



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 27, 2019

CASE NUMBER: 2018OPA-0907

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 appear for a scheduled OPA interview.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #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 is treated as insubordination and is a serious violation of policy. (See SPD Policy 5.001-POL-15.)

Named Employee #1 (NE#1) returned to duty on September 7, 2018, after being out on extended leave. On that date, OPA determined that NE#1 was working on September 13, 2018, and the assigned investigator sent NE#1 a Sworn Employee In-Person Interview Notification scheduling him to appear for an OPA interview for this day This notification was issued under the authority of the Chief of Police and was a direct lawful order requiring NE#1 to appear for the interview.

NE#1 did not appear for his OPA interview. His Guild representative did appear and was unaware as to why NE#1 was not present. NE#1 did not notify OPA of a scheduling conflict or of any other reason why he could not attend the interview.

OPA interviewed NE#1 in connection with this complaint. NE#1 told OPA that when he returned to work on September 7, he did so after being out on leave for approximately 15 months. He stated that he had several thousand emails in his inbox and, while he believed that he would have opened the email from OPA, the contents did not register with him. He indicated that he had Body Worn Video training that same day and, had he recognized the contents of the email from OPA, he would have contacted the assigned investigator to reschedule his interview. He told OPA that he did not intentionally miss his interview and that he made a mistake. He further stated that he had never previously failed to show for an interview.



When NE#1 did not appear at his OPA interview, he acted contrary to a direct lawful order from a superior officer and, by doing so, violated this policy. However, given that this is NE#1's first time failing to attend an OPA interview and given that I believe, based on NE#1's explanation, that this was a mistake, that he regrets this error, and that he will not miss an OPA interview in the future, I do not recommend that he receive a Sustained finding. Instead, I recommend that he receive the below Training Referral.

- **Training Referral:** NE#1 should receive counseling from his chain of command regarding his failure to attend his OPA interview in this case. NE#1 should be reminded that it is his responsibility to read the Interview Notification and to manage his calendar to ensure that he attends interviews on the dates he is ordered to appear. NE#1 should be informed that future unauthorized failures to attend a scheduled OPA interview will likely result in a Sustained finding. This counseling should be documented, and this documentation should be maintained in an appropriate database.

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