
POLICE CONDUCT OVERSIGHT COMMISSION
Case Summary Data #4
May 2017

OVERVIEW OF THE COMPLAINT

It is alleged that the officer left an overtime shift 2 hours prior to what was claimed as hours worked. Further, when questioned by a supervisor whether he had worked his entire shift that day (Day 1), the officer allegedly told the supervisor that he had. On another day (Day 2), the officer is alleged to have worked off-duty employment while also working his regular shift, resulting in the officer being paid by more than one employer at the same time. Additionally, it is alleged that he failed to apply and receive approval for the off-duty employment.

ALLEGED VIOLATIONS

1. OPCR Ord. § 172.20 (8) – VIOLATION OF THE P&P MANUAL
2. MPD P&P § 3-800 (III) (A) (1) OFF DUTY EMPLOYMENT: All MPD employees who pursue off-duty employment must apply for and receive approval, before the off-duty employment commences. Unpaid/volunteer positions do not require completion of the Off Duty/Employer Site Approval Request Form.
3. MPD P&P § 3-800 (III) (D) (7): An employee shall not submit time documents to the City or an off-duty employer that will result in being paid by more than one employer for the same time period.
4. MPD P&P § 5-102 CODE OF ETHICS: All sworn and civilian members of the department shall conduct themselves in a professional and ethical manner at all times and not engage in any on or off-duty conduct that would tarnish or offend the ethical standards of the department. Employees shall abide by the City's Ethics in Government Policy, Chapter 15.
5. MPD P&P § 5-101.01 – TRUTHFULNESS: The integrity of police service is based on truthfulness. Officers shall not willfully or knowingly make an untruthful statement, verbally or written, or knowingly omit pertinent information pertaining to his/her official duty as a Minneapolis Police Officer.

MPD employees shall not willfully or knowingly make an untruthful statement or knowingly omit pertinent information in the presence of any supervisor, intended for the information of any supervisor, or before any court or hearing. Officers shall not make any false statements to justify a criminal or traffic charge or seek to unlawfully influence the outcome of any investigation. (12/14/07)

These requirements apply to any report, whether verbal or written, concerning official MPD business including, but not limited to, written reports, transmissions to MECC and officers via radio, telephone, pager, e-mail or MDC.

MPD employees are obligated under this policy to respond fully and truthfully to questions about any action taken that relates to the employee's employment or position regardless of whether such information is requested during a formal investigation or during the daily course of business.

COMPLAINT PROCESSING

Upon receipt of the complaint, an intake investigation was conducted and the matter was subsequently brought before the Joint Supervisors for intake review. Upon review of the

complaint, the Joint Supervisors sent the matter to an administrative investigation and a case investigator was assigned. After the administrative investigation, the matter was brought before the review panel, who found merit on the following allegations: P&P § 5-102, P&P § 5-101.01, and P&P § 3-800(A) 1.

EVIDENCE

1. Statement of Officer 1
2. Statement of Officer 2
3. Statement of on-duty supervisor
4. Statement of Officer 3
5. Statement from 2nd interview of on-duty supervisor
6. Statement of Focus Officer
7. Exhibits
8. CAPRS report from Day 1 involving Officers 1 and 2 arrest

SUMMARY OF EVIDENCE

Statement of Officer 1 (one of two officers who arrived to the Focus' unit to process some arrestees but found it closed): According to Officer 1, he and his partner, Officer 2, went to the Focus Officer's unit on Day 1 only to find it closed at about 12 AM. The investigator provided a photograph (Photo 1) of two officers entering the building where the unit is housed at 11:53 AM, and Officer 1 stated that the two officers pictured were himself and his partner. Officer 1 also affirmed that he had written a supplement in the CAPRS report involving the arrestees that "[Focus Officer's unit] was closed, so we went to [another unit]."

After finding out that the focus officer's unit was closed, Officer 1 asserted that he and his partner had to go to another unit to process the arrestees.

Statement of Officer 2 (partner of Officer 1 who helped to process the arrestees on Day 1): Officer 2, when questioned, affirmed Officer 2's statement that Focus Officer's unit was closed when he and Officer 2 were attempting to process arrestees on Day 1. In particular, Officer 2 stated that he "knocked" on the door to Focus Officer's unit "but all the lights were off," so he and Officer 1 went to a different unit. Officer 2 also affirmed that the officers in one of the Exhibit photos were of himself and Officer 1.

Statement of on-duty supervisor: The on-duty supervisor contended that he noticed the supplement written by Officer 1 that stated that Focus Officer's unit was closed during the time he was scheduled. The on-duty supervisor noted that it is often an issue when his unit is closed as it often puts pressure on other units and their processing times. Often, he claimed, if his unit closes, then other affected units will be identified and contacted.

The supplement, the on-duty supervisor noted, led him to do some research as to when the other unit helped to process the booking. In doing so, the on-duty supervisor uncovered that booking took place in the vicinity of midnight—two hours before Focus Officer's overtime shift was to end.

In regards to the schedule, the on-duty supervisor said he was notified by Officer 3 "several days beforehand" that no one was scheduled on Day 1 and volunteered to work the shift. However, the on-duty supervisor told Officer 3 to offer it to other officers before accepting. According to the on-duty supervisor, the shift was offered to Focus Officer, who accepted it.

The on-duty supervisor claimed that he told Focus Officer that he could leave around 12 AM since he had worked a full in-service shift prior to the evening shift, which the Focus Officer agreed to.

After reviewing Officer 1's supplement, the on-duty supervisor stated that he spoke to Focus Officer about the time he left the unit office on Day 1 as his time entered—5 PM to 2 AM—was contrary to the supplement. During the discussion, the on-duty supervisor claimed that Focus Officer stated the earliest he left his shift at was “by ten to 2:00” or “right around 2:00.”

However, the on-duty supervisor stated that, based upon booking times noted in the report, it was clear to him that Focus Officer was not present.

Statement of Officer 3 (officer who allegedly covered Focus Officer's shift on Day 2): Officer 3 affirmed a work schedule which showed that he worked two shifts—7 AM to 3 PM and 3 PM to 12 AM—on Day 2.

According to Officer 3, he picked up the evening shift when he overheard his supervisor asking another officer if he wished to work overtime. Officer 3 states that the other officer told the supervisor he couldn't cover the shift due to a family event, so Officer 3 claimed that he stepped up to cover it. Officer 3 affirmed an email from his supervisor that instructed Officer 3 he would only have to cover the shift until Focus Officer arrived, which he claimed would be around 6 or 6:30 PM. Officer 3 also elaborated that he had other communications with his supervisor indicating that he would cover the shift until Focus Officer arrived.

Officer 3 stated that Focus Officer arrived to the unit sometime between 6 and 7 PM. When the Focus Officer arrived, Officer 3 claims that he told him something to the effect of:

I'm not feeling the best. I'm tired, I'm not feeling really good, or something like that. He goes I think I'm gonna take vacation. I'm maxed out. I'm gonna lose it anyways. I'm-, I'm just gonna take some vacation time.

In reply, Officer 3 stated that he told him that he didn't have a problem covering his shift. Also, Officer 3 believed that Focus Officer told him to “book it, or-, or can you hook me up,” which he later believed meant to “to put him in vacation”—though it didn't “r[i]ng a bell” with him initially. Officer 3 also commented that he had the ability, due to his rank, to put the Focus Officer's vacation into the system.

Officer 3 asserted that he called their supervisor and informed him that Focus Officer was using a vacation day, to which the supervisor allegedly stated that he would “deal with that later or something like that,” and that Officer 3 could stay at work “as long as [he] think[s] [he] can.” Further, Officer 3 asserted that he did not enter in the time because he believed that his supervisor, whom he notified, would do so.

In reference to approval of vacation time, Officer 3 responded:

We can kind of just use it. I mean it's ... it hasn't been a hard-, hard, you know, stance on that or whatever. If somebody uses it, they usually advise the [supervisor], you know, and if there's an issue, he will let you know that there's an issue or whatever. But, um, we usually switch our days, or-, or move days, or whatever and try to cover everything to make sure that unit gets covered for the hours it's supposed to be.

Officer 3 also affirmed that there is a “duty phone” assigned to the division that the duty sergeant is responsible for answering.

When asked if he could recall Focus Officer logging onto his computer, Officer 3 said that he had “no clue” if he had.

Statement of Focus Officer's off-duty supervisor from Day 2: According to the off-duty supervisor, he was the site coordinator for Focus Officer's off-duty job on Day 1. The off-duty

supervisor elaborated that he helps to coordinate security and traffic for certain events in the area. According to the off-duty supervisor these 'events' are fairly infrequent and "rare," occurring between one to three times a year and are logistically difficult. The off-duty supervisor further elaborated that the event Focus Officer worked on was "very discombobulated."

The off-duty supervisor mentioned that he himself does not oversee the payroll or timesheets for these events but another coordinator does. The off-duty supervisor also stated that he once had an Excel spreadsheet with scheduled times, but discarded it as it "changed so much" and, thus, was a "nightmare to run." Further, the off-duty supervisor stated, "Once the officers ... as long as I got them to where they needed to be, I had no responsibility for oversight for getting them paid, so I have no reason to keep it."

The off-duty supervisor asserted that he had to put the company on notice about changing their request for off-duty officers daily—at times cancelling the day before. The abrupt changes, the off-duty supervisor contends, led him to require a "four hour cancellation fee much like our work rules" from the company; he asserted that the same was also true for a four-hour work minimum.

Lastly, the off-duty supervisor noted that he personally did not deal with paying the officers.

Statement from 2nd Interview of on-duty supervisor: The on-duty supervisor claimed he recalled his conversation with Officer 3 regarding Focus Officer's failure to work on Day 2, but insisted that he did not recall the conversation well and had difficulty hearing Officer 3 as he was in a "loud environment." The on-duty supervisor does remember telling Officer 3 that he should cover for Focus Officer but not whether the Focus Officer would use a "vacation day" for not working. The on-duty supervisor also mentioned, in relation to his staff—who are all "supervisors"—entering time absent his approval, that, "...it wouldn't be uncommon for somebody to call in and I think I alluded to that in other part of the investigation where [Focus Officer], uh, had either himself put in a vacation day or had somebody put in a vacation day for him."

Statement of Focus Officer: The Focus Officer stated that his normal hours are from "4:00[PM] to 2:00[AM] and 5 PM to 3 AM" for other officers. Focus Officer further stated, in relation to his duty, that he processes arrestees and is often the only person who does so late at night. Focus Officer also mentioned that, due to the nature of his work, he often works under little supervision.

In relation to Day 1, Focus Officer asserted that he could not remember his exact conversation—or how it took place—with his supervisor in regards to picking up the shift. He only recalled that he picked up the shift and vaguely recalled his on-duty supervisor telling him that he could leave early.

Upon being shown a photo of his entrance into his place of work on Day 1, the Focus Officer acknowledged that the time stamp on the photo showed 4:20 PM. After viewing the photo, the Focus Officer commented that he thought he arrived a "little earlier."

After being shown his schedule that showed he worked from 5 PM to 2 AM, he acknowledged that it was erroneous. Further, he was shown another photograph—this time of him exiting the building on Day 1 timestamped at 11:31 PM—and commented that he couldn't figure out "what the hell happened." Focus Officer conjectured that he was "dozing off" due to his office being "super-hot" and must have misread the time as "1:30 [AM]" as opposed to 11:30 PM. Consequently, Focus Officer claimed that he put in an erroneous time on his timesheet the next day. Focus Officer stated in his defense that he didn't "try to screw the city out of any money."

In relation to working his shift alone, Focus Officer commented:

[A coworker] was off that night, um, you know, essentially you're a slave to the door. You know, instead of being a slave to 911, you're a slave to waiting for people to come in. So, you know, as it gets later, you know, if you got your case work caught up and there's nobody to call about interviews or anything like that, it gets kind of dull. Lights are buzzing. You know you're just sitting there just trying to stay awake.

Also, Focus Officer claimed there is a duty cellphone but he failed to take it home with him as he believed it was "quitting time."

Focus Officer contended that he did discuss with his on-duty supervisor why he wasn't present when Officers 1 and 2 showed up to the office on Day 1. According to Focus Officer, he thought Officers 1 and 2 had arrived at 3:00 AM and were just "b**ching" that Focus Officer did not work as late as other officers. Focus Officer also stated that he did not leave a note on the door that he had left as it is not customary to do so when the unit is closed.

In relation to the "truthfulness" allegation, Focus Officer asserted that he did not lie and further elaborated that he "respect[s]" his on-duty supervisor and would not "have knowingly lied to him."

In regards to Day 2, Focus Officer agreed when asked by the investigator that he was supposed to work from 4 PM to 2 AM. Focus Officer mentioned that the event planners for which he worked for were constantly changing their requests for officers and their schedules. Focus Officer also admitted to texting his on-duty supervisor that he would be late, around 6-630 PM, but ultimately didn't arrive till 7:30 PM.

Focus Officer stated that he went back to the office with the intent of relieving Officer 3 but his co-worker offered to cover his shift after he told him that he didn't "feel real good." Focus Officer further stated that he asked Officer 3 to "throw a V-day" or vacation day in for him, to which his coworker supposedly replied "OK." Focus Officer conjectured that his co-worker forgot to put in his vacation day. Focus Officer also stated, to buttress his claim of using a vacation day, that he had "maxed out" on vacation days and it would do him "no good not to use it."

Focus Officer also recalled that Officer 3 told him that he would inform him if the on-duty supervisor had an issue with him using a vacation day. According to Focus Officer, if there was an issue, he would come back and finish his shift. Focus Officer continued to relate the day had been difficult for him, stating the day was "super windy" and he was "freezing" while directing traffic for the event. He also stressed that all the officers in his unit have the ability to change schedules.

In relation to his signing off on Day 2 before leaving, Focus Officer stated that he "accidentally" signed off and instead of "resigning on" he asked the co-worker to put in a "V-day" for him. Focus Officer also mentioned that officers typically notify, at least a day in advance, the on-duty supervisor if vacation time is used as not doing so may "screw over" a partner. However, Focus Officer also claimed that sudden notice is not an issue so long as the other person agrees to cover your shift.

Focus Officer also stated that he did not check to see later if his time was entered in properly by Officer 3, contending that, "[he] ended up going on vacation for an extended period of time. So, when I got back, that was the furthest thing from my mind." When asked by the investigator if he noticed an email sent by his on-duty supervisor that advised officers to "check your time period and get it submitted," Focus Officer replied that he didn't notice it as "it's something he sends every month before payroll is supposed to come" and "it's kind of one of those things you just kind of click." Ultimately, when questioned about whose responsibility it is to ensure the accuracy of timekeeping, the Focus Officer stated, "It's me. I mean I dropped the ball...In both these instances." Focus Officer also commented that he had not cashed the checks from the periods involving Day 1 and 2.

Further, when questioned about approved time, Focus Officer admitted that he had not submitted a request to work off-duty at the event. He stated, simply, that, “I mean I was cancelled and rearranged for a couple of different days, and it just completely slipped my mind...” Further, Focus Officer stated that “it wasn’t” on purpose and that he signed on with an “off-duty number,” so he wasn’t trying to “cover anything up or anything.” [The on-duty badge number for officers is different from the off-duty one].

Focus Officer claimed that he was regretful about what occurred and wished he would have checked his time. He also admitted to going home immediately after leaving the office on Day 2.

Exhibits: in the “Exhibits” section are contained the following: 1) Photo of a man, presumably Focus Officer, entering the building timestamped at 4:28 PM on Day 1; 2) Second photo of the same man entering the building at 4:28 PM on Day 1; 3) Photo of the same man leaving the building at 7:14 PM on Day 1; 4) Photo of same man entering the building at 8:05 PM on Day 1; 5) Photo of the same man leaving the building on Day 1 at 11:31 PM; 6) Photo of a truck, likely belonging to Focus Officer, leaving the area at 11:32 PM; 7) Photo of two officers—likely Officers 1 and 2—entering the building at 11:53 with two arrestees; 8) Photo of, presumably, Officers 1 and 2 and arrestees in the building at 11:53; 9) Photo of Officers 1 and 2 and arrestees leaving the building at 12:24 AM; 10) Photo of an officer, likely Focus Officer, entering the building on Day 2 at 7:42 PM; 11) Photo of an officer, likely Focus Officer, leaving the building on Day 2 at 7:58 PM; 12) Photo of, presumably, Focus Officer’s truck leaving the area; 13) Photo of an officer, perhaps Officer 3, in the building at 11:53 on Day 2; 14) Snapshot of Focus Officer’s time sheet which shows that he logged off of his computer on Day 1 at 11:28 PM; and 15) another time sheet which shows that he logged off around 7:49 PM on Day 2.

CAPRS report from Day 1 involving Officers 1 and 2 arrest: A supplement in the report by Officer 1 states that the “[Focus Officer’s unit] was closed so went to [another unit].”

REVIEW PANEL

In regards to “Allegation #1” (MPD 5-102 Code of Ethics), the Review Panel found merit to the allegation, noting that:

In his interview, [Focus Officer] claimed that he left work early because he was drowsy and confused about the time. The panel agreed that while [Focus Officer] may have inadvertently left early, he entered his [overtime] for the full shift later the next day. The panel felt that [Focus Officer] should have absolutely known by the time he entered his time in [the record system], that he had left work early, and should have entered the actual hours worked.

In relation to “Allegation #2” (MPD 5.101.01), the panel again found merit, asserting in support:

The investigation showed that [the on-duty supervisor] asked [Focus Officer] about his hours worked during a face to face conversation on...the day after the [overtime] shift was worked. Again, the panel believes that by the time [Focus Officer] was asked about the hours worked, he should have been aware of the actual time he left. [Thus,] [h]is statement to [the on-duty supervisor] that [he] left at [1:50 AM] was not truthful.

However, the panel did not find merit in “Allegation #3” (MPD 3-800(D) 7) as, though his actions were “careless,” they were not a “deliberate attempt by [Focus Officer] to “double dip” with his part[-]time job.”

Lastly, in relation to “Allegation #4” (MPD 3-800 Off-Duty Employment (A) 1), the panel found merit, claiming simply that [Focus Officer] “did not submit the required Off Duty Employment form.”

