



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 22, 2019

CASE NUMBER: 2018OPA-0719

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Not Sustained (Lawful and Proper)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Not Sustained (Training Referral)

Named Employee #3

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Not Sustained (Training Referral)

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 that the Named Employees failed to report for a mandatory work assignment on July 28, 2018, as mandated by a Special Order.

SUMMARY OF INVESTIGATION:

Special Order SO 18-032 and Revised Special Order 18-032a were transmitted to SPD personnel on June 27 and July 13th, 2018, respectively. These orders contained lists of officers who were scheduled for mandatory work assignments for the Seafair Torchlight Parade on Saturday, July 28, 2018. Named Employee #1 (NE#1), Named Employee #2 (NE#2), and Named Employee #3 (NE#3) were included on the list of officers assigned to work but failed to appear for their assigned shifts. The absentee check-in sheets list of officers for that event include notes next to NE#1 and NE#2’s names that read: “No Show.” NE#3’s name is crossed out with a note that reads: “Out of Town.”

NE#1

NE#1 submitted a Medical Absent Report (MAR) on July 29, 2018 for the date of July 28. July 28 was a regularly scheduled furlough day for NE#1 so he was not required to be marked “sick” on his timesheet. The associated MAR states that a Sergeant received the report on July 28 at 1500 hours from NE#1. The box for “Mandatory Overtime or Standby Missed” and the box marked “Use Sick Leave for Missed Mandatory OT or Standby” are both checked “yes.”



OPA interviewed NE#1. In his interview, NE#1 explained that he was injured off duty before work on July 28, and that he informed his parade Sergeant about his injury on the same day.

NE#2

NE#2 told OPA that he overlooked his name on the Special Order because he only reviewed the first page. NE#2 stated that he also received an e-mail from a Sergeant about this event, but he did not read it because he was under the impression it was an email about volunteers. He thought this because the Sergeant had sent such an email in previous years. NE#2 said that he should have reviewed the Special Order completely and that he should have read the email sent by the Sergeant. NE#2 noted that this was the first time in his long career that he had failed to show up for a mandatory assignment.

NE#3

OPA was provided with email communication between a Lieutenant and NE#3 that took place in advance of the event regarding his being away on vacation. In the email, NE#3 informed the Lieutenant that he would be unavailable to work the mandatory assignment. NE#3 wrote therein that he forgot to submit a vacation request to cover his normal furlough days, which included the day of the event. NE#3 also expressed his sincere apology for his oversight.

OPA interviewed NE#3. During his interview, NE#3 confirmed that he was away on vacation in Detroit, and stated that he completely forgot that he was scheduled to work the event. NE#3 acknowledged that he had not sought or received an exemption for missing his scheduled shift. He told OPA this situation will never happen again.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

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.

Based on the evidence provided to OPA, NE#1 should not have been listed as a no-show on the Officer attendance list for the event. NE#1 was injured and reported that injury to the Sergeant he was assigned to report to on July 28. NE#1 also submitted the appropriate sick leave documentation to support his absence.

For these reasons, I find that NE#1 acted consistent with this policy during this incident and I recommend that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**



Named Employee #2 - Allegations #1

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

NE#2 acknowledged that he failed to properly read the Special Order and a related email that were meant to inform him about his obligation to work on July 28. While OPA concludes that NE#2 violated policy in this instance, OPA credits NE#2's assertion that this was the first no-show in his long career. OPA also notes that there was no evidence that NE#2's no-show was intentional. Instead, OPA finds that NE#2 made a mistake that is better corrected by retraining than a Sustained finding. As such, OPA issues NE#2 the below Training Referral.

- **Training Referral:** NE#2 should receive additional training concerning SPD Policy 5.001-POL-15 and, specifically, concerning how the policy pertains to the Special Order issued in this case. NE#2's chain of command should counsel him concerning this matter, including regarding the Department's expectation that its officers will comply with policy and Special Orders. This retraining and associated counseling should be documented and that documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #3 - Allegations #1

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

NE#3 acknowledged his error in this situation in failing to properly schedule his vacation and to obtain the necessary exemption to be excused from working the July 28 event. While OPA concludes that NE#3 violated policy in this instance, OPA credits NE#3's assertion that he did not do so knowingly and intentionally. Instead, OPA finds that NE#3 made a mistake that is better corrected by retraining than a Sustained finding. As such, OPA issues NE#3 the following Training Referral.

- **Training Referral:** NE#3 should receive additional training concerning SPD Policy 5.001-POL-15 and, specifically, concerning how the policy pertains to the Special Order issued in this case. NE#3's chain of command should counsel him concerning this matter, including regarding the Department's expectation that its officers will comply with policy and Special Orders. This retraining and associated counseling should be documented and that documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**