



## CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 2, 2019

CASE NUMBER: 2019OPA-0005

### Allegations of Misconduct & Director’s Findings

**Named Employee #1**

| Allegation(s): |  | Director’s Findings |
|----------------|--|---------------------|
| # 1            | 5.170 - Alcohol and Substance Use 7. No Employee Shall Use or Possess any Controlled Substance, Except at the Direction of a Medical Authority | Sustained           |
| # 2            | 5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy   | Allegation Removed  |

**Imposed Discipline**

**Resigned in Lieu of 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:

It was alleged that the Named Employee used marijuana while employed as an officer for SPD.

### ANALYSIS AND CONCLUSIONS:

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

***5.170 - Alcohol and Substance Use 7. No Employee Shall Use or Possess any Controlled Substance, Except at the Direction of a Medical Authority***

On January 1, 2019, Named Employee #1 (NE#1) spoke with his Lieutenant concerning a request to transfer from the West Precinct to the South Precinct. NE#1 had previously provided a memo to the Lieutenant making that same request. Based on the tenor of the memo, in which NE#1 asserted that he was depressed, as well as on NE#1’s demeanor during their conversation, the Lieutenant called for CODE4 (an officer support group) and a representative from SPD’s Peer Support Unit. NE#1 then met with a Peer Support officer that he had an established rapport with. That same evening, the Lieutenant had a phone conversation with the CODE4 representative. The CODE4 representative told the Lieutenant of NE#1’s marijuana use and informed the Lieutenant that NE#1 gave him permission to disclose this information.

The Lieutenant then met with both NE#1 and NE#1’s Guild representative. The Lieutenant gave NE#1 an order to answer questions concerning his marijuana use. NE#1 disclosed to the Lieutenant that he had been smoking marijuana on an ongoing basis and that the last time he did so was on December 31, 2018, at approximately 0500 hours. The Lieutenant had difficulty determining NE#1’s level of impairment, so he conferred with a DUI officer from SPD’s Traffic Unit. The DUI officer confirmed that NE#1 may have still been under the influence of marijuana at the



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time of NE#1's disclosure of his drug use. The DUI officer, who was interviewed by OPA during this investigation, stated that he based what he told the Lieutenant about NE#1's level of impairment on his training and experience. The DUI officer confirmed that he did not speak with NE#1 or observe NE#1's physical condition at any point.

Based on NE#1's statements to him and the information provided by the DUI officer, the Lieutenant relieved NE#1 from duty. The Lieutenant further had NE#1 transported to a hospital where NE#1 underwent medical testing. The tests revealed a positive result for the presence of cannabinoids.

Per policy, the Lieutenant notified OPA of this matter and this case ensued. As part of its investigation, OPA reviewed the memo sent by NE#1 to Lieutenant, as well as the memo written by the Lieutenant that summarized the steps he took regarding this incident. OPA further interviewed the Lieutenant and the DUI officer.

OPA lastly interviewed NE#1. He acknowledged that he used marijuana on December 31 as he reported to the Lieutenant. NE#1 confirmed that, as a Department employee, he was prohibited from doing so. NE#1 told OPA that he initially reported his marijuana use to peer support. NE#1 told them that he "felt like [he] couldn't get a handle on it, and [he] need[ed] help." He said that he gave them permission to disclose that information to the Lieutenant and that this occurred. NE#1 recounted his conversation with the Lieutenant and stated that, from his perspective, the purpose of this meeting was: "to seek help from my Department due to my addiction to marijuana." NE#1 explained that he took marijuana for the purpose of "self-medicating" for depression. He stated that he was "feeling very sad and depressed at the time." NE#1 reported that he had been using marijuana daily for around six months. NE#1 stated that he did not believe that he was under the influence of marijuana when he reported to work for his shift on January 1. NE#1 told OPA that, after this incident occurred, he attended a 45-day in-patient rehabilitation program. He further stated that he successfully completed the program and that he continues to attend "MA" meetings and has explored seeing a therapist.

SPD Policy 5.170-POL-7 prohibits Department employees from using or possessing any controlled substances, except at the direction of a medical authority.

Here, the evidence conclusively establishes that NE#1 did, in fact, use marijuana while employed by SPD. He acknowledged using marijuana daily for a six-month period, including the morning prior to his shift on January 1. As the uncontroverted facts establish that NE#1 violated this policy by possessing and using a controlled substance, I recommend that this allegation be Sustained.

In reaching this finding, I note that drug addiction is a disease that can be inordinately difficult to overcome. OPA is relieved to hear that NE#1, who is, from all accounts, a hard-working, well-liked, and respected officer, has sought drug counseling and that this counseling appears to have been successful. OPA wishes NE#1 the best in his recovery.

Recommended Finding: **Sustained**



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

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

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy. As discussed herein, I find that NE#1's conduct violated a number of policies and laws. However, I find that this allegation is duplicative of the finding in Allegation #2, above. As such, I find it unnecessary to also issue a Sustained finding here. Instead, I recommend that this allegation be removed.

Recommended Finding: **Allegation Removed**