



## ***CLOSED CASE SUMMARY***

ISSUED DATE: SEPTEMBER 26, 2022

FROM: DIRECTOR GINO BETTS  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0091

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Inconclusive
# 2	Timekeeping and Payroll	Not Sustained - Inconclusive

#### **Named Employee #2**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Inconclusive

***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 Named Employee #1 (NE#1) and Named Employee #2 (NE#2) violated the Department's professionalism policy by engaging in sexual activity inside a Department facility. It was also alleged NE#1 engaged in sexual acts while on duty.

### **SUMMARY OF INVESTIGATION:**

On March 24, 2022, a SPD Precinct command staff notified OPA about a rumor involving a SPD officer having sexual relations at the precinct. The next day, Witness Supervisor #1 (WS#1), a sergeant, investigated the matter and submitted a memorandum outlining what he learned to precinct command staff. That memorandum alleged Witness Contractor #1 (WC#1) observed two named employees—a sworn officer (NE#1) and a civilian (NE#2)—engaging in sexual activity inside the precinct. In response, OPA opened an investigation.

During its investigation, OPA reviewed the memorandum and email correspondence with between precinct command staff. OPA also interviewed WC#1, NE#1, and NE#2.

#### ***i. The Memorandum***

WS#1's memo indicated a rumor of sexual acts occurring at the south precinct was "circulating...for several weeks." WS#1 decided to investigate the matter to see whether it had merit, "and (was) something that (needed to be) reported to a supervisor and OPA." First, WS#1 learned from command staff WC#1 reportedly saw two people



engaged in oral sex at the precinct. WS#1, using a Spanish-fluent officer to translate, interviewed WC#1. WC#1 stated, around July 2021, he first saw the couple having suspected oral sex. Specifically, around 4:30 A.M., WC#1 entered an unused office. The lights were off. WC#1 turned the lights on and saw NE#1 sitting in a chair. NE#2 quickly stood up, ran, then hid in a nearby cubicle. WC#1 had a clear look at NE#2, as he entered the cubicle to empty trash. In early March 2022, WC#1 reportedly caught the couple again engaged in oral sex. Then, he entered the precinct's Anti-Crime Team Office and found NE#1 sitting in a chair with NE#2 on her knees "actively engaged in oral sex with NE#1." NE#2 stood up and left the office and precinct.

WC#1 was unable to identify the involved employees by name. However, he identified them by department position and seating locations at identifiable times. He further identified NE#1 in-person to the officer translating the interview.

**ii. Witness Contractor #1**

On April 6, 2022, OPA, using a translator, interviewed WC#1. During the interview, WC#1 stated he worked at the precinct for approximately six years. Generally, WC#1 worked daily 3:00 A.M. to 9:00 A.M.

WC#1 stated, in March of 2022, he was approaching a room in the precinct when, suddenly, he saw NE#2 rush out. WC#1 stated NE#1 remained seated and covered his groin area. WC#1 did not see what NE#1 and NE#2 were doing, but suspected they were engaged in oral sex, due to NE#2's position in front of NE#1's groin. Later, NE#1 approached WC#1 to ask whether WC#1 saw a key NE#1 lost. WC#1 described NE#1 as apparently nervous at that time.

Initially, during his OPA interview, WC#1 only recounted the March 2022 incident. Specifically, he stated it was the only time he observed NE#1 and NE#2 engaged in sexual activity. However, when asked about the July 2021 incident captured in WC#1's memorandum, WC#1 recounted the earlier incident.

In a follow up call, WC#1 told OPA NE#1 was in civilian attire, rather than a uniform, during both incidents.

**iii. Named Employee #1**

On July 6, 2022, OPA interviewed NE#1. NE#1 and NE#2 previously worked at the same precinct and knew each other for three or four years. They participated in a Peer Support group. In 2021, NE#2 started communicating with NE#1 in NE#1's Peer Support role. They spoke in their Peer Support roles about three to five times. NE#1 also described their relationship as "work friends," and denied ever socializing with NE#2 outside work.

NE#1 also denied engaging in sexual activity with NE#2. However, NE#1 did recall an incident—which NE#1 described as "sometime before March [2022]—where NE#1 spoke with NE#2 inside an office or locker room area. NE#1 stated he received a phone call from NE#2 earlier that day. She was very upset. NE#2 came to the precinct, and they found a private area to speak. They spoke for about ten minutes in a small vacant room. During that conversation, NE#2 began to cry. NE#1 told NE#2 to "take some time, pull yourself together" because NE#1 heard people outside the



room. NE#1 opened the door and saw WC#1. NE#1 recalled asking WC#1 whether he saw a handcuff key NE#1 misplaced.

**iv. Named Employee #2**

On July 26, 2022, OPA interviewed NE#2. NE#2 confirmed she and NE#1 used to work at the same precinct. NE#2 often visited that precinct because she liked the people and felt comfortable there. NE#2 described her relationship with NE#1 as “work friends” and Peer Support partners for a “couple of years.”

NE#2 also denied engaging in sexual activity with NE#1. NE#2 recalled being at the precinct in “January or maybe February [2022].” NE#2 went to the precinct for a social event but, at some point, asked to speak with NE#1 for peer support. NE#2 and NE#1 went to a “locker room area” for privacy because NE#2 was “on the verge of tears.” NE#2 and NE#1 talked for ten to fifteen minutes. Following that conversation, NE#2 stayed in the room for a brief period.

**ANALYSIS AND CONCLUSIONS:**

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

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

The Complainant alleged NE#1 and NE#2 violated SPD’s professionalism policy by engaging in sexual activity inside of an SPD Precinct.

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.)

OPA cannot conclude by a preponderance of the evidence whether this allegation occurred as alleged. Both NE#1 and NE#2 denied engaging in sexual activity, inside or out of the precinct. While WC#1 had no apparent motive for untruthfulness, there is no evidence corroborating his purported observations.

Accordingly, where the evidence is insufficient to clear a preponderance standard, OPA recommends this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**

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

***4.010 - Employee Time Off 4.010-POL 2. Employees Schedule Time Off With Their Sergeant/Supervisor***

It was alleged NE#1 may have engaged in sexual behavior while scheduled to work and without requesting an unscheduled absence from duty.



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SPD Policy 4.010-POL-2 requires SPD employees to schedule time off with their supervisors. The policy states that: "Employees will contact their sergeant/supervisor before their scheduled work shift to request an unscheduled absence from duty." (SPD Policy 4.010-POL-2.)

During its intake investigation, OPA learned NE#1 allegedly engaged in sexual activity while scheduled to work and without requesting an unscheduled leave from his supervisor. If NE#1 did, in fact, engage in sexual activity while on duty, NE#1 would have violated this policy. However, for the reasons set forth above, analysis of Named Employee #1 - Allegation #1, there is insufficient evidence to sustain this allegation.

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

Recommended Finding: **Not Sustained - Inconclusive**

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

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

For the reasons set forth above at Named Employee #1 - Allegation #1, OPA cannot conclude whether NE#1 and NE#2 engaged in sexual activity.

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

Recommended Finding: **Not Sustained - Inconclusive**