall only be released as part of the response to that request.**” No such process was followed here, and the Director’s erroneous interpretation of the law means his decision lacks a rational basis.

Moreover, if the Director’s reading of what constitutes “public information” is allowed to stand, the potential for abuse by city officials is endless. The city does not even need to respond to a public records request for five days, and it takes the city weeks or months to fulfill even the most basic public records requests. If city officials and employees are allowed to selectively release information to favored individuals before it is made available through the formal public records process, abuse will be nonstop. City officials could allow political allies, potential employers, and business partners to circumvent the public records process, while political enemies and the public must wait for months to obtain the same information. And in fact, that is exactly what seems to have happened here: Mr. Betts selectively released information to a favored reporter, whom he knew would write a story he found agreeable, while others were denied access.

III. Conclusion

As Aristotle famously said, “it is of great moment that well-drawn laws should themselves define all the points they possibly can and leave as few as may be to the decision of the judges.” In other words, written law—like the Ethics Code—ought to constrain individual discretion.

Perhaps, upon an investigation (even a preliminary one), Mr. Betts will be able to explain the city purpose served by the expenditures identified in my complaint, or the total expenditure will turn out to be a *de minimis* amount. Perhaps there will not be adequate evidence to prove that Betts leaked the DCM. But as things stand now, the Director’s dismissal of my complaint is not based on any preliminary investigation, addresses none of those issues, and is not consistent with the text of the Ethics Code or past Advisory Opinions. It therefore lacks any rational basis.

I encourage all of you to read my complaint for yourselves and review the attached exhibits, including the video (which I have provided to the Director). Read the legal reasoning I have offered for my opinions and compare it to the Director's reasons for dismissing my case. Upon doing so, I hope that you'll reverse the dismissal of my SEEC complaint—not out of sympathy for Officer Auderer, or antipathy toward Mr. Betts, but because it is what the law requires.