



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 26, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0490

Allegations of Misconduct and 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 - Inconclusive
# 2	13.080 - Use of Department Vehicles 11. Prohibited Activities During Use of Department Vehicles	Not Sustained - Inconclusive
# 3	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Not Sustained - Inconclusive

EXECUTIVE SUMMARY:

The Complainant alleged that Named Employee #1 (NE#1) violated law or policy, engaged in prohibited use of Department vehicles, and was unprofessional by being intoxicated while on duty, including while driving his Department vehicle.

SUMMARY OF INVESTIGATION:

The Complainant contacted OPA by telephone to report that NE#1 drove his Department vehicle while intoxicated and with open containers in the vehicle. The Complainant did not provide any further specifics such as a date, time, location, or signed of intoxication. OPA opened an investigation.

During its investigation, OPA reviewed the complaint, NE#1's Department vehicle, communication with the Assistant Chief in charge of NE#1's bureau, and a prior OPA case that was sustained against NE#1. OPA also conducted a follow-up interview with the Complainant and interviewed both Witness Employee #1 (WE#1) and NE#1.

OPA located NE#1's vehicle on Department property. OPA did not observe any evidence of open containers in the vehicle.

OPA communicated by email with the Assistant Chief in command of NE#1's bureau. The Assistant Chief confirmed that NE#1 had the same Department vehicle beginning in 2020. The Assistant Chief also provided identifying information for the vehicle. OPA also communicated with the Assistant Chief by telephone. During a telephone conversation, the Assistant Chief advised OPA that they work in proximity with NE#1 and did not observe anything to indicate that he was intoxicated while at work.

OPA reviewed a prior OPA case that was sustained against NE#1. That investigation was triggered after NE#1 was arrested for DUI. NE#1 subsequently pleaded guilty to reckless endangerment and, during the OPA investigation, acknowledged that he had driven under the influence.



OPA spoke to the Complainant again over the phone. The Complainant refused to provide any additional specifics regarding the allegations that NE#1 drove or worked while under the influence of alcohol. The Complainant stated that people within the Department were enabling NE#1's behavior and refused to provide additional witness information, but claimed multiple witnesses exited. The Complainant stated that NE#1's status as an officer had resulted in a favorable plea arrangement in a previous DUI case. The Complainant acknowledged that she was NE#1's ex-wife. OPA told the Complainant that it would be difficult to investigate these allegations without specifics, but the Complainant refused to provide further information.

OPA interviewed WE#1, NE#1's direct supervisor. WE#1 has been a supervisor in NE#1's unit for eleven years and worked with NE#1 for the past six years. WE#1 stated that they see NE#1 every working day. WE#1 stated that, during this time, they had never seen any signs of intoxication or alcohol containers in NE#1's vehicle. WE#1 also stated no one had ever brought such concerns to their attention. However, WE#1 referenced a prior OPA case against NE#1 related to a DUI as the only thing similar to these issues.

OPA interviewed NE#1. NE#1 stated he regularly drove a Department rental vehicle. NE#1 stated his suspicion that these allegations were made by his ex-wife. NE#1 stated that in October 2021, he responded to assist his ex-wife with changing her tire. NE#1 stated it was raining that day and that he moved items from her car to his car in order to access the spare tire. NE#1 stated that some of the items he moved into his car were alcohol containers. After his prior OPA case was adjudicated, NE#1 denied ever having an open container in his vehicle, denied ever being intoxicated at work or in a Department vehicle, and—with the singular exception of the incident where he helped his ex-wife change her tire—denied ever having any closed alcohol containers in his department vehicle.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged that NE#1 violated law or policy by being intoxicated while on duty, including while driving his Department vehicle.

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

The Complainant in this case provided no evidence beyond the threadbare claim that NE#1 was working and driving while intoxicated. To the contrary, NE#1's direct supervisor and the Assistant Chief that command his bureau told OPA they saw no evidence that NE#1 was intoxicated at work or driving while intoxicated. OPA's visual inspection of NE#1's Department vehicle similarly did not corroborate the Complainant's allegations. NE#1 denied the Complainant's allegations. On this record, OPA can neither prove nor disprove the allegation.

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

Recommended Finding: **Not Sustained - Inconclusive**



Named Employee #1 - Allegation #2

13.080 - Use of Department Vehicles 11. Prohibited Activities During Use of Department Vehicles

The Complainant alleged that NE#1 was driving a Department vehicle while intoxicated.

SPD Policy 13.080-POL-11 prohibits employees from engaging in certain activities while operating a Department vehicle including, but not limited to, driving while impaired.

For the reasons set forth at Named Employee #1, Allegation #1, OPA recommends that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**

Named Employee #1 - Allegation #3

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

The Complainant alleged that NE#1 Was unprofessional by being intoxicated while on duty, including while driving his Department vehicle.

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.)

For the reasons set forth at Named Employee #1, Allegation #1, OPA recommends that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**