



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 25, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0189

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties, 5.001-POL-14. Retaliation is Prohibited	Not Sustained - Unfounded (Expedited)

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—a public information officer—alleged that her then-sergeant, Named Employee #1 (NE#1), retaliated against her by filing an OPA complaint after she requested medical leave.

ADMINISTRATIVE NOTE:

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employee. As such, OPA did not interview the officers involved in this case.

On June 5, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

OPA received a complaint and opened an intake investigation. During its investigation, OPA reviewed the OPA complaint, equal employment opportunity (EEO) investigation interviews, and email correspondence.

A. OPA Complaint

On May 1, 2023, Witness Supervisor #1 (WS#1)—an EEO investigations manager—emailed OPA regarding an email the Complainant sent to her. On April 28, 2023, the Complainant emailed WS#1 that, on February 15, 2023, the Complainant told NE#1 that she could not interview with a TV station due to a medical issue. The Complainant wrote that NE#1 sent her home. The Complainant wrote that, on February 16, 2023, she was granted medical leave and, subsequently, notified NE#1 of her leave. The Complainant wrote that NE#1 responded by filing an OPA complaint¹ against her for "insubordination" allegedly occurring the day prior. The Complainant wrote, "I believe [NE#1]'s OPA complaint against me was filed as retaliation for having a medical issue and taking medical leave."

¹ 2023OPA-0083 (filed February 16, 2023).



B. Equal Employment Opportunity (EEO) Interviews

The Seattle Police Department's (SPD) EEO Office conducted its own investigation into the Complainant's EEO allegations against NE#1. The EEO Office interviewed both the Complainant and NE#1. These interviews are summarized below.

1. Named Employee #1 (NE#1)

WS#1 interviewed NE#1. NE#1 said, on February 15, 2023, the Complainant arrived at work four hours late on a busy workday and failed to respond to press inquiries about a shooting. NE#1 said SPD's Public Affairs Office must respond quickly to inquiries regarding shooting incidents. NE#1 said he instructed the Complainant to interview with a TV station, but the Complainant refused and was "red angry." NE#1 said he asked the Complainant if she wanted to go home, but she replied that she had work to do. NE#1 said he advised the Complainant to go home, and she agreed and left. NE#1 said the Complainant did not indicate she felt sick or intended to take medical leave. NE#1 said this was an ongoing issue where NE#1 would instruct the Complainant to do something but would get angry and refuse.

NE#1 said on February 16, 2023, he emailed his supervisor, Witness Supervisor #2 (WS#2), about the February 15 incident and his intent to file a complaint with OPA. NE#1 said he was unaware, at the time, that the Complainant planned to take medical leave but heard from WS#2 that the Complainant experienced a personal hardship. NE#1 said he did not observe the Complainant with a physical or mental disability preventing her from performing her duties or requiring her to take medical leave. NE#1 said he never told the Complainant that she could not take medical, sick, or vacation leave.

NE#1 said he took several hours to draft the OPA complaint, which detailed all incidents of the Complainant's conduct. NE#1 described several incidents of the Complainant refusing to follow his commands, saying that the Complainant "had a hard time listening to me." NE#1 said, "These are things that have been happening over and over again to where it's wearing on me and I'm going to talk about that. Every time I've got to turn around, I've got to fight with her." NE#1 described several incidents of the Complainant failing to respond to NE#1's texts. NE#1 said the Complainant slept through a period that she was on call for, did not respond to NE#1's texts, and did not indicate she was sick or disabled. NE#1 said he admonished the Complainant that she needed to respond to him, but she did not comply with his order. NE#1 described an incident of the Complainant using sick leave to tend to her pets, causing increased workloads for her colleagues.

NE#1 said he decided to file an OPA complaint on February 15, 2023, because the disputes were "escalating and getting worse." NE#1 said, on February 15, the Complainant was insubordinate when she refused to interview with the TV station. NE#1 said, "That's when I reached out to OPA because I felt there was no more that I can do." NE#1 described the Complainant's pattern as not wanting to "deal with [NE#1], whether it's text responses, emails, authority, interviews" and not accepting him as her supervisor. NE#1 expressed disappointment with the outcome of his OPA complaint, noting that OPA's decision failed to consider the prior incidents that escalated to the February 15 incident. NE#1 believed the Complainant retaliated against him in this OPA complaint because he filed an OPA complaint against her for insubordination.



2. The Complainant

WS#1 interviewed the Complainant. The Complainant said, on February 15, 2023, she was stressed and physically, mentally, and emotionally exhausted. The Complainant said she did not intend to interview that day but did not discuss this with NE#1 because she had the autonomy to accept or decline interviews. The Complainant said she did not want to interview with the TV station, so she told NE#1 that she was not going to do the interview but did not provide a reason. The Complainant said NE#1 told her to go home, so she complied. The Complainant said, "I decided it was clear that my mental health had deteriorated to the point that it was truly impacting my ability to do my job."

The Complainant said, on February 16, she was approved for medical leave. The Complainant said she told WS#2 that she would be on medical leave starting February 17 for at least a month. The Complainant said she did not check her emails while on leave. The Complainant said, on March 17, she was surprised to read an email notifying her that an OPA complaint against her was classified. The Complainant said she provided notice that she would be on medical leave on February 16 at around 4:00 PM. The Complainant said NE#1 filed his OPA complaint on the same day at 4:52 PM. The Complainant said she believed NE#1 filed his OPA complaint in retaliation for taking medical leave.

C. Email Correspondence

WS#1 emailed OPA on May 17, 2023. Based on her review of emails and NE#1's and the Complainant's interviews, WS#1 outlined the following timeline and analysis:

- On February 16, 2023, at 10:37 AM, NE#1 told WS#2 his intent to file an OPA complaint against the Complainant for insubordination. In his interview, NE#1 said there was a pattern of the Complainant's insubordinate behavior leading up to February 16. Neither NE#1 nor WS#2 had knowledge that the Complainant intended to take medical leave.
- On February 16, 2023, NE#1 worked from home. The Complainant had an afternoon meeting with WS#2 and notified WS#2 that she was going to take medical leave for at least a month. The Complainant followed up with an email to WS#2 and NE#1.
- On February 16, 2023, at 3:54 PM, the Complainant emailed WS#2 and NE#1 that she would be on medical leave for four weeks. In her interview, the Complainant said this email was the first time she notified her supervisors of her medical leave.
- On February 16, 2023, at 4:52 PM, OPA received NE#1's complaint against the Complainant. In his interview, NE#1 said he spent several hours on February 16 drafting the complaint, collecting emails, and filing the complaint, which "makes it highly likely that [NE#1] started the process of filing the OPA [complaint] before receipt of any notice of [the Complainant's] medical leave."

WS#1 concluded, "It seems that the decision was made to file the OPA complaint against [the Complainant] before having received notice that [the Complainant] was expecting to take medical leave making it unlikely that the OPA complaint was only filed in retaliation for [the Complainant's] use of medical leave."

OPA reviewed email correspondence and found it consistent with WS#1's timeline summarized above.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1



5.001 – Standards and Duties, 5.001-POL-14. Retaliation is Prohibited

The Complainant alleged that NE#1 retaliated against her.

SPD policy precludes its employees from engaging in retaliation. SPD Policy 5.001-POL-14. SPD employees are specifically prohibited from retaliating against a person who engages in activities, including, but not limited to, opposing any practice that is reasonably believed to be unlawful or in violation of SPD policy, or who otherwise engages in lawful behavior. *Id.* Retaliatory acts are defined broadly under SPD's policy and include discouragement, intimidation, coercion, or adverse action against any person. *Id.*

Here, the Complainant alleged NE#1 filed an OPA complaint in retaliation for taking medical leave. However, NE#1's interview and emails showed NE#1 intended to file an OPA complaint against the Complainant before he had knowledge of her medical leave. In his interview, NE#1 described numerous escalatory incidents between the Complainant and himself that led to his February 15, 2023, decision to file an OPA complaint. In 2023OPA-0083, NE#1 provided OPA with documentation of numerous past incidents evidencing the Complainant's alleged insubordinate behavior. Importantly, NE#1 documented in a February 16, 2023, email to WS#2 that he intended to file an OPA complaint before he knew about the Complainant taking medical leave. Although NE#1 filed his OPA complaint 58 minutes after he received the Complainant's medical leave notice on February 16, NE#1 described spending several hours that day collecting emails and documentation and drafting the complaint—all of which were submitted to OPA in 2023OPA-0083. OPA finds that the evidence supports WS#1's conclusion that "the decision was made to file the OPA complaint against [the Complainant] before having received notice that [the Complainant] was expecting to take medical leave." Therefore, OPA finds that NE#1 did not file an OPA complaint to retaliate against the Complainant for requesting medical leave.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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