



## **CLOSED CASE SUMMARY**

ISSUED DATE: MARCH 1, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0421

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

**Named Employee #1**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	5.170 – Alcohol and Substance Abuse, 7a. Employees Shall not Use Marijuana, Medical or Otherwise, On- or Off-Duty	Sustained
# 2	5.001 Standards and Duties POL 10 Employees Shall Strive to be Professional	Allegation Removed
# 3	5.001 Standards and Duties POL 2 Employees Must Adhere to Laws, City Policy and Department Policy	Sustained

**Imposed Discipline**

Written Reprimand

***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:**

Named Employee #1 (NE#1) self-reported his use of Tetrahydrocannabinol (THC), which is against SPD Policy.

**SUMMARY OF INVESTIGATION:**

NE#1 holds a commercial driver’s license (CDL) which requires him to submit to random drug testing. NE#1 self-reported his use of THC after having tested positive during a random drug test. NE#1 admitted that recently, while off-duty, he had consumed THC.

As part of its investigation, OPA interviewed NE#1. NE#1 stated that his consumption of THC was done to help him cope with personal stress which was occurring at home. NE#1 stated that he ingested THC liquid by vaping it, consuming 1-2 puffs per night. NE#1 also stated that his use of THC varied depending on the level of stress he felt and, that over a particularly stressful one-month period, he used THC at home on a nightly basis. NE#1 stated that he was aware that it is against City of Seattle policy and immediately reported it upon learning of the positive test. NE#1’s job description stated that a desired—but not required—qualification was a valid Washington State CDL. NE#1 stated that he contacted his medical practitioner to assist in dealing with his stress but did not want to take prescribed medications. NE#1 is also in the process of using peer support, his pastor, and attempting to learn how to cope with life stresses in a healthier manner.

As part of its investigation, OPA interviewed the Assistant Director of the fleet department, Witness #1 (W#1). W#1 explained that employees who test positive for a substance go through a rehabilitation program and are regularly drug tested. Following which, if the employee fails a further test, they lose their CDL. W#1 further explained that if



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employees complete the program, they maintain their CDL and employment with the city during which they are on probation for one year. OPA also interviewed the HR manager of the CDL program, Witness #2 (W#2). W#2 stated that upon being notified that a CDL holder tested positive, the CDL holder has a Loudermill hearing. If the employee is not terminated, they usually are required to take part in a Substance Abuse and Alcohol Program (SAP). That can include outpatient treatment or classes and regular drug testing. If the CDL holder completes the program, they are able to return to work.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

**5.170 Alcohol and Substance Abuse, 7a. Employees Shall not Use Marijuana, Medical or Otherwise, On- or Off-Duty**

The Complainant alleged that NE#1 used marijuana in violation of SPD policy.

SPD Policy 5.170-POL-7 prohibits department employees from using or possessing any controlled substances, except at the direction of a medical authority. This includes the use of marijuana, medical or otherwise, regardless of whether the use is on- or off-duty.

The facts of this complaint are not in dispute. NE#1 self-reported his use of THC. In a similarly candid manner, when interviewed NE#1 was frank and open in explaining his reasons for and use of THC. NE#1 indicated that the use of THC was as a coping mechanism. OPA is sympathetic to the undue stress that NE#1 described experiencing. OPA is also encouraged to hear that NE#1 has sought assistance through various supporting agencies to assist him in coping with the stresses and anxiety that he described. However, the policy on the use of or possessing any controlled substances is clear.

Accordingly, it is recommended that this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #1 - Allegation #2**

**5.001 Standards and Duties POL 10 Employees Shall Strive to be Professional**

It was alleged that NE#1 violated SPD's professionalism policy.

SPD Policy 5.001-POL-10 requires that SPD employees "strive to be professional." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers" whether on or off duty. (SPD Policy 5.001-POL-10.)

SPD is a law enforcement agency whose employees are expected to follow federal, state, and local laws. Possessing and using narcotics while employed by SPD would constitute unprofessional behavior that undermines public trust in both NE#1 and the department. However, given the manner in which this complaint came to light, *i.e.* the self-reporting, candor before OPA, and NE#1's engagement with the appropriate welfare services, I find this allegation to be duplicative of allegations #1 and #3. As such, OPA recommends that this allegation be removed.

Recommended Finding: **Allegation Removed**



**Named Employee #1 - Allegation #3**

**5.001 Standards and Duties POL 2 Employees Must Adhere to Laws, City Policy and Department Policy**

It was alleged that NE#1 failed to adhere to law and policy.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

For the reasons stated above in allegations #1 and #2, OPA recommends that this allegation be Sustained

Recommended Finding: **Sustained**