



## CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 28, 2018

CASE NUMBER: 2018OPA-0548

### 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	Not Sustained (Training Referral)

***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 failed to attend a scheduled OPA interview, which was in potential violation of Department 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***

OPA contacted Named Employee #1 (NE#1) on June 13, 2018 in order to set up his interview in an ongoing investigation (2018OPA-0223). NE#1 replied to that email the following day and stated that he was available for the interview on June 18 and June 19, but that he was going on vacation thereafter and would not return to work until June 26. That same day, OPA sent NE#1 a Sworn Employee In-Person Interview Notification scheduling him to appear for an OPA interview on June 19, 2018. However, NE#1 did not appear for the scheduled interview. The assigned OPA investigator attempted to contact him on that date but was unsuccessful. When NE#1 returned to the office on June 26, he contacted the investigator and the interview was rescheduled. As a result of NE#1 missing the interview, OPA initiated this investigation against him.

SPD Policy 5.001-POL-14 requires that Department employees obey any lawful order issued by a superior officer. The failure to do so is treated as insubordination and is a serious violation of policy. (See SPD Policy 5.001-POL-14.) The order to appear for an OPA interview was issued under the authority of the Chief of Police and was a direct lawful order requiring NE#1 to attend.

At his OPA interview in this matter, NE#1 explained that he did not review the email that was sent to him by the OPA investigator on June 14 and, as such, he was not aware that his interview had been scheduled for June 19. He told OPA that he did not see the email until he returned from vacation and, at that time, he contacted the investigator to reschedule. NE#1 denied intentionally ignoring the email from OPA and, thus, deliberately failing to attend his interview.



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NE#1 further stated the following to OPA when asked whether there was anything else that he wanted to add to his statement: “No. Just that—like I said before, I never—it says on there, when you receive this, call us or email us back to let us know that you got that. And, I never did that, so I find it kind of funny that I’m sitting here for an interview that only one person knew about at the time.” NE#1 misses the point. It is his job, not the OPA investigator’s, to read his emails and to properly manage his schedule. Indeed, SPD Policy 12.110-POL-6 requires that Department employees “read email at least once per shift and respond appropriately.” By not doing so, he, not the OPA investigator, is responsible for his failure to attend his OPA interview and the fact that he was investigated in this complaint.

When NE#1 did not appear at his OPA interview, he acted contrary to a direct lawful order from a superior officer and, by doing so, violated this policy. However, given that this is NE#1’s first time failing to attend an OPA interview and given that I believe, based on NE#1’s assertions, that this was a mistake, I do not recommend that he receive a Sustained finding. Instead, I recommend that he receive the below Training Referral.

- **Training Referral:** NE#1 should receive counseling from his chain of command regarding his failure to attend his OPA interview in the prior case. NE#1 should be reminded that it is his responsibility to read the Interview Notification and to manage his calendar to ensure that he attends interviews on the dates he is ordered to appear. NE#1 should be informed that future unauthorized failures to attend a scheduled OPA interview will likely result in a Sustained finding. This counseling should be documented and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**