



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 25, 2022

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0508

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 | Sustained |
| # 2 | 5.001 – Standards and Duties – 11. Employees Shall Be Truthful and Complete in All Communication | Sustained |
| # 3 | 5.001 - Standards and Duties 10. Employees Shall Strive to be Professional | Sustained |

Imposed Discipline

Resigned Prior to Proposed DAR – Termination

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—an SPD sergeant—alleged that the Named Employee failed to obey a lawful order and was untruthful as well as unprofessional.

SUMMARY OF INVESTIGATION:

On August 17, 2020, the Complainant filed a complaint against Named Employee #1 (NE#1) via Blue Team. The Complainant alleged that, on August 5, 2020, NE#1 and another officer—Witness Officer #1—reported for roll call wearing SPD’s Battle Dress Uniform (BDU). The Complainant alleged that the Uniform of the Day (UOD) on August 5 was the “Class B” uniform, not BDU. The Complainant stated that he asked both NE#1 and Witness Officer #1 why they reported to roll call out of uniform, to which NE#1 and Witness Officer #1 responded that they believed they would be called down to work at the ongoing protests later that day. The Complainant alleged that he informed both NE#1 and Witness Officer #1 that they would need to change into the UOD—their Class B uniforms. The Complainant alleged that both officers informed him that they did not have their Class B uniforms in their lockers and NE#1 specifically stated that he drove into work wearing his BDU. According to the complaint, NE#1 indicated that he would need to head home in order to change into the correct uniform.

The Complaint further stated that, due to the limited staffing numbers and time it would take for NE#1 to return home, the Complainant permitted NE#1 to wear the BDU for the day. The Complainant alleged that NE#1 then became angered, telling the Complainant—his supervisor— “I’m getting out of here before I say something that gets me into trouble,” then headed toward the locker rooms. According to the Complainant, NE#1 did not ask for leave from work, nor was he granted leave. The complaint stated that, as a result of NE#1’s unauthorized departure from work, “the



watch and his squad [were left] below minimum staffing,” and “[a]n officer had to be moved to Sam Sector from another squad to minimally staff the squad for the day.”

The complaint continued stating that, the next day, August 6, 2020, the Complainant observed NE#1 wearing the Class B uniform. The Complainant stated that he asked NE#1 if he wore the Class B uniform to work that morning, to which NE#1 responded in the affirmative. According to the Complainant, this was suspicious as he had never seen NE#1 wear a uniform into work, indicating that he had only even seen NE#1 come into work wearing “civilian clothes.” The Complainant also stated that he was skeptical of NE#1’s claim, as he had seen a “Class A” or “Class B” uniform inside NE#1’s locker earlier that morning. The Complainant alleged that he reviewed the South Precinct security camera footage and observed that NE#1 showed up to work on August 5 and August 6 in civilian clothing.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 – Standards and Duties – 15. Employees Obey any Lawful Order Issued by a Superior Officer

The Complainant contended that the NE#1 disobeyed a lawful order issued by a superior officer. Specifically, it was alleged that NE#1 knowingly refused to comply with the required dress code of the day.

SPD Policy 5.001-POL-15 requires that Department employees obey any lawful order issued by a superior officer. The failure to do so constitutes insubordination.

Officers are required to wear the approved patrol uniform for all Department functions, unless otherwise approved. (SPD Policy 9.020-POL-6.) For most Department functions, on-duty sworn personnel may wear either the class A or class B uniform. (SPD Policy 9.020-POL-5.) All sworn employees are required to keep a class A uniform at their unit of assignment. (SPD Policy 9.020-POL-7.) However, for officers and sergeants, the class A uniform is the same as the class B uniform—the only difference is that for class B, the shirt is “worn open collar with a turtleneck or black crew neck t-shirt” as opposed to closed collar with a necktie and tie clasp for the class A. (See Seattle Police Department 2019 Uniform Reference Catalogue, rev’d 12/18/19.) Pants meeting the class A requirements may also be worn with the class B uniform. (*Id.*)

OPA concludes, based on the totality of the evidence, that NE#1 did, in fact, have a class B uniform available to him in his locker and refused to change into it when ordered to do so. OPA’s reaches this conclusion primarily on the Complainant’s assertion that he viewed the uniform in NE#1’s locker. Moreover, to the extent the Complainant made an exception in this instance for NE#1 to continue working out of the UOD, NE#1 was certainly not granted leave to abandon his post (an act which disrupted the Department’s functions in that other needed to be reassigned). Both acts were insubordinate.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**



Named Employee #1 - Allegation #2

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

The Complainant alleged that the Named Employee was not truthful with him regarding his failure to wear the UOD. SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications.

The evidence in this case – security camera video – proves that NE#1 was dishonest twice with his supervisor. First, he lied to his supervisor when he said that he wore his BDU's to work on August 5. Second, he was dishonest against when he said that he arrived to work in his class B uniform on August 6. While these may be minor fabrications, they were knowing dishonest statements made to a Department supervisor. This is simply not congruent with acceptable behavior for SPD officers.

Accordingly, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #3

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

The Complainant alleged that the totality of NE#1's conduct was unprofessional in violation of SPD Policy 5.001-POL-10.

By any standard, all of the NE#1 above behavior was unprofessional. NE#1's remark to his supervisor that he was "getting out of here before I say something that gets me into trouble" was wholly inappropriate. This remark—resulting from a dispute regarding the uniform policy—did not demonstrate the level of maturity, discretion, and perspective expected of a professional employed by the SPD. Also clearly unprofessional were NE#1's dishonest statements to his supervisor, his failure to comply with a direct order, and his leaving work without leave, which placed his colleagues in a poor position.

Accordingly, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**