



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 21, 2019

CASE NUMBER: 2018OPA-0983

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Inconclusive)
# 2	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Inconclusive)
# 3	5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication	Not Sustained (Inconclusive)
# 4	4.010 - Employee Time Off 1. Employee Time Off is Regulated	Not Sustained (Inconclusive)

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 sought compensation for time that he did not work in violation of a number of Department policies. It was further alleged that the Named Employee may have behaved in an unprofessional manner towards a Department supervisor.

SUMMARY OF INVESTIGATION:

A Sergeant in the Training Unit (referred to here as SGT#1) reported that, during a debrief of a training, she told Named Employee #1 (NE#1) that he was going to need to work as the lead officer during more training sessions. She reported that NE#1 slid forward in his chair and responded aggressively to her statement. SGT#1 reiterated to NE#1 that he needed to “assist” more. She recounted that NE#1 explained that he had other duties and SGT#1 told him that everyone else in the unit did as well. NE#1 told SGT#1 to speak to his direct supervisor (referred to here as SGT#2). SGT#1 stated that she would.

SGT#1 reported that, after the debrief was finished, multiple officers spoke with her and said that she was accurate that NE#1 did not always assist the unit when large phases of training were ongoing and that he always managed to get out of work. SGT#1 stated that the officers always told her that NE#1 was “never at work.”

SGT#1 stated that, the next day, several officers spoke with her and again told her that NE#1 was rarely at work. She later raised this matter with her Lieutenant. The Lieutenant indicated that he would speak with the Acting Captain for the unit. The Lieutenant later informed SGT#1 that the Acting Captain ordered that the allegations against NE#1 be documented and referred to OPA.



SGT#1 had one further meeting with officers from the unit. She learned from one officer that SGT#2 had been informed of attendance issues on the part of NE#1 and that SGT#2 had subsequently addressed attendance at a squad meeting.

The Acting Captain reported that, after determining that an OPA referral was required, she spoke with NE#1. He contended that SGT#1 raised concerns about his attendance to retaliate against him for his behavior during the training debrief meeting. She further stated that she spoke with SGT#2, who indicated that he had addressed previous attendance issues with NE#1. She also indicated that SGT#2 told her that he had given NE#1 permission to take some time off.

OPA's investigation was comprised of two main parts: reviewing documents and records relating to NE#1's timekeeping and time usage; and conducting interviews of NE#1 and the witness employees.

The documents and timekeeping records did not yield any direct evidence of time theft. However, these materials were of limited evidentiary value. For example, while NE#1's entries on the staffing sheet matched his electronic timesheets, OPA had insufficient information concerning what specific time periods were problematic and was unable to explore this fully. OPA also reviewed the records concerning NE#1's proxy card. However, this evidence was also largely unhelpful as entry into NE#1's unit did not require proxy card usage.

The interviews conducted by OPA also did not provide conclusive evidence of time theft. These interviews are discussed in significant detail in the Case Summary.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy. If it could be proven that NE#1 incorrectly used and documented his time, this would constitute a violation of multiple City and Department policies, as well as potentially constitute criminal behavior.

However, the available evidence is ultimately insufficient to establish that this conduct occurred. As discussed above, a review of NE#1's timesheets, the unit's staffing sheets, and his proxy card records did not indicate any misconduct on his part. SGT#2, who is NE#1's direct supervisor, denied knowledge of any improper timesheet submittal or improper use of overtime on NE#1's part. SGT#1 also could not provide conclusive evidence that NE#1 stole time. She told OPA that she believed the concern on the part of officers in the unit was that they did not know what NE#1's schedule was and where he was on a daily basis. As such, SGT#1 opined that this informed the belief within the unit that NE#1 may be engaging in time theft. The other unit officers interviewed by OPA characterized their complaint concerning NE#1 as one of inequities in workloads and work distribution in the unit – not time theft by NE#1. Lastly, NE#1 denied engaging in this misconduct.

Ultimately, based on the evidence amassed by OPA, there is insufficient evidence to establish that NE#1 engaged in time theft and, thus, that he violated this policy or the Department's specific policies on professionalism, honesty, and employee time management. As such, I recommend that this allegation be Not Sustained – Inconclusive.



Recommended Finding: **Not Sustained (Inconclusive)**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

This allegation was classified based on the negative interaction between NE#1 and SGT#1 during the unit debrief. Specifically, it was alleged that NE#1 violated the Department's professionalism policy when he said to SGT#1: "what did you just say to me?" SGT#1 characterized NE#1's statement and he demeanor when he said it to be aggressive. While SGT#1 recognized that NE#1's reaction may have been based on her confronting him, SGT#1 believed that his conduct was potentially unprofessional under the circumstances. However, she felt that it was a close decision.

NE#1 denied that he was unprofessional towards SGT#1. He stated that, while the conversation was heated, he would never disrespect one of his supervisors. While also acknowledging that the interaction was heated, the witness officers, including SGT#2, similarly asserted that they did not believe that NE#1 was unprofessional.

Without knowing exactly how NE#1 expressed himself and what his physical movements were at the time, OPA cannot determine whether he was unprofessional. If the interaction occurred as SGT#1 described, NE#1's conduct could have been construed as disrespectful and inappropriate. As such, it would have violated policy. That being said, virtually all of the other individuals in the meeting did not believe that NE#1's actions were inconsistent with policy. However, as OPA cannot make a conclusive determination concerning this issue, I recommend that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**

Named Employee #1 - Allegation #3

5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**

Named Employee #1 - Allegations #4

4.010 - Employee Time Off 1. Employee Time Off is Regulated

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**