



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 17, 2018

CASE NUMBER: 2018OPA-0625

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)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Allegation Removed

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 alleged that the Named Employees failed to report for a mandatory work assignment on July 4, 2018, as mandated by a Special Order.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

SPD Policy 5.001-POL-15 requires that Department employees obey any lawful order issued by a superior officer. The failure to do so constitutes insubordination.

Special Order SO 18-029a was transmitted to SPD personnel on June 28, 2018. It contained a list of officers who were scheduled for mandatory assignment on July 4, 2018. Named Employee #1 (NE#1) was included on the list of officers assigned to work that day, but he never showed up for his assigned shift.

During NE#1’s interview with OPA, he stated that the first time he learned of his failure to show up for his assigned July 4, 2018 shift was when he received the notice of this complaint from OPA. NE#1 acknowledged that he never read the Special Orders email in question and claimed that he “obviously missed it” because he receives a high volume of emails every day. NE#1 also stated that he had never failed to show up for any assignments before, but that this one “slipped past” him. NE#1 noted that he has not been assigned to work a July 4th event for the past ten years, and added that he was “irritated” when he received the OPA complaint because he “could have used the overtime.” NE#1 stated that in the past when he was scheduled to work an assignment like this he would receive a



call from a sergeant reminding him of the assignment. He asserted that he did not receive such a call here. NE#1 ultimately recognized, however, that it was his responsibility to read his emails and to have appeared for the July 4th shift.

While OPA concludes that NE#1 violated policy in this instance, OPA credits NE#1's assertion that he did not do so knowingly and intentionally. Instead, OPA finds that NE#1 made a mistake that is better corrected by retraining than a Sustained finding. As such, OPA issues NE#1 the following Training Referral.

- **Training Referral:** NE#1 should receive additional training concerning SPD Policy 5.001-POL-15 and, specifically, concerning how the policy pertains to the Special Order issued in this case. NE#1 should also receive additional training on his responsibilities under SPD 12.110-POL-6, which concerns the use of Department email. Since this issue would have been completely avoided had NE#1 paid appropriate attention to his emails, his training should focus on how to better manage his daily email inbox. Lastly, NE#1's chain of command should counsel him concerning this matter and ensure that he complies with these policies and similar Special Orders moving forward. This retraining and associated counseling should be documented and that documentation should be maintained in an appropriate database.

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

Named Employee #2 - Allegation #1

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

Named Employee #2 (NE#2) was also included on the list of officers scheduled for a mandatory July 4th assignment; however, he did not attend work on that day.

OPA interviewed NE#2 and he provided documentation that confirmed that he was on approved military leave on the day in question. NE#2 did not have access to SPD email and was unaware of the fact that his name was included on the list of officers who were assigned for a mandatory work assignment on that day. As such, NE#2 did not violate SPD Policy 5.001-POL-15 or any other Department policies during this incident. In fact, NE#2 took the appropriate steps to notify supervisor and to obtain internal approval for his military leave. The reason NE#2's name was included on the list of assigned officers that day had nothing to do with his actions, but was more than likely an internal leave of absence tracking and electronic database communication issue.

For these reasons, and as NE#2 would never have been investigated for this incident but for a database error, I recommend that this allegation be removed as against him.

Recommended Finding: **Allegation Removed**