



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 18, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0437

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Allegation Removed
# 2	5.001 - Standards and Duties 11. Employees Will Be Truthful and Complete in All Communication	Allegation Removed
# 3	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Allegation Removed
# 4	4.020-POL-1 Reporting and Recording Overtime/Out of Classification Pay 7. Employees On Sick Leave, Military Leave, Disciplinary Suspension, or Limited Duty Will Not Work Department Overtime	Not Sustained - Management Action (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	4.020-POL-1 Reporting and Recording Overtime/Out of Classification Pay 5. Lieutenant/Manager Responsibilities for Monitoring Overtime Use	Not Sustained - Management Action (Expedited)

Named Employee #3

Allegation(s):		Director's Findings
# 1	4.020-POL-1 Reporting and Recording Overtime/Out of Classification Pay 5. Lieutenant/Manager Responsibilities for Monitoring Overtime Use	Not Sustained - Management Action (Expedited)

Named Employee #4

Allegation(s):		Director's Findings
# 1	4.020-POL-1 Reporting and Recording Overtime/Out of Classification Pay 5. Lieutenant/Manager Responsibilities for Monitoring Overtime Use	Not Sustained - Management Action (Expedited)
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 6. Employees Will Report Alleged Violations	Not Sustained - Management Action (Expedited)

Named Employee #5

Allegation(s):		Director's Findings
# 1	4.020-POL-1 Reporting and Recording Overtime/Out of Classification Pay 5. Lieutenant/Manager Responsibilities for Monitoring Overtime Use	Not Sustained - Management Action (Expedited)



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:

During an audit, the Office of Inspector General (OIG) learned that Named Employee #1 (NE#1) may have worked overtime shifts on two days where he was scheduled to serve unpaid suspensions.

It was further alleged that Named Employee #2 (NE#2), Named Employee #3 (NE#3), Named Employee #4 (NE#4), and Named Employee #5 (NE#5) were involved in approving NE#1's overtime shifts or timesheets, which may have violated SPD Policy.

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 involved employees. As such, OPA did not interview the involved employees in this case.

SUMMARY OF INVESTIGATION AND ANALYSIS:

As part of an OIG audit, OIG reviewed a sample of timecards, which included NE#1's timecard. OIG noted that NE#1 appeared to have worked overtime shifts on two days that he was serving Suspension without pay—July 10, 2019 and July 11, 2019. OIG forwarded this information to OPA. OPA commenced this investigation.

As part of its investigation, OPA reviewed NE#1's work status, imposed disciplinary history, time keeping records for July 2019, and Event Overtime Summary sheets for July 10, 2019 and July 11, 2019. During this investigation, NE#1 was unavailable for interview and eventually separated from SPD. NE#1 declined to be interviewed. OPA also reviewed findings and recommendations from OPA case 2020OPA-0511 and a Management Action Recommendation (MAR) issued by OPA on June 9, 2021, 2021COMP-0030.

NE#1's time keeping records showed that NE#1 coded overtime ("OT Pay 1.5 Factor") for six hours on July 10, 2019 and three hours on July 11, 2019. NE#1 also coded that he served nine hours of "Suspension without Pay" on each of these two dates. Event Overtime Summaries for these dates also showed that NE#1 worked overtime shifts with the SPD Traffic Unit. The Event Overtime Summaries showed that NE#1 worked three-and-a-half hours of "Shift Extension" coded overtime on July 10, 2019 and three hours of "Day Off" coded overtime on July 11, 2019. NE#2, NE#3, and NE#5 approved both of these Event Overtime Summaries. NE#4 approved NE#1's timesheet for the period covering these dates. NE#1 also received a disciplinary transfer to Human Resources on July 10, 2019.

OIG communication with SPD Traffic Unit indicated that there were "no controls to prevent this scenario."

As in 2020OPA-0511, systemic gaps existed in SPD policy during this period in the areas of records management and supervisory oversight. As with the named employee in that case, these gaps prevented sufficient supervisory oversight of NE#1's overtime and the service of his disciplinary suspensions.



As a result of its investigation in 2020OPA-0511, OPA issued a MAR, 2021COMP-0030, to SPD on June 9, 2021 recommending that SPD:

- Move the current paper processes for recording employee overtime into a centralized database that can also track off-duty employment hours. Allocate responsibility of this database to the Seattle Police Operations Center.
 - In the absence of a centralized database, require SPD Human Resources to maintain records on employee work hours, overtime, off-duty employment, and furloughs, and flag employees who may be working excess hours.
- Enable SPD supervisors to view all approved overtime hours for employees under their command.
- Modify SPD Policy 4.020-POL-1(3):
 - Clearly define what qualifies under the public safety and mandatory overtime exceptions to the 90-hour rule.
 - Measure a week from Wednesday to the following Wednesday to align with SPD's pay periods.
 - Reconcile any conflicts between CBAs and SPD policy. Negotiate any of the recommended changes above that are mandatory subjects of bargaining.

SPD is in the process of considering these recommendations and has not formally responded to 2021COMP-0030. OPA now recommends that, in conjunction with the improvements recommended in 2021COMP-0030, SPD:

- Require that the dates disciplinary suspensions will be served be submitted to the Seattle Police Operations Center ahead of time to track in any centralized database created as recommended in 2021COMP-0030.
- Regardless of whether a centralized database is created, implement safeguards in the time keeping system to prevent employees from coding overtime hours and disciplinary suspensions on the same day.

All of the conduct at issue in this case occurred in 2019, a period during which the systemic gaps in SPD policies concerning overtime, records management, and supervisory oversight have been well documented. Moreover, OPA made thorough recommendations for SPD to address these systemic gaps and those recommendations are presently under consideration. Finally, NE#1 is separated from the Department and declined to be interviewed by OPA.

Accordingly, OPA recommends that the allegations identified in this case be Not Sustained – Management Action.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged that NE#1 was unprofessional.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. (SPD Policy 5.001-POL-10.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (*Id.*) Lastly, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (*Id.*)



It was alleged that NE#1 was unprofessional because he worked overtime on the same dates that he served disciplinary suspensions. Accordingly, this allegation is subsumed under the resolution of Named Employee #1, Allegation #4 and is removed.

Recommended Finding: **Allegation Removed**

Named Employee #1 - Allegation #2

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

The Complainant alleged that NE#1 failed to be truthful and complete in his communication.

SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications.

It was alleged that NE#1 failed to be truthful and complete in his communication because he worked overtime on the same dates that he served disciplinary suspensions. Accordingly, this allegation is subsumed under the resolution of Named Employee #1, Allegation #4 and is removed.

Recommended Finding: **Allegation Removed**

Named Employee #1 - Allegation #3

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

The Complainant alleged that NE #1 violated law and/or policy.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

It was alleged that NE#1 violated law and/or policy because he worked overtime on the same dates that he served disciplinary suspensions. Accordingly, this allegation is subsumed under the resolution of Named Employee #1, Allegation #4 and is removed.

Recommended Finding: **Allegation Removed**



Named Employee #1 - Allegation #4

4.020-POL-1 Reporting and Recording Overtime/Out of Classification Pay 7. Employees On Sick Leave, Military Leave, Disciplinary Suspension, or Limited Duty Will Not Work Department Overtime

The Complainant alleged that NE#1 violated SPD policy by working overtime on the same dates that he served disciplinary suspensions.

Under SPD Policy 4.020-POL-1(7), “[e]mployees on sick leave, military leave, disciplinary suspension, or limited duty will not work department overtime.”

Based on NE#1’s Time Keeping Records and Event Overtime Summaries, it is indisputable that NE#1 violated SPD Policy by working overtime on the same dates that he served disciplinary suspensions. However, for the reasons set forth above at “Summary of Investigation and Analysis,” this misconduct resulted from a deficiency in SPD procedures as they existed during this period.

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

Recommended Finding: **Not Sustained - Management Action**

Named Employee #2 - Allegation #1

4.020-POL-1 Reporting and Recording Overtime/Out of Classification Pay 5. Lieutenant/Manager Responsibilities for Monitoring Overtime Us

The Complainant alleged that NE#2 failed to properly review the overtime of NE#1 to ensure it complied with policy.

SPD Policy 4.020-POL-1(5) states that “Lieutenants and managers shall review the overtime of their respective sections and ensure that overtime use complies with the policies and mission of the Department. This includes the review of overtime reports by unit, reason for the overtime, and individuals’ amount of overtime worked for a period of time.”

For the reasons set forth above at “Summary of Investigation and Analysis,” OPA recommends that this allegation be Not Sustained – Management Action.

Recommended Finding: **Not Sustained - Management Action**

Named Employee #3 - Allegation #1

4.020-POL-1 Reporting and Recording Overtime/Out of Classification Pay 5. Lieutenant/Manager Responsibilities for Monitoring Overtime Us

The Complainant alleged that NE#3 failed to properly review the overtime of NE#1 to ensure it complied with policy.

For the reasons set forth above at “Summary of Investigation and Analysis,” OPA recommends that this allegation be Not Sustained – Management Action.

Recommended Finding: **Not Sustained - Management Action**



Named Employee #4 - Allegation #1

4.020-POL-1 Reporting and Recording Overtime/Out of Classification Pay 5. Lieutenant/Manager Responsibilities for Monitoring Overtime Use

The Complainant alleged that NE#4 failed to properly review the overtime of NE#1 to ensure it complied with policy.

For the reasons set forth above at “Summary of Investigation and Analysis,” OPA recommends that this allegation be Not Sustained – Management Action.

Recommended Finding: **Not Sustained - Management Action**

Named Employee #4 - Allegation #2

5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 6. Employees Will Report Alleged Violations

The Complainant alleged that NE#4 failed to report that NE#1 violated SPD policy by working overtime on the same dates that NE#1 served disciplinary suspensions.

SPD Policy 5.002-POL-6 concerns the reporting of misconduct by Department employees. It specifies that minor misconduct must be reported by the employee to a supervisor, while potential serious misconduct must be reported to a supervisor or directly to OPA. (SPD Policy 5.002-POL-6.) The policy further states the following: “Employees who witness or learn of a violation of public trust or an allegation of a violation of public trust will take action to prevent aggravation of the incident or loss of evidence that could prove or disprove the allegation.” (*Id.*)

For the reasons set forth above at “Summary of Investigation and Analysis,” OPA recommends that this allegation be Not Sustained – Management Action.

Recommended Finding: **Not Sustained - Management Action**

Named Employee #5 – Allegation #1

4.020-POL-1 Reporting and Recording Overtime/Out of Classification Pay 5. Lieutenant/Manager Responsibilities for Monitoring Overtime Use

The Complainant alleged that NE#5 failed to properly review the overtime of NE#1 to ensure it complied with policy.

For the reasons set forth above at “Summary of Investigation and Analysis,” OPA recommends that this allegation be Not Sustained – Management Action.

Recommended Finding: **Not Sustained - Management Action**