



## CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 9, 2018

CASE NUMBER: 2017OPA-0764

### Allegations of Misconduct & Director’s Findings

**Named Employee #1**

Allegation(s):		Director’s Findings
# 1	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 11. Employees Will Cooperate with Department Internal Investigations	Not Sustained (Training Referral)
# 2	5.001 - Standards and Duties 14. Employees Obey any Lawful Order Issued by a Superior Officer	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:

OPA alleged that the Named Employee violated policy when he failed to show up for his OPA interview pursuant to an OPA Interview Notice.

#### ANALYSIS AND CONCLUSIONS:

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

##### ***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 11. Employees Will Cooperate with Department Internal Investigations***

Named Employee #1 (NE#1) was scheduled for an interview in OPA case number 2017OPA-0462. The interview was scheduled for July 25, 2017, at 13:30 hours. When NE#1 failed to appear for his interview, the assigned OPA investigator sent him a message through the MDT system asking whether NE#1 was intending on taking part in his scheduled interview. NE#1 responded and indicated that he thought his interview was scheduled for the following day. Ultimately, NE#1 and the assigned OPA investigator agreed that NE#1 would appear on August 1, 2017; however, due to the unavailability of a Guild representative, the interview was conducted on August 8, 2017.

SPD Policy requires that its employees cooperate with Department investigations. (See SPD Policy 5.002-POL-11.) This includes appearing at scheduled interviews. Here, NE#1 admittedly failed to appear for his scheduled OPA interview. He claimed that he believed that his interview was scheduled for July 26 instead of July 25; however, the Sworn Employee In-Person Interview Notification was clear that his interview was scheduled for July 25. The Interview Notification is further clear that the interview is ordered pursuant to the authority of the Chief of Police and that “failure to appear for a scheduled interview can result in discipline.”

It was NE#1’s responsibility to read the Interview Notification, to put the correct date on his calendar, and to attend the interview. The failure to do so violated SPD policy. His failure to attend the interview also wasted the time and resources of OPA and the assigned investigator.



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That being said, based on a review of the MDT messages between NE#1 and the assigned OPA investigator and on the transcript of NE#1's OPA interview, I do not believe that NE#1 intentionally blew off this interview. Moreover, I note that the assigned OPA investigator did not compel NE#1 to come to OPA's office that day and instead rescheduled the interview for the following week. As such, I do not find that NE#1 purposefully failed to cooperate with a Departmental internal investigation, and, in this specific case, I do not recommend that this finding be sustained as against him.

However, I hereby put Department employees on notice that, going forward, OPA will classify for investigation each incidence of an officer missing an OPA interview. Moreover, where officers do not have a legitimate excuse for not attending scheduled OPA interviews, I will recommend that these allegations be sustained.

- **Training Referral:** NE#1 should receive counseling from his chain of command regarding his failure to attend his OPA interview in this case. NE#1 should be informed that it is his responsibility to read the Interview Notification and to manage his calendar to ensure that he attends interviews on the dates he is ordered to appear.

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

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

***5.001 - Standards and Duties 14. Employees Obey any Lawful Order Issued by a Superior Officer***

SPD Policy 5.001-POL-14 requires that employees obey any lawful order issued by a superior officer. The failure to do so is treated as insubordination and is a serious violation of policy. (See SPD Policy 5.001-POL-14.)

As discussed above, the Interview Notification provided to NE#1 was an order for NE#1 to appear at his scheduled OPA interview that was issued pursuant to the authority of the Chief of Police. Accordingly, NE#1's failure to appear at that interview, and thus his failure to obey this lawful order, constituted insubordination.

However, for the same reasons that I do not recommend that Allegation #1 be sustained, I also do not recommend that this allegation be sustained. That being said, and as with Allegation #1, any future failures of Department employees to appear at OPA interviews will result in OPA investigations. Moreover, where officers do not have a legitimate excuse for not attending scheduled OPA interviews, I will recommend that these allegations be sustained.

- **Training Referral:** I refer to the above training referral.

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