



## **CLOSED CASE SUMMARY**

ISSUED DATE:     AUGUST 31, 2019

CASE NUMBER:    2019OPA-0157

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

**Named Employee #1**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	1.020 - Chain of Command 7. Command Employees Take Responsibility for Every Aspect of Their Command	Not Sustained (Training Referral)
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5. Supervisors Will Investigate or Refer Allegations of Policy Violations Depending on the severity of the violation	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 take responsibility for his subordinate employees and that he did not report potential serious misconduct to OPA.

**ANALYSIS AND CONCLUSIONS:**

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

***1.020 - Chain of Command 7. Command Employees Take Responsibility for Every Aspect of Their Command***

Named Employee #1 (NE#1), a Department Captain in charge of a precinct, received an email from an officer alleging concerns with the leadership style of two of the officer’s supervisors. After receiving and reviewing that email, NE#1 had a meeting with the officer to address the concerns raised therein. During that meeting, the officer reiterated his concerns with the supervisors. As part of a later OPA investigation relating to the issues between the officer and his supervisor, the officer told OPA that he informed NE#1 that two other officers in his squad were conspiring against the supervisors. The officer asserted that he specifically told NE#1 that two other officers were planning on filing complaints against their Sergeant in order to prevent his promotion and to get him removed as their supervisor.

As part of that investigation, OPA interviewed NE#1. NE#1 stated that he had a vague recollection of the officer’s reporting of the planned conduct of the two other officers. NE#1 explained that he and the officer discussed a litany of other subjects at that meeting, including the officer’s right to bring issues with his supervisors to NE#1’s attention and that there was going to be clear and enforced expectations for all of the precinct’s watches. NE#1 confirmed that he did not report the information conveyed to him by the officer to OPA.

Given NE#1’s failure to report this information, which constituted an allegation of potential serious misconduct, to OPA, this investigation was commenced.



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OPA interviewed NE#1 again. At his second interview, NE#1 reiterated that there were numerous allegations being made by a number of officers and supervisors at the time. He told OPA that, while he did not report to OPA what the officer told him, he believed at the time that the officer had already made an OPA referral.

SPD Policy 1.020-POL-7 instructs that supervisory employees are expected to take responsibility for every aspect of their command. This policy was alleged here due to NE#1's failure to report potential misconduct to OPA and his apparent failure to take any steps to inform the Sergeant of the officers' plan to retaliate against the Sergeant and to put measures in place to prevent that retaliation.

The allegations in this case were part of ongoing issues within the precinct and, particularly, on First Watch. These issues were not addressed as promptly and decisively as they could have been and, as a result, they festered. As the precinct Captain, NE#1 bears some responsibility for these ongoing issues. Moreover, as discussed above, NE#1's lack of action could have served to put the Sergeant at risk of being retaliated against.

The above being said, OPA recognizes that NE#1 was dealing with a number of difficult personalities and did take some steps to resolve these issues, which ultimately appeared to be successful, at least in part. As such, OPA issues NE#1 the below Training Referral.

- **Training Referral:** NE#1 should be encouraged to more proactively, promptly, and decisively handle similar situations in the future. As a Captain, it is the Department's expectation that he do so. NE#1 should also be encouraged to rely on his chain of command for assistance with dealing with such difficult personnel issues. This training and associated counseling should be documented and this documentation should be maintained in an appropriate database.

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

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

##### ***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5. Supervisors Will Investigate or Refer Allegations of Policy Violations Depending on the severity of the violation***

SPD Policy 5.002-POL-5 requires supervisors who become aware of a potential policy violation to investigate or refer the allegations depending on their severity. Minor allegations of misconduct may be investigated by a supervisor, while allegations of serious misconduct – such as the use of excessive force – must be referred to OPA. (SPD Policy 5.002-POL-5.)

As discussed above, NE#1 indisputably failed to report potential serious misconduct to OPA. However, he claimed that he believed at the time that the officer had already made an OPA referral and that it was unnecessary for him to also do so. That belief was mistaken and no OPA referral had been made by the officer.

The failure of NE#1 to make an OPA referral was contrary to policy. However, I do not recommend that NE#1 receive a Sustained finding here. This is primarily due to the fact that, while NE#1's belief that an OPA referral had already been made was mistaken, this appears to have been in good faith. I also note that this matter was confusing, with multiple involved parties and dueling allegations. This being said, NE#1, as a Captain, is held to a higher standard.



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Even if he believed that an OPA referral had already been made, he should have verified this before deciding to take no action. While OPA issues NE#1 the below Training Referral here, OPA puts NE#1 on notice that a future failure to report potential misconduct will likely result in a recommended Sustained finding.

- **Training Referral:** NE#1 should be reminded of his obligation to report serious misconduct to OPA. NE#1 should be counseled that, even if believes that an OPA referral may have already been made, he should verify that before taking no action. NE#1 should be notified that a future failure to make a required OPA referral will likely result in a recommended Sustained finding. The retraining and associated counseling should be documented and this documentation should be maintained in an appropriate database.

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