



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 2, 2019

CASE NUMBER: 2018OPA-0848

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Inconclusive)
# 2	5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication	Not Sustained (Inconclusive)
# 3	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Allegation Removed

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 may have been dishonest in a prior OPA investigation, that he may have engaged in violations of multiple laws and policies, and that he engaged in unprofessional conduct.

ADMINISTRATIVE:

After further consideration, OPA concludes that Allegation #2, which concerns the Named Employee’s professionalism, was already fully addressed in another case. As such, OPA herein issues an amended DCM in order to remove this allegation.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

As part of its investigation into a related case (2017OPA-0407), OPA was given access to certain portions of an FBI investigation into SPD off-duty work. OPA was not initially informed by the FBI that the file OPA was provided to review was not complete. This information was ultimately learned after the assigned OPA investigator sought clarification from an FBI agent as to whether OPA had been provided all relevant documents. The FBI agent told OPA that certain portions of the file were with FBI attorneys for legal review. The FBI agent stated, however, that the investigation was closed and that the FBI had found no evidence of criminal activity.

Among the documents within the file that OPA was allowed to review was a statement form that memorialized a conversation between Named Employee #1 (NE#1) and an FBI agent. The form only summarized the interview and was not a transcript. The form documented that NE#1, who was the central player in the previous OPA investigation, acknowledged making comments concerning the “breaking of legs” and other “mafia” type tactics; however, it reflected that NE#1 claimed that he was just joking around and was trying to get a rise out of his audience. The form



also documented that NE#1 told the FBI agent that he had never worked off-duty for Seattle City Light. Based on information possessed by OPA, it was believed that this may possibly have been a false statement.

OPA also interviewed the owner of Seattle's Finest, an off-duty contracting company. The owner told OPA that he was unaware whether NE#1 had ever worked for Seattle City Light. The owner later confirmed that his company had never contracted NE#1 to do so and that NE#1 had only flagged for the Columbia Tower through Seattle's Finest.

Based on its preliminary investigation, OPA sent this matter back to SPD for criminal investigation. SPD did not conduct a criminal investigation and, instead, sent the case back to OPA for administrative review with several comments attached, which were written on sticky notes.

OPA then interviewed NE#1. NE#1 stated that he only spoke to the FBI agent once. He said that they discussed his comments that led to OPA's initial investigation. He did not recall ever discussing his working for Seattle City Light with the FBI. He told OPA that he worked for Seattle City Light in an off-duty capacity twice approximately 25 years prior. NE#1 denied misleading the FBI agent during his interview.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

As discussed above, this case was borne out of OPA's review of the FBI's file for its investigation into 2017OPA-0407. While the FBI indicated that they found no federal criminal conduct, documents that OPA reviewed suggested that there could have been violations of Washington State law and City policies. However, given the dearth of information actually provided to OPA by the FBI, there was insufficient evidence for OPA to make a conclusive determination in this respect.

For these reasons, OPA cannot find one way or the other whether NE#1 and other SPD employees violated the law in their off-duty work and dealings. Accordingly, I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication

It was alleged that NE#1 may have been dishonest to the FBI during his interview. Specifically, NE#1's purported statement that he had never worked off-duty for Seattle City Light was believed to be untruthful. SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications.

NE#1 confirmed to OPA that he had worked for Seattle City Light at least two times 25 years prior. As such, to the extent he told the FBI that he had never done so, that statement would have been inaccurate. However, OPA only has the FBI agent's notes of the interview. OPA was not permitted to review a recording, to the extent any was generated, or any transcript documenting exactly what was discussed.

Without this additional evidence, OPA cannot conclusively determine that NE#1 lied to the FBI, as opposed to misspoke or had his statements misinterpreted by the FBI agent. Accordingly, I recommend that this allegation be Not Sustained – Inconclusive.



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

Named Employee #1 - Allegation #3

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-10.)

NE#1 made a number of poor decisions in this case that contributed to multiple criminal and administrative investigations, as well as that reflected negatively on him. However, this conduct was fully addressed in 2017OPA-0407 and, as such, the professionalism allegation here is duplicative. OPA accordingly recommends that it be removed.

Recommended Finding: **Allegation Removed**