



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 17, 2022

FROM: DIRECTOR GINO BETTS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0124

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication	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:

The Complainant, who is an SPD supervisor, alleged Named Employee #1 (NE#1) made several dishonest statements to him regarding a call for service that she logged to after they were closed.

ADMINISTRATIVE NOTE:

During the course of this investigation, it was alleged that NE#1 re-logged to a call that she had already completed and reported on hours earlier, and that NE#1 had no business purpose for doing so. This allegation, if proven to be true, would violate SPD Policy 5.100(I)(A)(4). OPA returned this allegation to the chain of command to be handled via a Supervisor Action.

SUMMARY OF INVESTIGATION:

The Complainant submitted a Blue Team complaint to OPA detailing his allegation that NE#1 made dishonest statements to him about a call that she logged to after it was closed. OPA opened an investigation.

During its investigation, OPA reviewed the Blue Team Complaint, Computer Aided Dispatch (CAD) Call Reports and Resource Logs for NE#1 on the date of incident, Incident/Offense Reports for NE#1 on the date of incident, a Police Traffic Collision Report (PTCR) authored by NE#1 on the date of incident, a Performance Appraisal System (PAS) entry for NE#1 written by the Complainant, and NE#1's Body Worn Video (BWV) on the date of incident. OPA interviewed the Complainant, two witness supervisors, and NE#1.

I. Blue Team Complaint



The Complainant is a West Precinct supervisor. In his Blue Team Complaint, the Complainant stated that April 9, 2022¹ was an extremely busy night with many calls for service and delays. The Complainant stated that one of these calls involved a vehicle that crashed into City Hall (the City Hall Call). The City Hall Call was in NE#1's sector. The City Hall Call was reported at 12:34 A.M. but was holding for about two hours when police received a call for "people with guns" at 2:07 A.M. (the Gun Call) and a priority domestic violence call at 2:36 A.M. (the DV Call). The Complainant reported that NE#1 responded to the Gun Call and the DV Call.

The Complainant stated that NE#1 ended her involvement with the DV call at 2:50 A.M. and immediately logged back into a call that she had completed earlier in her shift (the Coast Guard Call). The Complainant stated that the Coast Guard Call was memorable because of its location. The Complainant stated that he contacted NE#1 and directed her to handle the holding City Hall Call. The Complainant stated NE#1 responded that she had already returned to the Precinct to talk to him about not going to the City Hall Call as she had to prepare for an internal SPD investigation "next week" and had not had time to review the materials. The Complainant stated that he directed NE#1 to respond to the City Hall Call, which she did.

The Complainant noted that NE#1 had been dispatched to the Coast Guard Call at 7:43 P.M. but did not show as "arrived" until 8:49 P.M. The Complainant stated that CAD Records showed that NE#1 was handling the Coast Guard Call until 9:32 A.M. before she went back "in service." The Complainant stated that NE#1 then "re-logged" to the Coast Guard Call at 10:05 P.M. and stayed on that call until 11:03 P.M. The Complainant explained his concern: "As a frontline supervisor this logging/relogging to a previously handled call presented as an Officer shirking their responsibility to handle calls for service and need to be addressed."

The Complainant then documented a counseling session he had with NE#1.² The Complainant noted that Witness Supervisor #1 (WS#1) was also present in the room. The Complainant stated that he told NE#1 that he found her work product to be deficient and indicative of work avoidance. The Complaint reported that NE#1 made "repeated[]" and unequivocal[]" statements to him that: (1) she had no idea how she was relogged to the Coast Guard Call, and (2) she did not know she relogged to it a third time. The Complainant documented his suspicions that NE#1 was being dishonest based on the keystrokes that would be involved to "re-log" to a call.

The Complainant noted that he later read and approved NE#1's report from the Coast Guard Call and learned that NE#1 submitted this report at 11:01 P.M. The Complainant documented that this caused him concern that NE#1 was taking too long to handle her calls and was relogging to call to avoid going to other calls.

The Complainant documented that, after counseling NE#1, NE#1 sought him out at his patrol car and "steadfastly repeated" that she had not intentionally relogged to the Coast Guard Call and was unaware of having done so. The

¹ The Supervisor is referring to the April 9, 2022 3rd Watch Shift. This shift reports for duty in the evening on April 8 and works until the early morning on April 9. Accordingly, P.M. times in this DCM refer to the evening of April 8 and A.M. times refer to the early morning of April 9.

² Within SPD, "counseling" refers to non-disciplinary performance discussions between a supervisor and supervisee.



Complainant reported that NE#1 then said that she “never relogs to calls,” which the Complainant “knew to be materially untrue.” The Complainant also stated that he was troubled because NE#1 sought him out while working overtime which “flew in the face” of NE#1’s statement about needing time to prepare for an internal SPD investigation.

Finally, the Complainant stated that he pulled the CAD Resource Log from NE#1’s shift and determined that NE#1 relogged to the Coast Guard Call at 2:50 A.M. and entered a typed update “ON REPORT” as a call note. The Complainant stated that “adding call notes cannot be done accidentally” because of the series of steps it would take to do so.

II. CAD Call Reports and Resource Logs

According to the CAD Reports, NE#1 logged in for service at 7:38 P.M. on April 8, 2022. In relevant part, NE#1’s CAD Call Reports and Resource Logs showed that NE#1 did the following:

- Logged to Coast Guard Call at 7:43 P.M.
 - Call notes “Inside on 35 Floor, might have poor reception”
 - Marked arrived at 8:49 P.M.
 - Call notes “At 2014 hours deactivated BWV due to classified information on 35th Floor”
 - Placed Coast Guard Call in handled status at 9:32 P.M.
- Relogged to Coast Guard Call at 10:05 P.M.
 - Placed Coast Guard Call in handled status at 11:03 P.M.
- Logged to Gun Call at 2:14 A.M.
 - Went back in service at 2:22 A.M.
 - Relogged to Gun Call at 2:25 A.M.
 - Went back in service at 2:41 A.M.
- Logged to DV Call at 2:41 A.M.
 - Went back in service at 2:50 A.M.
- Relogged to Coast Guard Call at 2:50 A.M.
 - Call notes “On Report” at 2:50 A.M.
 - Ran a license plate at 2:52 A.M.
 - Went back in service at 2:59 A.M.
- Logged to the City Hall Call at 2:59 A.M.
 - Went back in service at 3:21 A.M.
- Relogged to Coast Guard Call at 3:27 A.M.
 - Went back in service at 3:27 A.M.
- Relogged to City Hall Call at 2:59 A.M.
 - Call noted “On Report” at 3:27 A.M.
 - Call notes “Bye, on report” at 3:28 A.M.
- NE#1 signed off at 5:27 A.M. on April 9, 2022

III. NE#1’s Reports

NE#1 wrote three reports on the April 9, 2022 shift.



NE#1 wrote an Incident/Offense Report for “Harassment/Threats” regarding the Coast Guard Call. NE#1 wrote the report at 9:18 P.M. and submitted the report at 11:01 P.M.

NE#1 wrote another Incident/Offense Report concerning a shooting that occurred at approximately 11:06 P.M. on April 8, 2022. NE#1 wrote this report at 1:23 A.M. on April 9, 2022 and submitted it at 2:39 A.M.

NE#1 wrote a Police Traffic Collision Report (PTCR) concerning the City Hall Call.

IV. PAS Entry

The Complainant wrote a Performance Appraisal System (PAS) entry for NE#1 that read as follows:

Today I counselled [NE#1] on her work product. Namely the time spent logged to calls and handling calls for service in her district (specifically [the City Hall Call]). I noted that [NE#1] was relogging to calls she had already written the reports for and it appeared she was doing so to avoid going to more calls ([the Coast Guard Call]). [NE#1] was receptive and I consider the matter closed.

V. OPA Interviews

OPA interviewed the Complainant, two witness supervisors, and NE#1.

a. Complainant

OPA interviewed the Complainant on June 14, 2022. In large part, the Complainant reiterated that allegations outlined in his detailed Blue Team OPA Complaint.

However, the Complainant also outlined his long-running concerns regarding NE#1’s candor and performance. The Complainant discussed several, prior, unrelated instances that initially triggered his suspicions. The Complainant also described how he raised these issues with his superiors and NE#1’s supervisors.

b. Witness Supervisors

OPA interviewed two witness supervisors.

OPA interviewed Witness Supervisor #1 (WS#1) on August 9, 2022. WS#1 stated that he regards NE#1 as an “average” employee, but that WS#1 has never directly supervised NE#1. WS#1 recalled being present when the Complainant counseled NE#1. However, WS#1’s recollection of this incident was, in his own words, “a little fuzzy.” WS#1 recalled that the Complainant gave NE#1 feedback concerning their performance and told NE#1 that she was “getting kind of a reputation on the watch.” WS#1 repeatedly noted that he could not recall any specifics or “specifically what was



said [during the counseling meeting between the Complainant and NE#1] versus what [the Complainant] had filled me in on the day after.” WS#1 also stated that the information he had concerning NE#1 approaching the Complainant at his patrol car to discuss the issue again was second-hand information that WS#1 heard from the Complainant.

Witness Supervisor #2 (WS#2) stated he is now retired but that the incident underlying the complaint occurred as he was using leave time prior to formally retiring. WS#2 stated he supervised NE#1 prior to retiring. WS#2 recalled a conversation with the Complainant in which the Complainant stated he was frustrated with NE#1’s performance, WS#2 and the Complainant pulled the CAD Resource History for NE#1, and the Complainant told WS#2 that he had to file a complaint for dishonesty against NE#1.

c. Named Employee #1

OPA interviewed NE#1 on August 9, 2022.

NE#1 summarized her shift from April 8 into April 9, 2022. NE#1 stated it was a “fairly busy” evening and that she began by responding to the Coast Guard Call, then two different shots fired calls, an assault call, and worked a detail at Third and Pine for two hours from midnight until 2:00 A.M. NE#1 stated that, immediately prior to the Third/Pine Detail, she tried to return to precinct to use the restroom and check on a report. NE#1 stated that she was directed by WS#1 to, instead, go to the Third/Pine detail. NE#1 stated that there was then a weapon call and a fight that she responded to.

NE#1 elaborated that she placed the Coast Guard Call on “handled status” (as opposed to closing the call completely) because she had to respond to a suicidal individual. NE#1 stated that, after submitting the report concerning the Coast Guard Call at 11:02 A.M., she put the call back on handled status because she still needed to write a note in the remarks, specifically that the Coast Guard wanted it documented that they did not want any further follow up on their call. NE#1 also stated she needed to document that she deactivated her BWV due to classified information at the Coast Guard Station. However, NE#1 told OPA that, ultimately, she did not think she added those remarks because she “just forgot” by the end of her shift.

NE#1 explained that she did not immediately respond to the City Hall Call immediately because she was assigned to the Third/Pine detail and believed another unit was sent to handle the City Hall Call.

NE#1 stated that she did not remember the exact substance of the counseling meeting she had with the Complainant. NE#1 recalled that the conversation concerned her relogging to the Coast Guard Call and that the Complainant stated that the report should not have taken as long to write as it did. NE#1 told OPA that she experienced some technical difficulties with her computer terminal and she “didn’t realize that [the report] was even submitted at 11:03.”

NE#1 described her recollection of approaching the Complainant at his patrol car. NE#1 described this as her trying to “clear the air and apologize.” NE#1 denied telling the Complainant that she “never” relogs to calls. NE#1 stated that “everybody has to relog back to a call if they’re gonna clear it or add notes or complete a report.” Instead, NE#1



recalled that she told the Complainant that she “typically” did not relog to calls—meaning, in her words, that she did not “go back to calls just to sit on a call.”

With respect to asking to review material for an SPD internal investigation—instead of responding to the City Hall Call—NE#1 stated that she did not remember exactly what she told the Complainant, but that she had a “question about reviewing [her]...report or body worn video.” NE#1 stated that she was going to be off for several of the following days and was then scheduled to attend a three-day patrol class. NE#1 stated that “it wasn’t a matter of I was going to do it immediately,” but that she had a question about reviewing for the investigation.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged NE#1 was dishonest with him when asked why she relogged to a call.

SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications. Under the SPOG CBA, a sustained complaint involving dishonesty in the course of an officer’s official duties carries a “presumption of termination.” SPOG CBA, at § 3.1. For termination cases where the alleged officer is stigmatizing to a law enforcement officer, the standard of review and burden of proof in labor arbitration includes “an elevated standard of review (i.e. – more than preponderance of the evidence).” *Id.*

An allegation of dishonesty in the course of an officer’s official duties is one of the most stigmatizing allegations that can be sustained against a law enforcement officer. If sustained, a dishonesty allegation carries a presumption of termination. Accordingly, OPA is careful to consider whether a specific, material statement allegedly made by a named employee was dishonest, deliberately misleading, or so incomplete as to amount to dishonesty. OPA cannot conclude so here.

The Complainant raised serious allegations that NE#1 made “materially false statements about her work performance.” Specifically, the Complainant stated, “[NE#1] did not log to the [Coast Guard Call] by accident and furthermore the report for this incident had been submitted at 2301 hours and she did not need to devote additional time to this investigation.” If made knowingly and falsely, this statement would amount to a materially false statement.

The Complainant further specified two separate instances of NE#1 allegedly making false statements to him. First, during the counselling session, the Complainant alleged that NE#1 told him she had “no idea” how she relogged to the Coast Guard Call and that she did not know she relogged to the call until the Complainant brought it to her attention. Second, the Complainant alleged that NE#1 approached him later at his patrol car and stated that she “never relogs to call[s].”

Overall, OPA notes that, in both instances, the Complainant provided specific, detailed recollections of the events and what was said. The Complainant also documented his allegations less than two weeks after the date of incident. OPA has no reason to doubt the Complainant’s veracity or the sincerity of his allegations. But, OPA also notes that the Complainant is extremely forthcoming that he does not find NE#1’s work ethic or performance up to standard.



Moreover, the Complainant openly debated—twice—in his OPA interview whether he was “too close to the situation.” OPA recognizes that the memory of even the most scrupulous person can be colored by individual perceptions.

Conversely, OPA found NE#1’s recollections of her interactions with the Complainant to be vague and defensive. However, OPA notes that NE#1’s OPA interview occurred four months after the date of incident, the details of the allegation relate to extremely specific statements allegedly made regarding her activities during an indisputably busy night, and the allegations—by their nature—would likely elicit a defensive reaction from most people.

With respect to the statements NE#1 allegedly made during the counseling session, OPA cannot conclude that NE#1 was dishonest. Contrary to the Complainant’s allegations, NE#1 recounted a conversation that tracked more closely to the Complainant’s PAS entry regarding the conversation. Specifically, NE#1 stated that the Complainant’s critique was that she took too long to handle the Coast Guard Call. Moreover, the only other person in the room, WS#1, had such a poor memory of the conversation he was unable to corroborate the Complainant’s allegations or NE#1’s denials.

Similarly, with respect to the conversation at the Complainant’s patrol car, OPA cannot conclude that NE#1 was dishonest. As an initial matter, the Complainant and NE#1 have different recollections of what was said. The Complainant stated that NE#1 said she “never” relogs to calls; NE#1 stated that she said she “typically” does not relog to calls. There is no additional witness or evidence to corroborate either recollection. Moreover, even if the Complainant’s recollection as to the specific words were true, it would have required additional follow up to determine what NE#1 intended to convey. The word “never” is sometimes used colloquially in speech to mean “almost never,” especially when—as here—the action is something that all people do sometimes.

In reaching its findings, OPA specifically notes that it cannot exonerate NE#1 either. Accordingly, OPA recommends that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**