



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 13, 2023

FROM: DIRECTOR GINO BETTS JR.
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0088

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	4.010 - Employee Time Off 4.010-POL 2. Employees Schedule Time Off With Their Sergeant/Supervisor	Sustained
# 2	5.100 - Operations Bureau Individual Responsibilities 1. Patrol Officers A. Responsibilities 4. Update MDT/CAD log to include [...]	Not Sustained - Inconclusive
Imposed Discipline		
Suspension Without Pay: 7 Days		

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:

The Complainant alleged the Named Employee (NE#1) failed to work a scheduled event and properly update MDT/CAD logs.

SUMMARY OF INVESTIGATION:

On March 18, 2022, Witness Lieutenant (WL#1) notified OPA via Blue Team about NE#1's failure to work a scheduled event and properly logoff to end a shift. OPA initiated an investigation. That investigation included reviewing the OPA complaint, CAD Call report, remote logs, timesheets, BWV, and training records. OPA also interviewed NE#1. Evidence summaries are below:

NE#1's OPA Interview

On June 30, 2022, OPA interviewed NE#1. NE#1 joined the Department in May 2005. For the past 3 ½ years, he was assigned to the Traffic Unit/Motors Division. Prior to the interview, NE#1 reviewed his timesheet¹, OPA complaint, and relevant policies. NE#1 outlined several ways traffic officers are notified of daily assignments and special events:

1. A supervisor, typically a sergeant. Supervisor notifications are often conveyed via text message, phone call, or in-person at the Traffic Section Office.
2. "The Board," which NE#1 described as a large pinboard calendar located outside the Traffic Section Office.

¹ Timesheet covered March 2-15, 2002.



3. Emails sent by supervisors, frequently including calendar invites.²

At relevant times, Witness Sergeant (WS#1), an acting sergeant, was NE#1's direct report. Generally, NE#1 worked Monday through Friday 9:00 AM- 7:00 PM. However, NE#1, and other traffic officers, were routinely scheduled to work special events (i.e., professional and college sporting events). On March 2, 2022, NE#1 acknowledged meeting with WS#1 and other officers. However, due to a myriad of personal concerns, NE#1 was mentally drained and distracted from the substance of the conversation. On March 3, 2022, went home early due to illness. NE#1 took off the following day too³. On March 5, 2022, WS#1 texted⁴ NE#1, asking his whereabouts.⁵ NE#1 did not respond, because he did not access his work phone until that evening.

On March 6, 2022, at another special event, WS#1 confronted NE#1 about no-showing for the march. On March 8, 2022, Witness Sergeant (WS#2), spoke to NE#1 about missing the march and failing to log-off his Mobile Data Terminal (MDT) on March 3, 2022. Specifically, WS#2 confirmed WS#1 reportedly told NE#1 about the march days prior. NE#1 did not recall WS#1's instruction. WS#2 pressed NE#1 about not responding to WS#1's call the day of the event. NE#1 responded he did not have his phone. Further, WS#2 confronted NE#1 with his March 3, 2022, CAD report, which was coded "20- In-Service Training" from 9:58 AM to 10:18 PM. When asked why the report reflected over 12 hours of training, NE#1 explained he logged onto a training at the beginning of his shift and forgot to log-off due to his personal concerns.⁶

NE#1's training records

The Education and Training Section Cornerstone Administrator searched for e-learning training NE#1 participated in on March 3rd, 2022. None were found.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

Employees are required to request sergeant/supervisor approval for scheduled and unscheduled time off. *SPD Manual 4.10(2)*. Employees will contact their sergeant/supervisor before their scheduled work shift to request an unscheduled absence from duty. *Id.*

Here, NE#1 was scheduled to work a March 5, 2022, Ukrainian march. NE#1 acknowledged WS#1 may have mentioned the assignment on March 2, 2022, with NE#1 and other officers present.⁷ NE#1 was at one end of a table with another officer and WS#1 was at the other end talking to a different officer. NE#1 did not recall WS#1's words, because he was preoccupied with his personal concerns. NE#1 later learned WS#1 announced the March 5th assignment at that time. Not only did WS#1 apparently alert NE#1 about his March 5th assignment days prior, the morning of the event, he

² A practice started around April/ May of 2022.

³ That was an approved absence.

⁴ WS#1 possibly called NE#1 too.

⁵ NE#1 was scheduled to work a special event that day: a Ukrainian March. WS#1 sent the text around the beginning of the event.

⁶ A dispatcher logged NE#1 off at 10:18 PM.

⁷ Initially, NE#1 did not recall that encounter with WS#1 but was later reminded by a colleague.



attempted phone contact with NE#1 too. Ultimately, as NE#1 acknowledged several times during his OPA interview, it was NE#1's responsibility to check the board for special event assignments. As NE#1 put it, "(checking the board is) part of our job duties." NE#1 told OPA he left work early on March 3rd, without checking the board, due to personal concerns, which caused him to call off March 4th and unknowingly miss the March 5th special event. However, it is unclear how NE#1 knew to show up for the Sunday March 6th special event,⁸ which occurred outside his regular Monday through Friday work schedule.

Overall, it was NE#1's responsibility to know his schedule and either work the March 5th special event or seek an approved absence. NE#1 did none of the above. Accordingly, OPA recommends a Sustained finding.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #2

5.100 - Operations Bureau Individual Responsibilities 1. Patrol Officers A. Responsibilities 4. Update MDT/CAD log to include [...]

Patrol officer responsibilities include, updating MDT/CAD logs with times in and out of service. *SPD Manual 5.100(1)(A)(4)*.

Here, NE#1's March 3, 2022, CAD logs showed him coded as "20- In-Service Training" from 9:58 AM to 10:18 PM. OPA's investigation revealed NE#1 had no preapproved or scheduled trainings that day. NE#1 told OPA he logged to training early in his shift to work out: "I was sick try and take my mind off things." WS#2 confirmed it is common practice for traffic officers to work out during a shift and "20- In-Service Training" is among frequently used CAD codes to reflect it. However, NE#1's timesheet shows he worked seven hours on March 3rd before leaving early. Nevertheless, NE#1 remained coded "20- In-Service Training" the entire seven hours. He told OPA he intended to update CAD but "started to eat and started getting phone calls and that just went downhill from there." Moreover, NE#1 failed to log off at the end of his shift, again citing personal concerns as a distraction and an unreliable MDT battery. While OPA finds NE#1's reasons for violating this policy unconvincing, under the purported circumstances, there is insufficient evidence to prove NE#1 intentionally shirked his responsibility.⁹

Accordingly, OPA recommends a Not Sustained- Inconclusive finding.

Recommended Finding: **Not Sustained - Inconclusive**

⁸ Hot Chocolate race.

⁹ OPA does note the present matter occurred roughly a year after NE#1's prior sustained findings for less than thorough work performance. See 2021OPA-0136.