



## CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 18, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0222

### Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001-POL-11. Employees Will Be Truthful and Complete in All Communication	Not Sustained - Training Referral

*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 the Named Employee's (NE#1) OPA interview for 2022OPA-0058, OPA found NE#1 potentially made dishonest statements. 2022OPA-0058 involved NE#1 investigating the hit-and-run of a bicyclist. Specifically, OPA flagged NE#1's denial of the bicyclist's mother emailing him for case updates. OPA opened this investigation. OPA's investigation included interviewing NE#1 and auditing his SPD email account.

### SUMMARY OF INVESTIGATION:

On May 26, 2022, OPA interviewed NE#1 for 2022OPA-0058, where he was a named employee. During that interview, NE#1 denied 2022OPA-0058's Complainant emailed him for case updates. After bringing this complaint against NE#1, OPA contacted SPD's Legal Unit to audit NE#1's work email history. The audit covered January 25, 2022, 8:00 A.M. to January 26, 2022, at 8:00 A.M., the period 2022OPA-0058's Complainant reportedly emailed NE#1. In relevant part, that search showed:

- 2022OPA-0058's Complainant emailed<sup>1</sup> NE#1 four times concerning the investigation of her son's case:
  - January 25, 2022, at 1245 [Subject: (Complainant's son's) accident]
  - January 26, 2022, at 0623 (Subject: Incident report # 2021-335-255)
  - January 26, 2022, at 0626 (Subject: Report # 2021-335-255)
  - January 26, 2022, at 0635 (Subject: Report # 2021-335-255)
- A July 28, 2022, audit showed NE#1's email account was accessed on January 25th at 2045 hours and 2321 hours.
- A July 19, 2022, audit of NE#1's emails suggested the 2022OPA-0058 Complainant's January 26, 2022, emails to NE#1 were either opened or marked as read on January 26<sup>th</sup>.
- Neither audit found responsive emails from NE#1 to 2022OPA-0058's Complainant.

<sup>1</sup> All the 2022OPA-0058 Complainant's emails to NE#1 were labeled "CAUTION: External Email."



On October 27, 2022, OPA interviewed NE#1. NE#1 worked at the Department about five years. Prior to, he served six years as a National Guard police officer. NE#1 stated he had no recollection of emails from 2022OPA-0058's Complainant. When shown her emails, NE#1 noted they came from an external account and included attachments. He further stated the report number in the emails' subject line was not the format of an SPD case number: (Subject: Report # XXXX-XXX-XXX), where SPD case numbers are formatted with the four-digit year and a dash followed by six digits (i.e., XXXX-XXXXXX.) NE#1 stated he was leery about opening external emails, which are often "scam" emails. Particularly, those with attachments, which can expose SPD computers to viruses. Further, NE#1 stated he gets a higher volume of emails, compared to other patrol officers, due to his participation in special law enforcement groups. He stated, consequently, he "at some point looks though every email that comes into his inbox, but he does not always open them completely."

### **ANALYSIS AND CONCLUSIONS:**

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

##### ***5.001-POL-11. Employees Will Be Truthful and Complete in All Communication***

Employees must be truthful and complete in all communication, except for limited circumstances. SPD 5.001-POL-11. For allegations of dishonesty, there is "an elevated standard of review (i.e. – more than preponderance of the evidence) for termination cases where the alleged offense is stigmatizing to a law enforcement officer, making it difficult for the employee to get other law enforcement employment." THE CITY OF SEATTLE and SEATTLE POLICE OFFICERS' GUILD (Effective through December 31, 2020), Article 3.1.

Here, during NE#1 2022OPA-0058 interview, OPA asked:

*Now, his mother (the Complainant) claimed that she tried to reach out to you or someone that was at the scene. Do you have any recollection of anybody trying to email you or leaving a message at the precinct, to try to contact you regarding his (the Complainant's son) collision?*

NE#1 replied:

*I do not. I received no emails. We have, obviously a message board. And, ugh, I didn't receive any messages on the message board.*

When confronted with emails from 2022OPA-0058's Complainant, NE#1 indicated because they were labeled "CAUTION: External Email" and had an incorrect case number, he was leery about opening them. However, Seattle IT outlines specific steps for verifying suspicious emails:

*If you receive an email you think may be spam, or suspicious (i.e., you don't recognize the sender, or the email contains suspicious content,) please forward it to IT for further analysis. Below are instructions.*

While NE#1's concern about spam or corrupt emails appears legitimate, ignoring emails because they are suspicious is inexcusable. Moreover, NE#1's claim of receiving a higher-than-average volume of emails does not exempt him from the expectation of reading them by the end of his shift. See SPD Policy 12.110-POL-6 (Employees Will Read Email At Least Once per Shift and Respond Appropriately.) However, ultimately, Seattle IT's review of NE#1's emails only



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concluded his account was accessed on January 25, 2022, and on January 26, 2022, he either opened the 2022OPA-0058 Complainant's emails or marked them as read without opening them. Given the elevated standard of proof for dishonesty allegations, OPA cannot conclude the evidence is sufficient to prove he definitively opened, read, or recalled those emails. Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- Training Referral: NE#1's chain of command should discuss OPA's findings with NE#1, review SPD Policies 5.001-POL-11 and 12.110-POL-6 with NE#1 and provide any further retraining and counseling it deems appropriate. The retraining and counseling conducted should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained (Training Referral)**