



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2015-1436

Issued Date: 10/25/2016

| Named Employee #1 | |
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| Allegation #1 | <u>Seattle Police Department Manual</u> 5.001 (9) : Employees Obey any Lawful Order Issued by a Superior Officer (Policy that was issued 04/01/2015) |
| OPA Finding | Sustained |
| Allegation #2 | <u>Seattle Police Department Manual</u> 5.001 (10) Employees Shall Be Truthful and Complete in all Communication (Policy that was issued 04/01/2015) |
| OPA Finding | Not Sustained (Inconclusive) |
| Allegation #3 | <u>Seattle Police Department Manual</u> 4.010 (2): Employee Time Off: Employees Schedule Time Off With Their Sergeant/Supervisor (Policy that was issued 09/18/2013) |
| OPA Finding | Sustained |
| Allegation #4 | <u>Seattle Police Department Manual</u> 4.015-PRO-1: Employee Time Off: Requesting a Personal Exemption From a Pre-Planned Event (Policy that was issued 09/18/2013) |
| OPA Finding | Not Sustained (Unfounded) |
| Final Discipline | Employee retired prior to Discipline being able to be imposed |

INCIDENT SYNOPSIS

The Named Employee did not report to work as scheduled.

COMPLAINT

The complainant, a supervisor within the Department, alleged that the Named Employee failed to show up to work as required during a special event and did not have authorization to do so. It is further alleged that the Named Employee violated manual section 4.010 when he called the clerk and stated he was taking a special day off when no such day was granted by a supervisor.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint memo
2. Search for and review of all relevant records and other evidence
3. Interview of SPD employees

ANALYSIS AND CONCLUSION

During a face-to-face meeting in September 2015, attended by a witness, the Named Employee was ordered by his acting lieutenant to notify a supervisor, either her or a sergeant before taking time off or when calling in sick. On three separate days in September, the Named Employee did not come to work in time for roll call and did not contact a supervisor prior to not showing up to work. This was in direct violation of the order given to him by his acting lieutenant.

Also in September 2015, the Named Employee called the precinct clerk and asked him to tell the supervisor that he was taking a special day off. He later called the precinct and told a sergeant that a specific lieutenant "was aware of the situation." While the Named Employee did not specifically state that the lieutenant had approved the time off for a special day, the sergeant got the impression from what the Named Employee said that the lieutenant had approved a day off for the Named Employee to work on a witness statement. When the lieutenant in question called and spoke with the Named Employee later that same day, the Named Employee told the lieutenant he was working on a statement a sergeant had requested. This was not the case; the Named Employee had offered to write a statement and the sergeant had agreed to accept one if he did. During his OPA interview, the Named Employee stated he did not recall using the term of a special day when he spoke on the phone with the clerk at the precinct or later with the sergeant. The preponderance of the evidence supports the conclusion that in September 2015, the Named Employee made false and misleading statements over the phone to the clerk, a sergeant and a lieutenant regarding the reason why he was not at work. However, there is sufficient ambiguity regarding what was said precisely and the meaning of the term special day as used by the Named Employee that the OPA Director could not conclude that this allegation was proven by clear and convincing evidence as required by the City's CBA with the Guild representing the Named Employee.

The evidence shows that the Named Employee arrived in time for the special event briefing as it had been communicated to him during his last on-duty time prior to the day of the event. The time for the briefing was changed to an earlier time while the Named Employee was off-duty, but he was not notified of this change in time.

FINDINGS

Named Employee #1

Allegation #1

The evidence supports that the Named Employee violated a direct order given to him by his acting lieutenant. Therefore a **Sustained** was issued for *Employees Obey any Lawful Order Issued by a Superior Officer*.

Allegation #2

This allegation cannot be proven by clear and convincing evidence as required by the City's CBA with the Guild representing the Named Employee. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Employees Shall Be Truthful and Complete in all Communication*.

Allegation #3

The evidence showed that the Named Employee did not come to work in time for roll call and did not contact a supervisor prior to not showing up to work as required by policy. Therefore a **Sustained** was issued for *Employee Time Off: Employees Schedule Time Off With Their Sergeant/Supervisor*.

Allegation #4

The evidence showed that the Named Employee arrived in time for the special event briefing as it had been communicated to him during his last on-duty time prior to the day of the event. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Employee Time Off: Requesting a Personal Exemption From a Pre-Planned Event*.

Discipline imposed: Employee retired prior to Discipline being able to be imposed

NOTE: The Seattle Police Department Manual policies cited for the allegation(s) made for this OPA Investigation are policies that were in effect during the time of the incident. The issued date of the policy is listed.