



## **CLOSED CASE SUMMARY**

ISSUED DATE:      AUGUST 1, 2019

CASE NUMBER:     2019OPA-0045

### **Allegations of Misconduct & Director’s Findings**

**Named Employee #1**

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication	Sustained

**Imposed Discipline**

<b>Resigned Prior to Proposed Discipline – Termination</b>
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***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 was dishonest during his OPA interview during the investigation of 2018OPA-1006, as well as that he sent intentionally misleading and inaccurate communications to OPA concerning that case.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 - Allegations #1**

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

This matter arises from a related OPA case in which Named Employee #1 (NE#1) was alleged to have anonymously sent an envelope to an officer that contained an insulting message. The officer alleged that this was part of an ongoing pattern of harassment of him by NE#1.

#### **A. OPA’s Investigation**

As part of its investigation, OPA had the envelope in question subjected to a fingerprint analysis. OPA was informed by the Latent Print Unit (LPU) that fingerprints were identified that belonged to NE#1. The LPU stated that the prints were found on the underside of the tape that had been used on the envelope. Given this discovery, OPA identified NE#1 as the named employee in this case and sent him the requisite contractual notices. In response to one of those notices, NE#1 sent an email to the assigned OPA investigator. In that email, NE#1 referred to the prior complaint that was made against him by the Complainant. He asserted that the complaint had already been resolved by his former chain of command. NE#1 further wrote the following: “The allegation that I sent [the officer] a letter suggesting he apply to TRU is frivolous and illogical. I have nothing to gain by him working at TRU or leaving APRS. I would like to request an expedited review.”

NE#1 was sent an interview notice by OPA on December 21, 2018, at approximately 09:52 hours. NE#1 called OPA at approximately 12:48 hours that same day concerning his scheduled interview. Approximately 30 minutes later, at 13:15 hours, the LPU received a call on its main line from a phone number with a Seattle area code. The male caller,



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who did not identify himself, asked the following: “Hey, for OPA investigations do you guys do a latent print evaluation?” The employee who answered the phone stated in response: “Yes, in certain occasions.” The caller then hung up the phone without saying anything else. The employee did not think anything of the call at the time, but then remembered the open OPA investigation into the envelope and reported the conversation to his supervisor who notified OPA. OPA contacted Seattle IT to obtain records of the incoming calls received by the LPU during the timeframe identified. OPA was provided with the records and determined that, at approximately 13:04 hours, the LPU main line received a call from a Seattle cell phone number that lasted 54 seconds.

## **B. NE#1’s OPA Interview**

OPA then interviewed NE#1 in the context of this prior investigation. NE#1 stated that he worked in the Audit, Policy, and Research Section (APRS) with the officer for around five and a half years. NE#1 indicated that he was assigned to the policy team and the officer was assigned to the audit team. NE#1 and the officer were peers in that unit for two years, but NE#1 was later promoted to Sergeant and began supervising the policy team. He stayed in that role for his remaining three and a half years in the unit. The officer did not become his direct report at that time, but NE#1 occasionally had supervisory responsibility over the officer. NE#1 said that his relationship with the officer was “cordial” when they were peers.

When asked whether he sent the anonymous envelope to the Complainant, NE#1 denied doing so. He further stated that he had never seen the envelope in question. NE#1 was then asked by OPA how his latent prints got on an envelope that he did not send and never saw. NE#1 told OPA that his prints were all over the APRS office. OPA then told NE#1 that his prints were found on the tape used on the envelope. NE#1 stated that he shared an office with the Complainant for two years and that the Complainant was “always doing things like messing with, moving stuff around and messing desks.” NE#1 further stated concerning the Complainant: “If he has tape that my fingerprints are on, that totally doesn’t surprise me.” OPA began to ask a follow-up question of NE#1, but NE#1’s Guild representative requested a break.

NE#1 was also asked about the email he sent stating that the officer’s allegations against him were frivolous. He asserted that his intent in writing that email was to explain his belief that he thought this OPA investigation was duplicative to the prior Frontline Investigation.

NE#1 was further asked whether he called the LPU to ask about this case. NE#1 stated that he did not. He was then questioned about the phone number that called the LPU at 13:04 hours on December 21 and which was associated with the questions from a male caller concerning the LPU’s conducting fingerprint analysis for OPA investigations. NE#1 acknowledged that this was his personal cell phone number. When asked why there was a call from his personal cell phone to the LPU, NE#1 stated: “I don’t know. Honestly, I don’t recall.” When pressed on this issue, he told OPA that he had no explanation why he made a call to the LPU from his personal cell phone. NE#1 confirmed that he had both a desk phone and a work-issued cell phone at the time.

## **C. Analysis**

After NE#1’s OPA interview in 2018OPA-1006 concluded, OPA sent him a contractual notice for a new investigation that was opened to evaluate his potential dishonesty. NE#1 was also sent a notice scheduling his interview, but the



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interview date was postponed by NE#1's Guild representative on February 19, 2019. On March 8, 2019, OPA was informed by SPD Human Resources that NE#1 had resigned from the Department. NE#1 did not appear for an interview concerning the dishonesty allegation prior to his resignation.

After his resignation, OPA contacted NE#1 multiple times to reschedule his interview. He ultimately indicated that he would not sit for an interview, writing the following to OPA: "I remain unavailable for an interview. I will simply decline to participate."

However, after evaluating the totality of the record, including NE#1's interview from the prior case, OPA does not believe that a re-interview of NE#1 was actually necessary to establish dishonesty on his behalf. This is due to the fact that all the evidence that is needed to conclusively prove that NE#1 was dishonest by the requisite legal standard is already in the file. Indeed, the evidence establishing NE#1's dishonesty was available to OPA when NE#1 began his initial interview. At that time, NE#1 had a choice, he could admit that he engaged in the misconduct alleged and accept the consequences for those actions or deny the allegations. He chose the latter approach and, at the instant he did so, OPA was able to conclusively determine that NE#1 was dishonest in three main respects.

First, his email to OPA concerning his lack of involvement in this matter was deliberately misleading. Most notably, his denial that he sent the anonymous mailing to the officer and his contention that this allegation was "frivolous and illogical" was knowingly false at the time it was made. Indeed, NE#1's fingerprints were found on the envelope and established that he did, in fact, create it and send it to the officer. NE#1 told OPA that he was referring in the email to his belief that the new OPA investigation was duplicative of a prior Frontline Investigation conducted by the chain of command; however, this argument is not supported by the plain language of the email and, moreover, is inaccurate.

Second, at his OPA interview, NE#1 denied sending the envelope and said that he never saw it. This was again conclusively disproved by the fact that his fingerprints were found on the tape. This established that NE#1 knew that his statement was false at the time it was made to OPA. Moreover, NE#1's assertion that this evidence was planted by the officer is simply nonsensical and inconsistent with the forensic evidence in this case.

Third, when he was initially asked whether he called the LPU about this matter, NE#1 said that he did not. However, when confronted with the evidence that his personal cell phone number was used to call the LPU on the same date that he received his interview notice and admittedly called OPA, NE#1 had no rational explanation for why this was the case. As such, OPA finds that NE#1 deliberately attempted to deceive OPA when he initially stated that he did not call the LPU.

For the above reasons, I find that NE#1 was intentionally and materially dishonest during his OPA interview and in his communications with OPA. This dishonesty was purposed to undercut and mislead OPA's investigation, even if it was ultimately unsuccessful in this regard. Moreover, I find it significant that NE#1 was offered the opportunity to be interviewed concerning this matter and his alleged dishonesty on multiple occasions and that he chose to decline to do so. In OPA's opinion, this further supports the findings set forth herein. For these reasons, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**