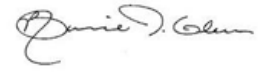

Issued Date: NOVEMBER 17, 2023

From: Deputy Director Bonnie Glenn on Behalf Of Director Gino Betts, Jr.
Office of Police Accountability



Case Number: 2023OPA-0200

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 5.001 - Standards and Duties; 15. Employees Obey any Lawful Order Issued by a Superior Officer
Finding: Not Sustained - Inconclusive

 2. **Allegation #2:** 12.110 - Use of Department E-mail & Internet Systems 12.110 POL 2 The Department Allows Limited Personal Use of Email and Internet
Finding: Sustained

 3. **Allegation #3:** 12.040-POL-3 Using Department Devices 3. Personal Use of Department-Provided Devices Must Follow Department Guidelines
Finding: Sustained

 4. **Allegation #4:** 4.010 – Employee Time Off 4.010-POL 2. Employees Schedule Time Off With Their Sergeant/Supervisor
Finding: Not Sustained - Unfounded
- **Proposed Discipline:** One (1) to Two (2) Days Suspension
 - **Imposed Discipline:** One (1) Day Suspension

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections may be written in the first person.

Administrative Note on Proposed Findings:

When the OPA Director recommends a sustained finding for one or more allegations, a discipline committee, including the named employee's chain of command and the department's human resources representative, convenes and may propose a range of disciplinary to the Chief of Police. While OPA is part of the discipline committee, the Chief of Police decides the imposed discipline, if any. See OPA Internal Operations and Training Manual section 7.3 – Sustained Findings.

Executive Summary:

The Complainant—a civilian SPD Human Resources Advisor—alleged a civilian warehouse worker (Named Employee #1 or NE#1) was insubordinate, impermissibly used Department devices, email, and internet, and did not work as scheduled.

Administrative Note:

On October 13, 2023, the Office of Inspector General (OIG) certified OPA's investigation as thorough, timely, and objective.

Summary of Investigation:

OPA opened an investigation concerning the complaint. During the investigation, OPA reviewed the internal "Blue Team" complaint and documentation provided by NE#1's manager (Supervisor #1). OPA also interviewed Supervisor #1 and NE#1.

1. Blue Team Complaint

On May 4, 2023, the Complainant filed an internal complaint with OPA via the Blue Team system. Generally, the Complainant alleged NE#1 was not working during his assigned work hours, used his Department computer and internet for inappropriate purposes, and failed to obey a lawful order.

The Complainant documented a May 3, 2023, phone call with Supervisor #1. According to the Complainant, Supervisor #1 said she and NE#1's direct supervisor (Supervisor #2) met with NE#1 in February 2023 to discuss performance issues related to NE#1's "lack of productivity." Supervisor #1 also relayed that NE#1's workspace had been relocated and NE#1 was told to keep his office door open, which NE#1 failed to do. Supervisor #1 relayed that NE#1's productivity had not improved. Supervisor #1 described "nearly always" observing NE#1 in his office, despite the fact that his job would typically require him to work elsewhere. Supervisor #1 told the Complainant that she ordered a report of NE#1's internet usage from January 1, 2023 through present, which showed NE#1 spent most of his work time on internet sites that were not work related, such as Facebook, YouTube, and others. Supervisor #1 relayed that NE#1's job functions require minimal time in an office space using a computer.

The Complainant wrote she requested Supervisor #1 provide the above details in an email. The Complainant documented receiving that email later on May 3, 2023. The Complainant wrote that the email included an IT report of NE#1's internet usage.

2. Documentation from Supervisor #1

The Complainant forwarded OPA Supervisor #1's May 3 Email, as well as the attached IT report. Supervisor #1 also sent OPA notes regarding the issue, a memorandum and policies that she had NE#1 sign, a chart of NE#1's work tasks by year from 2021-2023.

a. May 3, 2023 Email

Supervisor #1 emailed the Complainant on May 3, 2023. Supervisor #1 copied Supervisor #2 on the email and attached an IT report concerning NE#1's internet usage.

Supervisor #1 provided the City of Seattle class specifications for NE#1's work class. These read:

- Receives requisitions and issues stock
- Receives incoming stock, checking and counting items received against invoices, packing slips or bills of lading; inspects the materials for quality and damage; documents receipt; stores stock and loads and unloads stock shipments.
- Assists in maintaining and updating computerized control system and in taking inventory counts. Inputs stock received and issued. Maintains manual inventory records.
- Performs routine recordkeeping and related clerical duties, such as: data entry and maintenance of files and records.
 - Reviewing incoming documents for accuracy
 - Filing copies of documents in the major case files
 - Purging documents located in the major case files per approved retention guidelines
 - Maintains organization of retained and/or stored files
- Assists in ordering materials from pre-approved vendors or prepares purchase requisitions according to department or City Purchasing Procedures, fills out forms to re-order stock and, as directed, locates and orders non-stock items.
- Under direction of a Senior or Chief Warehouse may assist in training new or other staff on warehouse tasks.
- Keeps storage area or warehouse neat and orderly to maintain a safe work environment; rearranges storage space.
- Receives containers or materials containing potentially hazardous substances, identifies materials and prepares for disposal.
- Drives a pick-up truck, van, or other vehicles to deliver and pick up materials, supplies or parts or in support of other warehouse activities.
- Performs other related duties of a comparable level/type as assigned.

Supervisor #1 wrote that she and Supervisor #2 met with NE#1 on February 7, 2023, to review annual goals and discuss the expectations of NE#1's position. Supervisor #1 wrote she and Supervisor #2 had concerns about NE#1's productivity and noted several of NE#1's projects were unfinished or "untouched." Supervisor #1 documented seeking approval for another member of staff to be paid out-of-class to assist with organizing his file room, but noted NE#1 used this as "a way to delegate his tasks to the OOC staff." Supervisor #1 also wrote that NE#1 was observed several times streaming media from his desk as opposed to completing assigned work tasks.

Supervisor #1 wrote that NE#1's work station was relocated on April 6, 2023, due to "safety and fire hazard concerns," and noted that NE#1 was advised of three "parameters" for his new space based on his poor performance: (1) NE#1's office door was to remain open during his shift hours from 5:00am to 3:30pm; (2) NE#1 was not to move his desk or bookcases; and (3) NE#1 needed to meet or exceed provided metrics for the Department.

Supervisor #1 documented that NE#1 disregarded these instructions by spending “several hours” manipulating his office to hide his computer screen and kept his door closed “continuously” throughout the day. Supervisor #1 wrote that a backlog continued to accumulate, but that this was addressed by out-of-class staff. Supervisor #1 concluded by noting the IT report showed NE#1 spent “90 percent of his day sitting at the desk streaming media and not performing his job.”

b. IT Report on NE#1’s Internet Usage

IT provided an Excel spreadsheet documenting NE#1’s computer usage, principally from January 19, 2023, through April 18, 2023. The Spreadsheet had 9,507 entries. It is important to note that the spreadsheet technically begins on February 2, 2022, with other entries on February 10, 2022, and June 3, 2022. However, there are only forty-two lines of entries on the report in the entire 2022 year. The spreadsheet appears to begin tracking daily usage on January 19, 2023. It is unclear why any entries from 2022 were included. OPA reviewed this evidence. A full recitation of NE#1’s computer usage is not feasible or necessary for the purpose of this DCM.

The spreadsheet reflected all internet activity for NE#1 and had three relevant, variable columns: (1) visit time; (2) URL; and (3) title. Many searches appeared work related in that they accessed SPD or City websites or resources, or were searches for office supply purchases. However, broad parts of NE#1’s internet activity appeared entirely unrelated to NE#1’s job functions.

For example, on January 19, 2023—a Thursday—NE#1 logged on to CNN.com at 7:10am before logging exclusively onto sites such as YouTube, ESPN, Wikipedia and the Atlantic. From 7:10am through 2:05pm, NE#1 accessed about ninety-seven websites in succession that appeared unrelated to his job functions. At most, three of these websites could possibly have been work-related searches for “Time Equipment” and three others appeared to be related to a pizza order. NE#1 did not access any websites during this timeframe that appeared obviously related to his work. These search patterns appeared consistently across many days throughout the spreadsheet.

In review of the 9,507 entries, the overwhelming plurality appeared to be YouTube videos (4,595 entries). Other significant searches were for Google Maps (1,115), CNN (541), and ESPN (506)

c. Supervisor #1 Notes

Supervisor #1 also submitted notes documenting her management of the situation. The notes began on April 14, 2023. The last entry appeared to be May 11, 2023, but the notes cutoff in mid-paragraph and were possibly missing entries. The notes principally repeated the substance of Supervisor #1’s email to the Complainant.

d. Memorandum and Policies

Supervisor #1 also provided a memorandum from Supervisor #1 to the “Records File Unit,” which consisted of only one person, NE#1. The memorandum concerned “Headphones, Earbuds, Cell Phones,” and outlined rules for when the use of headphones or earbuds were permitted, including online training and during breaks or meals. The memorandum notes headphones and earbuds were permitted during work hours, but could only be worn in one ear at a time, at an

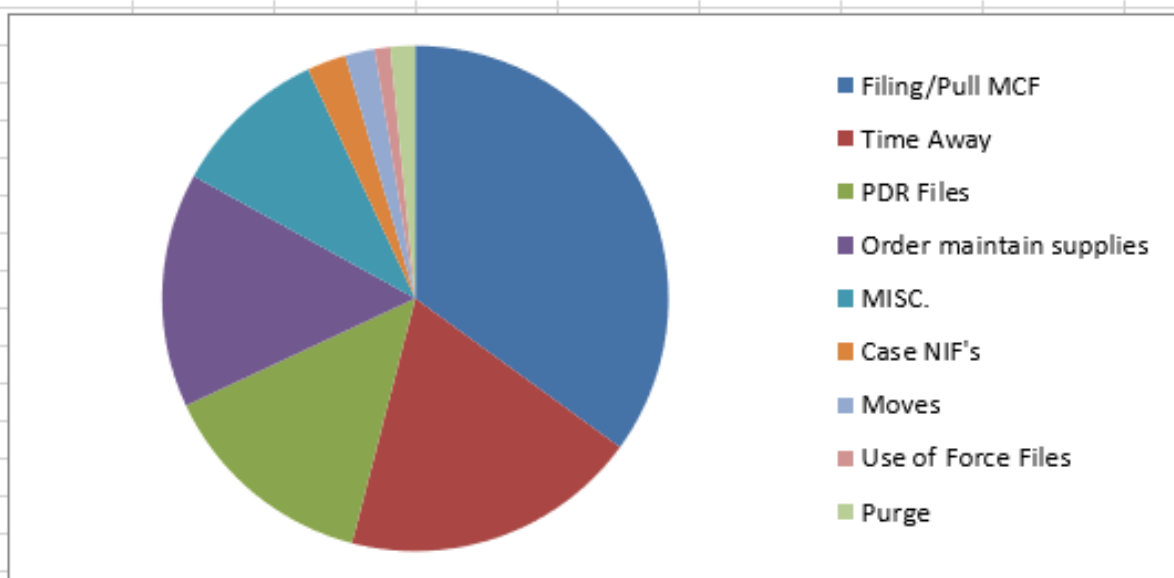
acceptable volume, and while meeting or exceeding standards. The memorandum had a reminder of SPD Policy 12.110 concerning a prohibiting on use of work computers to stream “in excess.” The memorandum attached a copy of SPD Policy 12.110.

NE#1 signed copies of the memorandum and SPD Policy 12.110 on May 4, 2023.

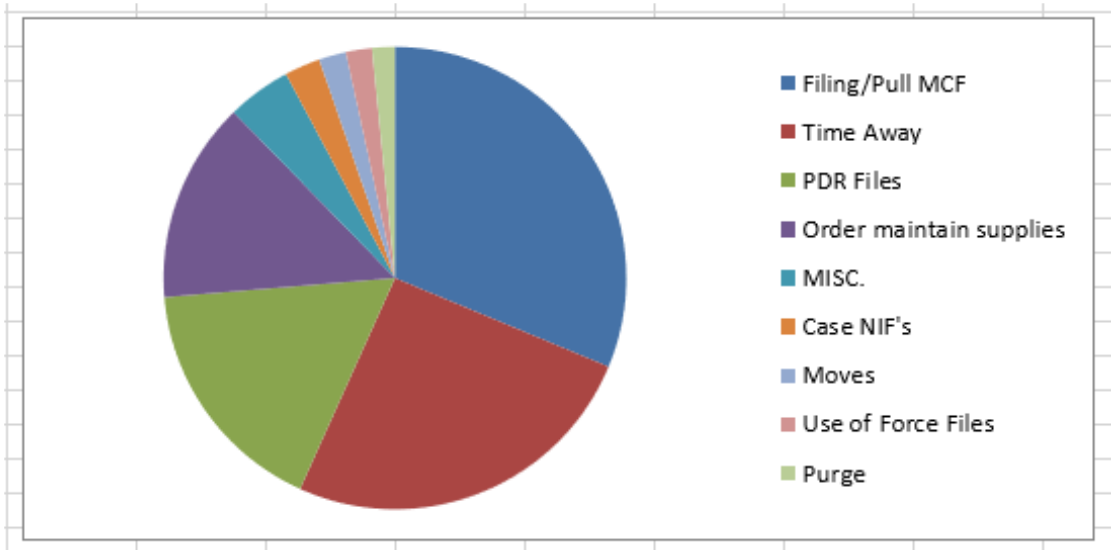
e. Warehouser Task Charts

Supervisor #1 also provided annual charts, from 2021 through 2023, documenting the hours spent on different “Warehouser Tasks.” NE#1 is the only warehouser employed by the records unit. These charts showed the following:

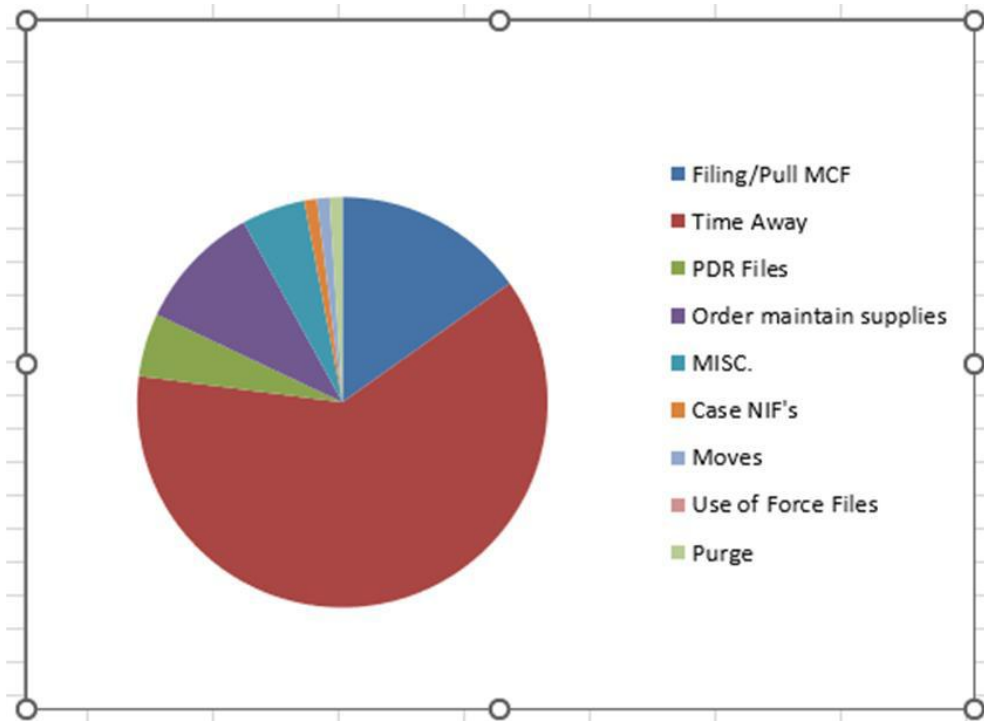
Warehouser Tasks	2021
Filing/Pull MCF	35%
Time Away	19%
PDR Files	14%
Order maintain supplies	15%
MISC.	10%
Case NIF's	2%
Moves	2%
Use of Force Files	1%
Purge	2%
Total Hours	100%



Warehouser Tasks	2022
Filing/Pull MCF	31%
Time Away	25%
PDR Files	17%
Order maintain supplies	14%
MISC.	4%
Case NIF's	2%
Moves	2%
Use of Force Files	2%
Purge	2%
Total Hours	100%



12	Warehouser Tasks	2023
13	Filing/Pull MCF	15%
14	Time Away	62%
15	PDR Files	5%
16	Order maintain supplies	10%
17	MISC.	5%
18	Case NIF's	1%
19	Moves	1%
20	Use of Force Files	0%
21	Purge	1%
22	Total Hours	100%



3. OPA Interview – Supervisor #1

OPA interviewed Supervisor #1 on August 30, 2023. Supervisor #1 stated she has been employed by the City for about seven years and is currently the Records Manager. Supervisor #1 stated in this role she oversees several units, including Auto Records, Public Requests, Crime Records, and the Warehouse.

Supervisor #1 stated she initiated the complaint against NE#1 through human resources. Supervisor #1 explained she noticed the file room that NE#1 is responsible for was in “severe disarray,” with many backlogged files and hazardous cabinets.

Supervisor #1 described initiating a meeting with herself, Supervisor #2, and NE#1. Supervisor #1 stated at this meeting she set work expectations for NE#1. Supervisor #1 noted that NE#1’s job is typically a one-person job, but she had had to pay another employee out of class to make up for the backlog caused by NE#1’s lack of productivity.

Supervisor #1 also described NE#1’s time at his desk as out of the ordinary and that she had counseled NE#1 regarding overuse of the internet and need to increase productivity. Supervisor #1 stated that, when she saw no change, she moved NE#1’s desk and instructed him to keep his office door open. Supervisor #1 stated, despite this, NE#1 would close his door. Supervisor #1 also noted that most of NE#1’s job requires him to be away from his desk, but instead, NE#1 spends most of his time at his desk in front of his computer.

Supervisor #1 noted that the IT report showed NE#1 spent a significant amount of time on websites with no connection to his job function.

Supervisor #1 noted there has been no change in NE#1's performance and she has had to continue paying another employee out of class once a week on NE#1's furlough day to make up for NE#1's lack of productivity.

4. OPA Interview – NE#1

OPA interviewed NE#1 on September 18, 2023.

NE#1 stated he had no idea his performance was an issue and that, if his performance fell below standard, it would have been raised earlier by numerous complaints.

NE#1 described spending much of his workday at his desk. NE#1 stated he pulls file boxes one by one to review them, NE#1 described that, as he works, he streams different podcasts, YouTube channels, and other audible media. NE#1 characterized his job as "boring" and unappealing to most people. NE#1 stated he listens to media to entertain himself during the day and that this was never an issue. NE#1 stated he does his work consistently throughout the week, tending to hundreds of case files.

NE#1 stated he did not recall any formal meetings regarding his performance. NE#1 recalled signing a document concerning the expectations for his role, but stated he "did not read it." NE#1 thought the document related to using the computer for personal internet searched.

NE#1 states he only used his work computer to enter casefile information on a spreadsheet or search for vendors when items need to be ordered. NE#1 stated that, otherwise, most of his job is spent at his desk organizing case files. NE#1 stated he did not believe another employee was sent to work out of class due to poor performance on his part. Instead, NE#1 stated his belief that the other employee was being cross trained to prepare for his retirement, as NE#1 has been working for the City for over thirty years.

NE#1 admitted he believed his desk was moved so supervisors "wanted to monitor" his internet access. NE#1 acknowledged he was instructed to leave his office door open. NE#1 stated he only completely closed the door on one occasion when he had a private conversation with his wife. Otherwise, NE#1 stated he left the door either open or cracked. NE#1 stated he would leave the door cracked because his new office location was near a busy hallway and he was "disturbed" by people standing near his cubicle.

NE#1 stated he works full hours and has all of his leave time pre-approved by Supervisor #2. NE#1 said he works ten hour shifts, 5:30am to 3:30pm, Monday, Tuesday, Thursday, and Friday. NE#1 said Wednesday is his regular furlough and he takes Saturday and Sunday as his weekend.

Analysis and Conclusions:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties; 15. Employees Obey any Lawful Order Issued by a Superior Officer

The Complainant alleged NE#1 was insubordinate.

SPD Policy 5.001-POL-15 requires that Department employees obey any lawful order issued by a superior officer. The failure to do so constitutes insubordination.

On this record, OPA cannot conclude NE#1 was insubordinate. While the evidence indicates NE#1 suffered from productivity issues serious enough to warrant paying another employee out of class to assist NE#1, the Complainant and Supervisor #1 submitted insufficient documentation for OPA to conclude NE#1 was insubordinate.

Supervisor #1 documented a February 7, 2023, meeting with NE#1 to review “2023 Cornerstone Goals and expectations of his position.” Supervisor #1 wrote she and Supervisor #2 “had several concerns that [NE#1] was not utilizing his time efficiently and effectively based on his weekly stats. [NE#1] had several unfinished and/or untouched projects sitting for several months.” It is unclear to OPA whether any specific orders were conveyed to NE#1 at this meeting, nor did Supervisor #1 provide any contemporaneous documentation of such orders. This stands in contrast to the memorandum and policies NE#1 signed on May 4, 2023. This sort of documentation provides clear evidence of specific orders and NE#1’s receipt.

Similarly, the Complainant and Supervisor #1 appeared to allege NE#1 was insubordinate by not cleaning up his work area, submitting a work order for broken file cabinets, or keeping his door open. OPA did not observe clear evidence that NE#1’s work area was in disarray beyond Supervisor #1’s conclusory statements that it was, nor did OPA receive any contemporaneous documentation ordering NE#1 to clean his work area and following up when this was not accomplished. This is also true of the issue regarding the broken file cabinet but, in this instance, NE#1 suggested he raised this issue with Supervisor #2 and received no explicit instructions—such as to submit a work order or “1.5” form—that he failed to follow. Supervisor #1’s orders for NE#1 to keep his door “open” also appeared undocumented and vague—it is not clear if NE#1 was ever told that leaving his door “cracked” was insufficient.

Overall, the issues raised by the Complainant and Supervisor #1 appear to be serious time-management and productivity issues. NE#1’s failure to take specific steps to address these, as directed by his superiors, could constitute insubordination. But the lack of clear documentary evidence of the orders, NE#1’s receipt, and subsequent failure to adhere, makes it impossible for OPA to find by a preponderance of the evidence that NE#1 was insubordinate.

Accordingly, OPA recommends this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**

Named Employee #1 - Allegation #2

12.110 - Use of Department E-mail & Internet Systems 12.110 POL 2 The Department Allows Limited Personal Use of Email and Internet

The Complainant alleged that NE#1 excessively used the internet for personal reasons.

SPD Policy permits the “limited” personal use of email and internet. See SPD Policy 12.110-POL-2. Such use is permissible so long as it is “occasional” and adheres to Department and City Policies and usage standards. See *id.*

Objective information provided by IT showed that NE#1 used his Department computer nearly every workday to access personal websites for hours at a time. NE#1’s most frequently accessed website was YouTube, which accounted for nearly half of his total internet searches from January 19, 2023, through April 18, 2023. On its own, this violated Department policy, as this personal use was hardly “limited” or “occasional.”

Separately, NE#1 explained that he streams content throughout his day while working to help alleviate the boredom that accompanies his job. Even if this were a permissible reason to use a Department computer to access YouTube— which it is not—a significant amount of NE#1’s search history showed he spends a significant amount of time accessing other websites such as CNN, Wikipedia, and Google Maps, which did not appear to be streaming content that NE#1 could play passively while working. Instead, the nature of the websites as well as the amount, frequency, and tempo of access suggest NE#1 diverted his attention from working to reading or searching these personal websites.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #3

12.040-POL-3 Using Department Devices 3. Personal Use of Department-Provided Devices Must Follow Department Guidelines

The Complainant alleged that NE#1’s internet usage on his Department device failed to adhere to Department guidelines.

SPD allows for limited, reasonable, personal use of Department devices. See SPD Policy 12.040-POL-3(3). However, the Department forbids the personal use of a Department device where such use, among other things, is illegal, incurs a cost to the City, interferes with work responsibilities, is disruptive, or embarrasses the Department. See *id.*

For the reasons set forth above at Named Employee #1, Allegation #2, OPA finds NE#1 violated this policy.

Separately, NE#1’s use of his Department computer appears, more likely than not, to have impacted his work performance. In this respect, Supervisor #1’s somewhat conclusory documentation of NE#1 diminished performance was bolstered by charts she provided concerning the changes in NE#1’s task completion over the past three years. For instance, in 2021, the plurality of NE#1’s tasks were for filing (35%). This decreased to 15% in 2023. NE#1’s third most common job task in 2021, PDR files, accounted for 14%. By 2023, this decreased to 5%. Conversely, “Time Away” accounted for 19% of NE#1’s tasks in 2021 but, by 2023, increased more than three-fold to 62%. Given Supervisor #1’s documentation, graphs of NE#1’s

tasks, and IT report, OPA finds it more likely than not that NE#1's internet usage is negatively impacting his work.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #4

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

The Complainant alleged that NE#1 failed to work during his scheduled hours and, so, did not schedule time off appropriately with his supervisor.

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.

OPA cannot conclude that NE#1 violated this policy. As noted above, it appears that NE#1's work performance has been impacted by his internet usage. But OPA did not receive any evidence to suggest NE#1 was away without leave or failed to schedule his time off with Supervisor #2 as required. Moreover, while it appears Supervisor #1 has taken steps to set clearer standards and expectations going forward—such as by issuing and having NE#1 sign the memorandum on May 4, 2023—OPA did not receive any information that NE#1 was previously reprimanded, counselled, or had any of his timesheets not approved for failing to perform his job during work hours. Instead, it appears that NE#1 is dutifully reporting to work on his scheduled workdays, and then experiencing serious productivity issues and misusing his Department computer.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**