



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 21, 2018

CASE NUMBER: 2018OPA-0296

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	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 failed to attend a scheduled OPA interview.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer

Named Employee #1 (NE#1) was a named employee in a prior OPA investigation (2018OPA-0119). The assigned OPA investigator sent NE#1 an email on March 9, 2018 and scheduled him for an interview in that case. The interview was set for April 4, 2018 at 10:30 a.m. The emailed interview notification informed NE#1 that he was being ordered to appear for his interview (“By authority of the Chief of Police, you are hereby ordered to appear for an in-person interview”). The interview notice also informed NE#1 that he was “to appear for the interview at the time, date and location indicated above” and further directed him as follows: “Upon receipt of this notice, please e-mail or telephone me to confirm your attendance at this interview.” Lastly, the interview notice stated the following: “Failure to appear for a scheduled interview can result in discipline. If you have a family emergency or are ill, you must contact the investigator immediately and reschedule the interview.”

NE#1 did not respond to OPA’s email as required. Just over 24 hours before the interview, OPA received an email from a representative of the Seattle Police Officers’ Guild (SPOG). The SPOG representative wrote the following: “I was just alerted that [NE#1] has been injured and is out on sick currently. SPOG is requesting that this interview be rescheduled once [NE#1] has returned to duty.” The assigned OPA investigator responded to the SPOG representative that he would reschedule the interview.

The following day, April 4, 2018, the assigned OPA investigator observed NE#1 working at the motor pool located in the parking garage attached to SPD Headquarters. OPA contacted SPD HR and the HR Lieutenant confirmed that NE#1 was working light duty at the motor pool and had been doing so since Monday, April 2, 2018. Based on this information, OPA initiated this new investigation against NE#1.



The assigned OPA investigator spoke to the SPOG representative again. She stated that NE#1 called one of the SPOG board members and informed him that he was injured. The board member informed the SPOG representative of this on April 2 and the SPOG representative sent the request to reschedule on April 3, 2018. SPOG further informed OPA that their attorney was scheduled to attend the April 4 interview but also cancelled based on the information provided by NE#1.

As part of its investigation, OPA interviewed NE#1. NE#1 acknowledged that he did not comply with the direction in the email to confirm his interview. He stated that he suffered an injury to his back and that he called his Guild representative to inform him of this. He denied that he intentionally failed to attend his OPA interview. He stated that he did not attend the interview because he received an email indicating that it was cancelled. He further told OPA that he had a medical appointment on the morning of the scheduled interview; however, OPA later learned that he set up this appointment late the previous afternoon.

SPD Policy 5.001-POL-15 requires that Department employees obey any lawful order issued by a superior officer. The interview notice provided to NE#1 constituted such a lawful order and, as such, NE#1 was required to comply with its terms.

Had OPA been aware that NE#1 was working light duty, his interview would not have been cancelled. Notably, NE#1 provided no information to OPA regarding his availability for his interview, his current health status, or his work assignment. While OPA cannot prove that he provided this limited information in order to purposefully cause his interview to be cancelled, OPA certainly has questions in this regard based on his failure to provide any response to its emailed interview notification and his last-minute scheduling of a medical appointment for the date of the interview.

Ultimately, whether or not the information NE#1 provided was complete or forthcoming, the cancellation of NE#1's interview was agreed upon by OPA. As such, NE#1 cannot be discipline for failing to attend an interview that was no longer scheduled. That being said, NE#1's clear failure to comply with several of the orders set forth in OPA's email notification was unacceptable and warrants a Training Referral. NE#1 should be on notice that if this occurs again, OPA will recommend a Sustained finding.

- **Training Referral:** NE#1's chain of command should counsel him concerning this case. Specifically, his chain of command should remind him of the requirement that he respond to the explicit requests for information set forth in OPA's emailed interview notifications. It should be explained to NE#1 that these are orders with which he is required to comply. Lastly, NE#1's chain of command should inform him that future failures to do so will likely result in a recommended Sustained finding. This counseling should be documented and this documentation should be maintained in an appropriate database.

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