



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 1, 2019

CASE NUMBER: 2018OPA-0966

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	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 14. Retaliation is prohibited	Not Sustained (Inconclusive)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	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 14. Retaliation is prohibited	Not Sustained (Inconclusive)

Named Employee #3

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Inconclusive)
# 2	5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication	Not Sustained (Training Referral)
# 3	5.001 - Standards and Duties 14. Retaliation is prohibited	Not Sustained (Inconclusive)

Named Employee #4

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	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 14. Retaliation is prohibited	Not Sustained (Inconclusive)

Named Employee #5

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Allegation Removed
# 2	5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication	Allegation Removed



# 3	5.001 - Standards and Duties 14. Retaliation is prohibited	Allegation Removed
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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 Employees collectively conspired against a Sergeant in an improper attempt to get that Sergeant removed from supervising the Named Employees’ squad. It was alleged that this behavior was unprofessional and constituted retaliation against the Sergeant. It was further alleged that all of the Named Employees engaged in dishonesty concerning this matter.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

OPA received an email from an anonymous Complainant. In this email, the Complainant asserted that multiple officers, including Named Employee #1 (NE#1) and Named Employee #3 (NE#3), had worked with other officers to conspire against their then Sergeant. The aim of the conspiracy was to get the Sergeant removed from their squad. The Complainant, who OPA believes to be one of the other Named Employees given the phrasing and content of the email, said that, if NE#1 and NE#3 denied their involvement, they were lying. The email also referred to a text message chain between multiple officers and asserted that everyone on that chain was involved in the conspiracy and tried to “get [the Sergeant] in trouble.” The Complainant asserted that the Sergeant was a “horrible supervisor” and that they were doing the Department a “favor.”

OPA subsequently initiated this investigation and identified NE#1, Named Employee #2 (NE#2), NE#3, and Named Employee #4 (NE#4) as the potential involved officers. OPA also added an unknown employee given that the complaint was sent anonymously and because OPA believed it possible that there were additional officers involved in the alleged misconduct.

As part of its investigation, OPA interviewed all of the Named Employees, including NE#2, NE#3, and NE#4 twice. OPA also interviewed the Sergeant, two witness officers, and the Precinct Captain.

NE#1 denied knowledge of the anonymous complaint. He expressed dissatisfaction with the Sergeant’s leadership of the squad, but stated that he had never filed either an OPA or EEO complaint against the Sergeant. NE#1 told OPA that he may have sent text messages to other officers concerning the Sergeant, but did not recall. He further stated that he had since gotten a new phone and he no longer had access to any of his old text messages. NE#1 denied engaging in a conspiracy against the Sergeant. He stated that he was open regarding his concerns and spoke to a number of people, including the then SPOG vice president, a Lieutenant, and the Precinct Captain. He told OPA that he did not engage in any of the misconduct alleged against him in this case.

NE#2 denied that he sent the anonymous complaint. He acknowledged that he sent texts to the other officers concerning the Sergeant; however, he denied that the substance of those texts was that identified by the



Complainant. He stated that he had subsequently deleted the text exchange. NE#2 further acknowledged that he had serious issues with the Sergeant and the Sergeant's leadership style, as well as informed OPA that he had filed multiple OPA and EEO complaints against the Sergeant. NE#1 told OPA, however, that he was upfront and open with these complaints and that he was not engaged in any conspiracy with other officers. He further denied acting unprofessionally or engaging in dishonesty.

NE#3 said that he had a positive relationship prior to starting working for the Sergeant; however, as with the other officers, he reported having a negative experience with the Sergeant as his direct supervisor. He stated that the Sergeant issued three negative PAS entries for his conduct. NE#3 indicated that he had never filed an OPA complaint against the Sergeant, but that one such complaint was filed against the Sergeant by OPA on NE#3's behalf. He stated that he once spoke to the Precinct Captain regarding his concerns. He told OPA that, after that meeting, the three negative PAS entries were issued against him. NE#3 opined that NE#4 was the anonymous Complainant. He based this belief on the fact that he recalled that NE#4 was very upset concerning other allegations that had been made against NE#2. These allegations included that NE#2 purportedly frequently used racist and sexist language, including slurs towards African-American people. NE#3 stated that he exchanged texts with NE#1 and NE#2, but those texts did not discuss a conspiracy and were simply complaints about the Sergeant. NE#3 denied engaging in any conspiracy against the Sergeant, or engaging in any of the other conduct alleged against him in this case.

Similar to the other Named Employees, NE#4 denied that he was the anonymous Complainant. He stated that he had no issues with the Sergeant but that NE#1, NE#2, and NE#3 did. NE#4 recalled that the officers' relationship with the Sergeant started out fine, but worsened significantly over time. NE#4 stated that NE#1, NE#2, NE#3 were the primary officers who had issues with the Sergeant. NE#4 told OPA that he would have coffee with the other officers and that they would consistently complain against the Sergeant. He stated that he sent text messages to the other Named Employees. These messages were sent from his personal cell phone and he apparently did not retain them. NE#4 recalled one instance where NE#3 told a female officer, who did not agree with NE#3 that the Sergeant was a poor supervisor, that the Sergeant had said that he wanted to have sex with her. NE#4 stated that he then raised this exchange with the Sergeant. While NE#4 denied being aware of any conspiracy, he indicated that NE#3 particularly had issues with the Sergeant and would not let those issues go. NE#4 denied that he engaged in any of the misconduct alleged against him.

The female officer referenced by NE#4 recalled that NE#3 complained to her about the Sergeant. She told OPA that she asked him to not discuss it with her anymore. She denied that NE#3 told her that the Sergeant wanted to have sex with her. She said that she was unaware of anyone plotting against the Sergeant.

The Sergeant speculated that NE#2 was the anonymous Complainant because NE#2 had previously used the language in the complaint when he called the Sergeant a "horrible supervisor" to the Sergeant's face. He stated that when he was first assigned to the Named Employees' squad, he imparted new directions that he believed were consistent with the mission and expectations of his supervisors. He told OPA that the officers in that squad would sleep on duty, did not engage in "directed patrols," and were generally unproductive. The Sergeant specifically identified NE#1, NE#2, and NE#3, as well as another officer not named in this case, as the main culprits of this behavior. The Sergeant told OPA that he was informed by another officer that NE#1, NE#2, NE#3, and others were conspiring against him. The Sergeant stated that he had never had an EEO complaint filed against him until he was assigned to this squad and, after that point, he received enough EEO and OPA complaints to trigger an Early Invention System alert. The Sergeant said that, at one point, NE#3 informed him of several officers' intent to prevent



him from being promoted. He believed that NE#2 was involved in this, but said that he did not think that NE#1 was an active participant. The Sergeant stated that he was informed that officers, including NE#2, bad mouthed him to other officers. However, he said that he did not have any evidence to conclusively prove that there was a plot against him.

Based on the Sergeant's statements concerning his conversation with NE#3 about the alleged plot, OPA re-interviewed NE#3. NE#3 recalled the conversation and confirmed that it occurred in an alley. He stated that he told the Sergeant that two officers were trying to get the Sergeant and the then-Watch Lieutenant reassigned. NE#3 stated that he was referring to NE#2 and NE#4. NE#3 said that, on another occasion, he spoke to NE#2 and NE#4 in the precinct lunchroom and that they asked him to participate in trying to get the Sergeant and the Watch Lieutenant transferred. NE#3 recalled that he asked to be left out of it. He indicated that he informed both the Sergeant and the Precinct Captain of this conversation. NE#3 was asked why he did not report this information to OPA during his first interview and he stated that he did not know. He again raised the fact that he informed both the Sergeant and the Captain of this. He said that he was not being untruthful and that he did not put everything together in his mind until his second interview. NE#3 recalled that NE#2 said that he would file multiple OPA complaints against the Sergeant to get him removed from the squad. NE#3 stated that NE#2 was involved in the conspiracy and NE#4 "maybe" was as well. NE#3 told OPA that he did not believe that NE#1 was involved. NE#3 told OPA that he also informed the Captain of the above via email. OPA located and review the email and it was consistent with NE#3's recollection.

OPA interviewed the Precinct Captain who said that he was aware of issues involving NE#1, NE#2, and NE#3. He stated that he received and reviewed the email sent to him by NE#3 and that they later had a meeting to address NE#3's complaints against the Sergeant. The Captain told OPA that he "vaguely" remembered NE#3 telling him that NE#2 and NE#4 were intending on filing OPA complaints against the Sergeant, potentially inappropriately. He confirmed that he did not report this information to OPA.

OPA also re-interviewed NE#2 and NE#4. Both denied the allegations made by NE#3 in his second interview. NE#4 added that he currently works for the Sergeant at the Sergeant's request and that they have a positive relationship.

Lastly, OPA interviewed an officer who was not named in this case, but who was alleged to have engaged in some of the plotting against the Sergeant. Like NE#1, NE#2, and NE#3, the witness officer identified issues with the Sergeant's leadership style. However, he denied that he, or any of the other Named Employees, conspired against the Sergeant. The witness officer also denied that he was the anonymous Complainant. The witness officer stated that he, NE#1, NE#2, and NE#3 had a phone conversation with the Precinct Captain in which they raised issues with the Sergeant. The witness officer told OPA that no action came from this meeting. The witness officer acknowledged that he sent text messages to some of the Named Employees concerning the Sergeant. However, he stated that they were concerning general complaints against the Sergeant, not a plot to undermine him.

This case is extremely concerning. If the allegations are true, the underlying conduct would constitute violations of multiple policies by the Named Employees. As a general matter, the Named Employees all contradict and point fingers at each other. There is some evidence supporting a finding that all of them violated the policies alleged herein; however, it does not rise to the level of proof necessary in this investigation. I note that the Sergeant, himself, confirmed that there was insufficient evidence to establish that the plotting against him actually occurred. As such, and even though I loathe to reach this decision as I believe that some or all of the Named Employees took



part in a conspiracy against the Sergeant and then repeatedly and consistently lied about it, I recommend that this allegation, as well as Allegation #3, be Not Sustained – Inconclusive against NE#1, NE#2, NE#3, and NE#4.

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

As with Allegations #1 and #3, and even though I have concerns regarding the veracity of their statements, I also issue a Not Sustained – Inconclusive finding on this allegation to NE#1, NE#2, and NE#4. I reach a different decision for NE#3, as discussed more fully below.

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

Named Employee #1 - Allegation #3

5.001 - Standards and Duties 14. Retaliation is prohibited

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #2 - Allegations #1

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

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #2 - Allegation #2

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

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #2 - Allegation #3

5.001 - Standards and Duties 14. Retaliation is prohibited

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Inconclusive.



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

Named Employee #3 - Allegations #1

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

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #3 - Allegation #2

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

With regard to dishonesty concerning the alleged conspiracy and the involvement of himself and other officers in same, I find that this allegation is inconclusive for NE#3 given the same reasons as discussed in the context of NE#1, NE#2, and NE#4. However, NE#3 additionally provided substantially incomplete testimony to OPA, even when asked a direct question at his first interview that should have elicited the information concerning NE#2 stating that he would improperly file OPA complaints against the Sergeant.

NE#3 did not have a plausible explanation for why he did not initially share this information with OPA. He stated that he was unclear at his first interview and did not fully recall what had occurred until OPA brought him back in for re-questioning.

I find the incomplete information provided by NE#3 during his first OPA interview to be bordering on the intentional misleading of OPA. In this respect, I find the decision on whether NE#3 lied to OPA to be a close call. Ultimately, however, I do not recommend that this allegation be Sustained for two reasons. First, NE#3 did disclose the substance of his second OPA interview to his supervisors, both orally and in writing. Second, OPA does not believe that it can meet the evidentiary burden necessary to conclude that NE#3 was deliberately and materially dishonest. As such, instead of a Sustained finding, I recommend that NE#3 receive the below Training Referral.

- **Training Referral:** NE#3 should be reminded of the importance of being truthful in his OPA interviews. NE#3 should be informed that his failure to provide complete information here nearly resulted in a Sustained finding for dishonesty. 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)**

Named Employee #3 - Allegation #3

5.001 - Standards and Duties 14. Retaliation is prohibited

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Inconclusive.

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



Named Employee #4 - Allegations #1

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

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #4 - Allegation #2

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

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #4 - Allegation #3

5.001 - Standards and Duties 14. Retaliation is prohibited

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #5 – Allegation #1

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

OPA was unable to conclusively identify who the unknown employee was in this case. As such, I recommend that all of the allegations concerning the unknown employee be removed.

Recommended Finding: **Allegation Removed**

Named Employee #5 – Allegation #2

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

For the same reasons as stated above (see Named Employee #5, Allegation #1), I recommend that this allegation be removed.

Recommended Finding: **Allegation Removed**

Named Employee #5 – Allegation #3

5.001 - Standards and Duties 14. Retaliation is prohibited



For the same reasons as stated above (see Named Employee #5, Allegation #1), I recommend that this allegation be removed.

Recommended Finding: **Allegation Removed**