



## **CLOSED CASE SUMMARY**

ISSUED DATE:      DECEMBER 19, 2018

CASE NUMBER:     2018OPA-0597

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

**Named Employee #1**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication	Not Sustained (Unfounded)
# 2	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Lawful and Proper)

***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 engaged in dishonesty when he included false information about the Complainant in an internal SPD discontinuation memo associated with the Complainant’s employment application. The Complainant further alleged that the Named Employee did not follow Department procedures when the Named Employee failed to obtain written approval from his Sergeant in connection with the memo.

#### **ANALYSIS AND CONCLUSIONS:**

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

##### ***5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communications***

The Complainant applied to be an SPD Officer on three separate occasions, all within a two-year period. The Complainant failed his oral board interview in connection with his initial application. In the Complainant’s second and third applications, SPD declined to move forward with his candidacy based on their review and assessment of his qualifications. The gathering of information associated with that determination was completed by an SPD Background Investigator. The Complainant alleged that Named Employee #1 (NE#1), in his role as the SPD Background Investigator assigned to the Complainant’s most recent employment application, included “false” and “deceptive” information on an internal SPD discontinuation memo, which led to SPD declining to move forward with his candidacy. The Complainant specifically alleged that NE#1 made false written entries in the internal memo by asserting that the Complainant failed to provide certain information in his personal history information questionnaire, when, in fact, it had been provided to SPD. The Complainant believed that further evidence of NE#1’s deception was his failure to obtain written approval on said memo from NE#1’s Sergeant.

OPA interviewed the Complainant. The Complainant reiterated what he alleged in his complaint and emailed OPA additional documentation in support of his allegations. The documentation included: his personal history information questionnaire; copies of the discontinuation memos from his second and third application attempts;



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and a four-page complaint summary that was prepared by the Complainant. The Complainant obtained some of the documents that he provided to OPA through a public disclosure request.

OPA interviewed NE#1. NE#1 stated that he was handed the Complainant's file by his Sergeant, who asked NE#1 to prepare a discontinuation memo. NE#1 understood from his Sergeant's assignment of this task that the memo was to be based, in large part, on the Complainant's previous background investigation file. NE#1 explained that, in the Complainant's earlier background investigation, SPD declined to move forward with the Complainant's candidacy because he failed to disclose relevant information to the Department. NE#1 noted that the proximity of time between the Complainant's second and third application was less than two years and factored into how the Complainant's most recent application was assessed. NE#1 acknowledged that he could have been clearer with some of the language he used in his internal SPD discontinuation memo, but confirmed that it was based on a truthful assessment of the Complainant. In terms of why NE#1's Sergeant's signature was not included on the memo, NE#1 explained that his Sergeant was on vacation when it was finalized. NE#1 further explained that he serves as Acting Sergeant during such absences and is not allowed to approve his own memos. As such, NE#1 presented the memo to his Lieutenant, whose approving signature is included on the document. NE#1 confirmed that the absence of the Sergeant's signature does not impact the validity of his memo, given that it was, in fact, signed by a higher-ranking supervisor.

SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications.

OPA determined that the discontinuation memo, authored by NE#1 and based on an earlier memo, was appropriate and consistent with what SPD Background Investigators are tasked with doing – identifying candidates whose backgrounds and qualifications fail to meet the high standards of the Department. In fact, SPD includes language in their declination letters to unsuccessful candidates that highlights the competitive nature of their process and specifically states, "if you should choose to test in the future with our Department, your current background file will be taken into consideration to determine your eligibility for hire." OPA recognizes that receiving a declination letter was frustrating for the Complainant and may have contained information that he disagreed with; however, I find that the Complainant's allegations of dishonesty on NE#1's part are not supported by the evidence.

As such, I recommend that this allegation be Not Sustained – Unfounded.

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

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

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

For the same reasons as discussed above, OPA finds that NE#1 did not fail to follow policy or procedure when his Sergeant's signature was not included on the discontinuation memo. NE#1's reasons for not doing so were reasonable under the circumstances of this case, and were not the result of any malfeasance on NE#1's part as the Complainant alleged. Moreover, NE#1's supervisor, albeit a Lieutenant, ultimately did approve the memo.

As such, I recommend that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**