



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-1097

Issued Date: 07/25/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 4.010 (1) Employee Time Off: Employee Time Off is Regulated (Policy that was issued September 18, 2013)
OPA Finding	Sustained
Allegation #2	<u>Seattle Police Department Manual</u> 4.010 (2) Employee Time Off: Employees Schedule Time Off With Their Sergeant/Supervisor (Policy that was issued September 18, 2013)
OPA Finding	Allegation Removed
Allegation #3	<u>Seattle Police Department Manual</u> 5.100 (A. 4.) Operations Bureau Individual Responsibilities: Responsibilities: Update MDT/CAD log to include: (Policy that was issued July 20, 2010)
OPA Finding	Allegation Removed
Allegation #4	<u>Seattle Police Department Manual</u> 5.001 (2) Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy (Policy that was issued April 1, 2015)
OPA Finding	Sustained
Allegation #5	<u>Seattle Police Department Manual</u> 5.001 (10) Standards and Duties: Employees Shall Be Truthful and Complete In All Communication (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Inconclusive)

Final Discipline	4 Day Suspension and Forfeiture of 81 Hours of Leave Balance
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INCIDENT SYNOPSIS

The Named Employee reported his time.

COMPLAINT

The complainant, a supervisor within the Department, alleged the Named Employee may have violated SPD Policy or Law when he (1) received pay for days in which he reported that he had worked, but in fact was not at work (2) left early from work some days but was paid for the entire day; and (3) used sick leave to pay for scheduled days off.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint memo
2. Search for and review of all relevant records and other evidence
3. Review of external investigation documents
4. Interviews of SPD employees

ANALYSIS AND CONCLUSION

SPD Policy 4.010(1) states, "Department employees will earn and use time off as prescribed by the Fair Labor Standards Act (FLSA), state law, city ordinance, city personnel rules, collective bargaining agreement and any other lawful agreement." While the OPA investigation did not seek to determine if the Named Employee improperly used leave balances for time off, the preponderance of the evidence did show that the Named Employee earned regular pay for at least nine days for which the Named Employee had not actually worked. SPD employees are expected to accurately report on their time sheets whether they worked on their scheduled work days or, if they did not work, what leave balance should be deducted for those hours for which the employee was absent from work. It is the obligation of every employee to ensure their pay and leave balances accurately reflect the actual hours worked and any leave taken. In this case, the preponderance of the evidence proved the Named Employee received regular pay for days he did not work and did not have the appropriate number of hours deducted from a leave balance to match the time he was not at work.

This investigation did not address the question of whether or not the Named Employee properly scheduled time off with his supervisor, and evidence was not gathered regarding whether or not this particular section of policy was or was not followed. Therefore this allegation was removed.

This investigation did not address the question of whether or not the Named Employee properly updated the Mobile Data Terminal/Computer Aided Dispatch log as required and evidence was not gathered regarding whether or not this particular section of policy was or was not followed. Therefore this allegation was removed.

SMC 12A.08.060 defines theft in various ways, including “steal[ing] the property of another.” SMC 12A.08.050(1)(2), in turn, defines “steal” as “[t]o knowingly obtain by deception control over property of another with intent to deprive him of such property.” Similarly, RCW 9A.56.020(1)(b) defines theft as “[b]y color or aid of deception to obtain control over the property or services of another or the value thereof, with intent to deprive him or her of such property or services.” A close and careful examination of a variety of records relating to the presence or absence of the Named Employee at work revealed a total of nine days for which the Named Employee entered a regular pay code onto his electronic timesheet and received compensation from the City for working an entire shift without any reduction in a leave balance even though, as shown by the evidence, the Named Employee was not at work. The evidence proving the Named Employee’s absence from work on the nine days in question included electronic building/garage access records, precinct monthly calendar spreadsheets, precinct daily staffing sheets, resource histories, training records and sick slips. When any SPD employee enters his or her time into the electronic timesheet, the employee must enter a code to indicate whether the hours for which the employee is claiming pay are for time actually worked or are to come from one of the available leave balances or from some other authorized absence from work. The evidence from this investigation clearly showed that the Named Employee entered the code for regular pay or holiday pay onto the electronic timesheet for nine days, but was not actually at work. Evidence from other time records kept by the precinct indicated that, for the nine days in question, the Named Employee was listed as taking leave time of one sort or another. In summary, the evidence showed that the Named Employee requested and was presumed to be using one or another leave time to be absent from work, but when he filled out his electronic timesheet, the Named Employee entered regular time and so did not actually use up any leave time for those nine days. This evidence pointed to a degree of planning and intentionality with respect to submitting false time records in order to avoid using leave time to be absent from work. Leave time has actual monetary value to both the City and the employee due to the fact that, at separation and/or retirement, some leave time is convertible in whole or in part into either cash or some other thing of value. It is the duty of the employee submitting a timesheet to ensure the accuracy of the information entered. In fact, when submitting a timesheet, an employee is affirming the following statement that appears immediately above the “button” the employee must click to submit, “I certify that I have accurately recorded my hours of work and/or my leave time, if applicable.” This duty rests on the person claiming pay for time worked, not on his or her supervisor. The evidence from this investigation showed acts by the Named Employee that violated both SMC 12.A.08.060 and RCW 9A.56.020(1)(b).

After discussion at the Discipline Meeting held for this case and after further review and consideration of the evidence from this investigation, the OPA Director was not convinced allegation #5 had been proven at a clear and convincing level, the standard of proof required for a sustained finding of untruthfulness with a presumption of termination.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence proved the Named Employee received regular pay for days he did not work and did not have the appropriate number of hours deducted from a leave balance to match the time he was not at work. Therefore a **Sustained** finding was issued for *Employee Time Off: Employee Time Off is Regulated*.

Allegation #2

This Allegation was removed.

Allegation #3

This Allegation was removed.

Allegation #4

A preponderance of the evidence pointed to a degree of planning and intentionality with respect to submitting false time records in order to avoid using leave time to be absent from work. Therefore a **Sustained** finding was issued for *Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy*.

Allegation #5

There was not a preponderance of the evidence either supporting or refuting the allegation. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Standards and Duties: Employees Shall Be Truthful and Complete In All Communication*.

Discipline Imposed: 4 Day Suspension and Forfeiture of 81 Hours of Leave Balance

NOTE: The Seattle Police Department Manual policies cited for the allegation(s) made for this OPA Investigation are policies that were in effect during the time of the incident. The issued date of the policy is listed.