



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 18, 2018

CASE NUMBER: 2017OPA-0900

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	12.050 - Criminal Justice Information Systems 2. Inquiries Through ACCESS, or Any Other Criminal Justice Record System, Are Only to Be Made for Legitimate Law Enforcement Purposes	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:

The Complainant alleged that the Named Employee attempted to access a report, which the Named Employee did not have access to, for purposes other than law enforcement use.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

12.050 - Criminal Justice Information Systems 2. Inquiries Through ACCESS, or Any Other Criminal Justice Record System, Are Only to Be Made for Legitimate Law Enforcement Purposes

Named Employee #1 (NE#1) was investigated by SPD for potentially engaging in harassment. The investigation was summarized in a General Offense Report under number 2017-231974. After a SPD Detective concluded his investigation, he forwarded the case to the City Attorney’s Office. The City Attorney’s Office ultimately declined prosecution and this criminal matter was closed and referred to OPA for an administrative investigation. OPA’s investigation was conducted under case number 2017OPA-0637.

NE#1 was sent a five-day notice for 2017OPA-0637 on August 30, 2017. That same day, NE#1 attempted to access the General Offense Report memorializing the criminal investigation into his actions through the Department’s RMS system. The Detective received a notification of an unauthorized user – NE#1 – who had tried to access the report. Given that NE#1 was the subject of the report, the Detective notified OPA of NE#1’s actions. This complaint and investigation was initiated.

SPD Policy 12.050-POL-2 states that: “Inquiries through ACCESS, or any other criminal justice record system, are only to be made for legitimate law enforcement purposes.”

As a starting point, RMS is a criminal justice record system that falls under the purview of this policy. As such, in order to make an inquiry to access his report from RMS, NE#1 must have had a legitimate law enforcement purpose



when he did so. NE#1 is presently current on his ACCESS/WACIC certification and was, thus, well aware of what documents he was permitted to access and what actions in this regard were impermissible.

During his OPA interview, NE#1 admitted that he attempted to access a report in which he was the criminal subject, but stated that he did not do so until he knew that the case was closed. He stated that he accessed the report for a legitimate law enforcement purpose, which was to prepare for his OPA interview and to provide OPA with accurate answers.

As a general matter, I agree that it is in OPA's interest, the employee's interest, and the Department's interest for named and witness employees to review documentation prior to being interviewed by OPA in order to provide accurate and comprehensive answers. While "legitimate law enforcement purpose" is not defined in the policy, I tend to agree that being prepared for an OPA interview falls within its purview. That being said, the expectation is that officers will access documents that they have permissible access to, such as the documents that they had generated, video, or reports generated by fellow officers. It seems a little different when the officer is the actual criminal subject of the report and was alleged to have engaged in criminal activity. NE#1 should have, instead, requested the report by making a public records request.

However, while NE#1's actions seem unsavory and while he clearly inappropriately accessed documents to which he did not have permission to access as exemplified by the notification sent to the Detective, I cannot conclusively say that he violated the technical terms of this policy. Fundamental to this determination is my belief that being prepared for an OPA interview is likely a "legitimate law enforcement purpose." For this reason, I recommend that this allegation be Not Sustained – Inconclusive.

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