



CLOSED CASE SUMMARY

ISSUED DATE: MAY 9, 2019

CASE NUMBER: 2018OPA-0997

Allegations of Misconduct & Director’s Findings

Named Employee #1

| Allegation(s): | | Director’s Findings |
|-----------------------|--|----------------------------|
| # 1 | 4.010 - Employee Time Off 2. Employees Schedule Time Off With Their Sergeant/Supervisor | Not Sustained (Unfounded) |
| # 2 | 5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy | Not Sustained (Unfounded) |
| # 3 | 5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication | Not Sustained (Unfounded) |

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:

In October 2018, OPA received a letter from an anonymous source alleging that the Named Employee routinely arrives “multiple hours late” and leaves work “multiple hours early,” and that he has been doing so from at least 2011 until 2017.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employee. As such, the Named Employee was not interviewed as part of this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

As described above, OPA received an anonymous complaint alleging that Named Employee #1 (NE#1) had been stealing time for several years. Given the seriousness of this allegation, OPA referred it for criminal investigation. Prior to doing so, OPA conducted preliminary investigative steps, which included conducting a random sampling of NE#1’s payroll submissions and comparing them against computer and network data associated with NE#1. OPA’s results were included with other case materials as part the criminal referral.

The criminal investigation concluded that there would be no way to establish probable cause that NE#1 committed the crime of theft. That opinion was based, in summary, on the following reasons;

- The information about the alleged theft came months after the purported activity ended.

- Video evidence of entry points to SPD facilities was unavailable because it is only retained for 30 days.
- IT information associated with network login records is unreliable for periods that extend too far into the past.
- Access ID proximity card used for gaining access to locked entry/exit are easily argued away absent video-supported evidence and, in addition, some exit points do not require proximity cards.
- Three separate supervisors of NE#1 commended him for his dependability and never mentioned any issues with his attendance or his performance.
- There was no way to interview the complainant to obtain specifics regarding how NE#1 conducted this activity without suspicion of his supervisors.

Additionally, OPA analyzed randomly selected pay periods associated with NE#1's timekeeping entries and found that NE#1 either logged onto a network computer, used his proximity card to gain access to an SPD facility, or used his discretionary time for the hours he claimed to be working.

Lastly, OPA was aware that a former SPD employee had filed multiple complaints against NE#1 in mid-2017, one of which included an allegation that NE#1 was potentially stealing time. OPA referred these complaints back to NE#1's chain of command as a Frontline Investigation. As part of the Frontline Investigation, the former SPD employee told the investigating supervisor that NE#1 had been "getting away with it [timekeeping irregularities] for years." However, the Frontline Investigation found no merit in any of the former SPD employee's allegations, including the allegation of time theft.

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.)

As identified above, neither the criminal nor administrative investigations resulted in any evidence supporting the time theft allegations. In fact, from the evidence that was developed, OPA determined that NE#1 was deemed to be reliable and dependable by his supervisors. Furthermore, OPA has significant questions about the source of this complaint and believes that it may have been submitted by the former SPD employee. Indeed, OPA is presently investigating a separate case in which it was alleged that the former SPD employee retaliated against and harassed NE#1.

For the above reasons and based on a preponderance of evidence standard, OPA finds no evidence that NE#1 engaged in the alleged misconduct. As such, I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #1 - Allegation #3

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

SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications.

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**