



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 26, 2017

CASE NUMBER: 2017OPA-0644

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	Sustained
# 2	5.001 - Standards and Duties 10. Employees Shall Be Truthful and Complete In All Communication	Not Sustained (Inconclusive)
# 3	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Sustained
# 4	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Sustained
# 5	4.040 - Sick Leave 7. Employees Contact a Sergeant/Supervisor When Taking Sick Leave	Sustained

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:

Named Employee #1 was previously counselled on his time keeping and time usage after an OPA investigation. The problems persisted at the West Precinct resulting in his direct supervisor, a Lieutenant, providing him with a written Performance Management Agreement and a PAS entry. Subsequent to this second counseling, the Named Employee is alleged to have used time without following the Performance Management Agreement or SPD policy. It is further alleged that he was not truthful in entering his time on the electronic timesheets on at least one occasion.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant, an SPD Lieutenant, alleged that Named Employee #1 (NE#1) did not properly schedule time off on June 20, 2017, July 3, 2017, and July 9, 2017. Per SPD policy and his signed Performance Management Agreement, NE#1 was required to notify his direct supervisor, the Complainant, that he was requesting leave.

NE#1 reported that he was sick on June 20, 2017 and was unable to report for work. NE#1 indicated to OPA that he woke up with a migraine on that day. NE#1 texted another Sergeant on the watch to let him know that he was not going to be at work, but failed to notify the Complainant. In his first OPA interview, NE#1 stated that he had a migraine and texted only the Sergeant because he did not feel like looking up other numbers and “left it at that.” In his second interview OPA interview, he stated that he had an “email contact” for the Sergeant and the Complainant



and thought that he had sent the notification of a sick day to both. However, the Complainant indicated that he did not receive the notification of NE#1's intent to take a sick day. (See Original Case Summary #1.)

On July 3, 2017 and July 9, 2017, NE#1 took vacation days without securing the proper authorization. NE#1 asserted in his OPA interview that he did not know when he scheduled these days off and whether he did so before or after the Performance Management Agreement. He also could not remember whether he actually asked the Complainant for permission to take vacation on the listed dates; however, the Complainant indicated that he did not receive a request for the days off from NE#1. (See Original Complaint Summary #2.)

The failure to obtain proper authorization for his leave time violated policy. Absent specific approval for the days off it was expected that the NE#1 would report for work as required. I further note that NE#1's inability to recall whether he did or did not request time off is concerning when taking into account his previous OPA complaints, counselling and the Performance Management Agreement.

For these reasons, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 10. Employees Shall Be Truthful and Complete In All Communication

The Complainant alleged that NE#1 was not truthful when he was three hours late for work on July 7, 2017, and failed to mark that on his electronic timesheet. Even though NE#1 was three hours late on that date, his timesheet was submitted for approval with nine hours of regular time worked. During his later review, the Complainant corrected the timesheet and re-submitted it.

At his OPA interview, NE#1 acknowledged that he should have marked the three hours as vacation time or some other form of discretionary time. He dismissed his failure to do so as human error that he anticipated would be checked by the Complainant and corrected if wrong. Notably, at his interview, he repeatedly stated that he expected the Complainant to check for inaccuracies in his timesheet and failed to take responsibility for his own actions.

Timesheets require that employees certify that they have recorded their hours accurately. Because sergeants are afforded significant autonomy it is particularly incumbent on them to ensure an accurate timesheet. Had the Complainant not personally observed NE#1 arriving late for work, this discrepancy would likely never have been discovered. While a direct supervisor is required verify that timesheets are completed correctly, this does not relieve the employee of the responsibility to accurately and honestly record their time. NE#1 was acutely aware of this responsibility given his past history and his placement on a Performance Management Agreement.

While I have significant concerns with NE#1's conduct, there is insufficient evidence for me to find by a clear and convincing standard that he was deliberately dishonest in this regard.

As such, I recommend that this allegation be Not Sustained – Inconclusive.

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



Named Employee #1 - Allegation #3

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

While I cannot conclusively determine that NE#1 was dishonest, I have no such problem finding that his actions violated SPD Policy 5.001-POL-2. NE#1 violated SPD policy and, arguably, City of Seattle law when he did not complete his timesheet accurately and when he took leave without proper authorization. By failing to do so, he attempted to accrue benefits to which he was not entitled. Even if such conduct was ultimately not prosecutable, it was in clear violation of policy. Accordingly, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #4

5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times

In inaccurately recording his time and by failing to comply with his Performance Management Agreement, NE#1 violated the Department's professionalism policy.

SPD Policy 5.001-POL-9 requires that SPD employees "strive to be professional at all times." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers." (SPD Policy 5.001-POL-9.)

The Department and the public expects that government employees will accurately memorialize their time and will only seek compensation for the hours they actually work. However, NE#1 has repeatedly arrived late at work, failed to properly complete his timesheet, and has not sought the necessary authorization for leave time. This conduct is unprofessional, undermines the integrity of SPD and his fellow officers, and is contrary to the expectations of the Department and the community. For these reasons, this allegation should be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #5

4.040 - Sick Leave 7. Employees Contact a Sergeant/Supervisor When Taking Sick Leave

The Complainant alleged that NE#1 violated the sick leave policy when he failed to notify the Complainant that he was taking a sick day on June 20, 2017. As indicated above, NE#1 first indicated that he was too sick to notify the Complainant, but stated that he sent a text to the Sergeant. At his second OPA interview, NE#1 explained that he thought he sent an "email contact" to both the Sergeant and the Complainant, but he could not recall.

First, I note that NE#1's own account is internally inconsistent, which raises questions as to his overall credibility. Second, even if NE#1 was too sick at the beginning of his shift to notify the Complainant of his absence, he should have done so later in the day. This is particularly the case given that he was on a Performance Management Plan that required such conduct. However, he failed to do so.



Ultimately, NE#1 had the obligation to notify his supervisor that he was taking sick leave. While this requirement applies to all employees, it was particularly relevant to NE#1 given his prior history of time management issues. When he failed to do so, his conduct violated policy. Accordingly, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**