



## CLOSED CASE SUMMARY

ISSUED DATE: MARCH 19, 2019

CASE NUMBER: 2018OPA-0969

### Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.120 - Off-Duty Employment 4. Employees Must Request Approval for all Law Enforcement Related Off-Duty Employment and Business Activities	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 did not have a valid secondary work permit.

### ANALYSIS AND CONCLUSIONS:

#### **Named Employee #1 - Allegations #1**

#### ***5.120 - Off-Duty Employment 4. Employees Must Request Approval for all Law Enforcement Related Off-Duty Employment and Business Activities***

An individual alleged that Named Employee #1 (NE#1) may have engaged in potential misconduct while working secondary employment. OPA conducted a preliminary investigation into the allegation and determined that the individual had a general concern regarding officers who were working secondary employment and that he did not specifically identify or allege misconduct on NE#1’s part. However, during its intake investigation, OPA determined that NE#1 did not have a valid secondary work permit on the date in question.

SPD Policy 5.120-POL-4 states that officers are required to have a valid secondary work permit prior to engaging in off-duty employment.

At his OPA interview, NE#1 stated that he thought he was up to date with his work permit but, as a result of this investigation, he realized that he was not. He told OPA that he had some confusion concerning when he was supposed to renew the permit, but confirmed his understanding that his prior permit expired significantly prior to this incident. He recognized that, by not having a valid permit, he acted inconsistent with policy. NE#1 told OPA that, while not an excuse, the past year had been very stressful for him and included the death of a parent and other personal and family issues.

It is undisputed that NE#1 was required to have a secondary work permit and that the failure to have one here violated policy. However, OPA recommends that he receive a Training Referral rather than a Sustained finding for three main reasons. First, NE#1 accepted responsibility for his conduct at his OPA interview. Second, OPA recognizes



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that NE#1 experienced a stressful and difficult year. While, as NE#1 acknowledged, this is not an excuse, it is certainly mitigating evidence. Third, OPA's records show that NE#1 has never received a Sustained finding during his career and there is no indication that he has ever previously violated this policy or been counseled for the failure to have a secondary work permit. However, in issuing the below Training Referral, OPA cautions that, if NE#1 again fails to have a valid secondary work permit, it will result in a recommended Sustained finding.

- **Training Referral:** NE#1 should be counseled concerning his failure to have a valid secondary work permit and reminded that he is required to have such a permit pursuant to SPD policy. NE#1's chain of command should ensure that he does not engage in any further secondary employment until he has a valid and approved permit. NE#1 should also be informed that future failure to comply with this policy will result in a Sustained finding. This counseling and any associated retraining should be documented and this documentation should be maintained in an appropriate database.

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

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