



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 30, 2020

CASE NUMBER: 2019OPA-0709

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)

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:

An anonymous Complainant alleged that the Named Employee consistently left work early while improperly collecting full time pay.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employee. As such, the Named Employee was not interviewed as part of this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

An anonymous Complainant alleged that Named Employee #1 (NE#1), a Detective assigned to a unit operating out of SPD Headquarters, was consistently working only a half day or less even though he was assigned to work a 9/80 shift. The Complainant did not provide any specific information concerning when this conduct allegedly occurred. OPA subsequently initiated this investigation.

Given the lack of clarity as to the dates in question and due to OPA's limited resources, OPA evaluated a month-long sample of NE#1's work attendance (August 27, 2019 through September 27, 2019). For that time period, NE#1 worked 21 of the 22 days he was scheduled to work. He called in sick on the one day he did not work. He did not take any other time off, including partial days.

OPA first evaluated NE#1's entries into the Department's data management system – Mark43 – over four random dates. On each, NE#1 first accessed the system in the morning (0654 hours, 0656 hours, 0819 hours, and 0701 hours) and last accessed the system in the afternoon (1437 hours, 1329 hours, 1255 hours, and 1415 hours).

OPA next looked at NE#1's proxy card access into SPD Headquarters. On the majority of the 21 normal workdays, NE#1 entered SPD Headquarters prior to 0700 hours. The latest he accessed SPD Headquarters was at 0921 on

September 16, 2019. OPA could not determine exactly when NE#1 left each day because SPD Headquarters does not require the usage of the proxy card upon exit. OPA also evaluated viewing the security camera for the Fifth Avenue exit from SPD Headquarters; however, given that there are several other exits from the facility, this would not have been determinative. Moreover, OPA concluded that the time it would take to review the video was not a good use of OPA resources given the other evidence available.

OPA also looked at NE#1's email usage during the month-long period. NE#1 sent emails on virtually every day that he worked. Moreover, he nearly always sent emails from the morning through the afternoon, suggesting that he was working throughout the day.

Lastly, OPA reviewed NE#1's computer log-in and log-out times during the course of the month. While this data is not always completely accurate given that users do not always log out of their computers at the end of the workday and may just lock the screen, NE#1's history was consistent with the other evidence described above.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy. If it could be proven that NE#1 repeatedly worked half days or less while being compensated for full time, this would violate a number of SPD and City policies. However, the totality of the evidence indicates that there is no basis to conclude that this is the case. Instead, the evidence showed that NE#1 arrived at SPD Headquarters in the morning and worked, with rare exceptions, until the afternoon. There is no support for a finding that he is or was misappropriating time.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

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