



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 14, 2018

CASE NUMBER: 2018OPA-0278

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Sustained

Imposed Discipline

Had the Named Employee not resigned from the Department, discipline would have been imposed.
--

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 Named Employee failed to attend a scheduled OPA interview, which was in potential violation of policy.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer

Named Employee #1 (NE#1) was a named employee in a prior OPA investigation (2017OPA-1257). The assigned OPA investigator sent NE#1 an email on February 22, 2018 to determine his availability for an interview in that case. NE#1 did not respond to this email and the investigator sent a follow-up email on March 1, 2018. When NE#1 still did not respond, OPA contacted his supervisor for assistance in scheduling NE#1’s interview. The supervisor indicated that NE#1 had been off of work, but informed OPA that he would tell NE#1 to contact the investigator. However, NE#1 did not do so.

Several days later, OPA contacted the Southwest Precinct Administrative Assistant to obtain the precinct staffing sheets. Based on a review of those staffing sheets, it appeared that NE#1 was available to be interviewed on March 28, 2018. OPA accordingly scheduled his interview for that date via an email sent to NE#1 on March 14, 2018. This interview notice contained the following language: “By authority of the Chief of Police, you are hereby ordered to appear for an in-person interview.”

On March 24, 2018, NE#1 responded to OPA’s scheduling email and stated the following: “Due to unforeseen circumstances I will be unavailable [on March 28]. The only day that I am available is April 2, after that I will be resigning from SPD.” The investigator responded on March 26, 2018 and indicated that he was unable to accommodate moving the interview to April 2. The investigator further instructed that the March 28 interview date remained set. The investigator further contacted NE#1’s supervisor and informed him of the email exchange with NE#1. The investigator also told the supervisor that the interview remained set for March 28. NE#1 did not appear for his interview.



On March 29, 2018, the supervisor contacted OPA and told OPA that he was trying to ensure that NE#1 attended the interview on that day. NE#1 arrived at OPA for his interview shortly after that phone call concluded.

SPD Policy 5.001-POL-15 requires that Department employees obey any lawful order issued by a superior officer. The interview notice provided to NE#1 constituted such a lawful order and, as such, NE#1 was required to comply with its terms. When NE#1 did not appear for his March 28 OPA interview, he failed to do so and, thus, acted contrary to this policy.

During its investigation, NE#1 declined to be interviewed regarding this matter. As such, OPA was unable to determine what the “unforeseen circumstances” were that prevented him from attending his scheduled interview or to obtain any explanation from NE#1 concerning his conduct.

OPA also reviewed NE#1’s timesheets from February through April 2018. Notably, NE#1 worked numerous dates during the time that OPA sought his interview availability.

For these reasons, I see no option other than to recommend that this allegation be Sustained.

Recommended Finding: **Sustained**