



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 11, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0253

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	12.110 Use of Department Information Systems.4. All Email and Internet Communications Must be Professional, Appropriate, and Lawful.	Sustained

Imposed Discipline

Written Reprimand

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 Complainant sent an unprofessional email to OPA from his SPD account.

SUMMARY OF INVESTIGATION:

OPA received a complaint alleging that Named Employee #1 (NE#1) operated his patrol vehicle in an unsafe manner by speeding and driving recklessly. The case was assigned a number – 2021OPA-0232 – and, pursuant to the collective bargaining unit with SPOG, NE#1 was sent a five-day notice by an OPA investigator. The five-day notice was purposed to advise NE#1 of the complaint, including the general substance of the allegations, and to inform him that OPA would be conducting an intake investigation prior to determining how to classify and handle the complaint.

In response to this contractual notice, NE#1 sent the OPA investigator the following email: "Great! Thanks OPA. I will make sure to take my time and drive 20 MPH next time there is a burglar with a handgun actively fighting bystanders." OPA deemed the email to potentially violate SPD's policy concerning professional email communication and initiated an investigation.

As part of its investigation, OPA interviewed NE#1. He said that he was dealing with frustration with OPA at the time, as well as with the death of a family member. He was specifically frustrated with the way OPA receives complaints and the process in which they are investigated. He noted that his email was directed to OPA as an office, rather than the specific investigator who was the recipient. When asked whether he felt his email was professional, NE#1 said the interpretation of his response is subjective and that, objectively, there was nothing unprofessional according to Department policy. In response to questioning from his SPOG representative, NE#1 opined that sarcasm was not prohibited under the policy. NE#1 said that, regardless, he would not respond the same way in the future. He further noted that he had been counseled concerning the email by his chain of command.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

12.110 Use of Department Information Systems.4. All Email and Internet Communications Must be Professional, Appropriate, and Lawful.

SPD Policy 12.110-POL-4 requires that all email communications engaged in by Department employees be “professional, appropriate, and lawful.”

As a threshold matter, sending a sarcastic and disrespectful email to an OPA investigator or, for that matter, to OPA is unprofessional and an abuse of SPD’s email systems. Indeed, OPA cannot think of another situation in recent memory where an officer engaged in similar conduct. OPA notes that this result would be the same had NE#1 sent that email to any other unit in the Department and OPA doubts that NE#1 would have sent a similar email to sworn personnel assigned outside of OPA.

While OPA appreciates NE#1’s statement that he would not send this type of email again, OPA is concerned by NE#1’s apparent failure to recognize how and why his email was unprofessional. Five-day notices are a function of the contract. OPA is required to send them in every case no matter what the allegations are and despite how frivolous they may seem to an officer. If OPA did not do so, those failures would be in violation of the contract and potentially subject to a grievance and/or unfair labor practice. This is not a secret – this requirement is set forth in the contract and NE#1 should be aware of it.

Had NE#1 recognized the problem with his statement and expressed any understanding as to why it was unprofessional, OPA would have been inclined to issue a Training Referral. In this scenario, OPA would have been comfortable with the determination that NE#1 saw the problem and would correct it. However, based on his OPA interview, it does not appear that NE#1 gets it. This is the case even though he was given an opportunity to provide an explanation and to take accountability. Moreover, absent such an explanation, not sustaining this case would set a bad precedent that OPA feels should be avoided. Given this, OPA believes that a Training Referral would be ineffective and inappropriate, and instead recommends that NE#1 receive a Sustained finding.

Recommended Finding: **Sustained**