


PORT OF SEATTLE POLICE DEPARTMENT

M E M O R A N D U M

DATE: January 2, 1998
TO: Sgt. Anthony Anderson
FROM: P. A. Kasnick, Chief of Police 
SUBJECT: Internal Investigation No. 97 - 2

The focus of this investigation was to determine who had used the terminal assigned at Ms. Brower's desk for the purpose of accessing and viewing certain sexually explicit material via the Internet, and for what purpose.

OPM 1.15.110 - Use of Department Computer. The use of the Department computer system for on-duty assigned tasks, activities, and individual familiarization is encouraged and supported. The use of the systems for non-job related activity shall be on off-duty time only, and shall be coordinated through on-duty supervisory personnel.

You are exonerated with respect to this allegation. While it was established that you used a Port of Seattle Police Department computer terminal to access sexually explicit graphics, I have accepted the explanation you gave to me during the pre-disciplinary meeting on December 31, 1997, that you were doing so in an effort to locate and remove a specific computer game file that you had observed one of your officers using on a previous occasion.

I would like to point out that the manner in which you responded to questions posed by Lt. Wortman during the investigation made it appear that you were being intentionally vague, perhaps even evasive. An example of this was when you responded to the question regarding whether or not you thought your viewing activities were work related by saying, "I guess you could say yes and no".

During our meeting on December 31, 1997, I advised you that it appeared to me that you did not respond to questions in a manner that made it clear that you were conducting work-related activities nor that you were disavowing any improper conduct. This coupled with the fact that the interviewer did not follow-up with clarifying questions, left sufficient doubt in my mind as to what you were really saying.

I. OPM 1.16.20 A Failure to Perform Duties Properly. Employees shall not commit or omit acts, which would constitute a violation of any rules, regulations, procedures, directives or orders of the Department.

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This investigation establishes that you violated the requirements of this section by violating policies regarding OPM 1.16.185 B. and 1.16. 65. However, as 1.16.20 A could be considered inclusive of these sections, I do not intend to use it as a separate basis in considering what discipline is appropriate.

OPM 1.16.185 B Neglect of Duty. Employees shall not engage in any activity that would cause them to neglect or be inattentive to duty.

This allegation is sustained.

This investigation establishes that you were conducting a non-priority activity (attempting to locate and remove sexually explicit graphics from the computer) while you clearly had more pressing supervisory responsibilities to attend to at that time.

One of your key responsibilities is to provide direct supervision and support to the personnel of your watch. On the date and time in question one of your officers came upon a drive-by shooting within the Seattle Police Department's jurisdiction, which had resulted in a double homicide. During your IA interview you indicated that you were aware of this incident and that you had asked the officer if he needed assistance. Ultimately, it was your decision to take no further action with respect to the homicide or the officer when the officer responded that he did not require further assistance.

The reason you gave to me during our meeting for not responding was unacceptable. Your duty and obligation is to act to protect the citizens of this city. You did not do that on this occasion. Basing your decision on the notion that the Seattle Police Department would rebuff our offer to help because of experiences you have had with their department in the past shows a lack of conviction on your part to do what you know is the right thing to do. The appropriate and expected course of action for you would have been to quickly respond to the scene and to coordinate with the SPD to offer whatever assistance might be necessary. If they chose to not accept our assistance, that is their decision to make. However, while the shooting was within the Seattle Police Department's jurisdiction, it was also at a location very close to Port of Seattle Police Department jurisdiction. You should have deployed all available POSPD personnel in the surrounding POSPD area in an attempt to locate and identify potential suspects or witnesses. In other words, just plain, old, good police work. You did not even make a minimal effort to coordinate with the Seattle Police or to debrief the officer who had been at the scene to ensure that he prepared a supplemental report for SPD - whether they desired it or not.

IV. 1.16.65 A Reporting Violations of Laws, Ordinances, Rules, Orders Employees who know of or observe violations of laws, ordinances, rules of conduct or official orders on the part of other Department personnel shall: A. Report such incidents at once to their immediate supervisors, or to other supervisory personnel if the employee's supervisor is subject to the violation.

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This allegation is sustained.

Upon becoming aware that the POSPD computer system had been used to access sexually explicit graphics/games, you had a duty to report it to your immediate supervisor. You did not do so. Your explanation to me that you wanted to handle it was unacceptable. As a department supervisor, you have an obligation to keep your supervisor advised of issues within the organization that may have broader implications or have potentially serious consequences. Having observed one of your officers using the department computer for improper activities should have caused you to be concerned that it may be more widespread. Your "handling" of this particular case without follow up left the potential for such abuses to continue to be committed by others. At the very least you should have consulted with Lt. Jensen on this to discuss possible courses of action.

IV. 1.16.35 Conduct Unbecoming At all times employees shall conduct themselves in a manner that reflects favorably on the Department. Conduct unbecoming an employee shall include conduct which brings the Department into disrepute, or reflects discredit upon the employee as a member of the Department, or which impairs the operations or efficiency of the Department or employee.


This allegation is not sustained.

The following potential violations were determined to have no basis and are considered *unfounded* by this investigation. I concur with Lt. Wortman's assessments: HR 22 Sexual Harassment; OPM 1.06.80 Limitations on Computer Access; OPM 1.16.55 Conformance To Laws; OPM 1.16.180 Discriminatory Behavior; and OPM 1.16.225 Conducting Private Business on Duty.

Lt. Wortman describes the following potential violations to have been "combined" or in other words, closely similar to other sections cited. (1.) Directive 93-3 is similar to OPM 1.15.110. (2.) Information Technology Policy IT-2 is similar to OPM 1.15.110, (3.) OPM 1.16.10 Canons of Police Ethics is similar to 1.16.185B, and (4.) OPM 1.16. 15 Rules of Conduct - Policy is similar, in part, of OPM 1.16.20. The sections found to be duplicative will not be used as a basis for discipline.

In closing, I would like to impress upon you that as a Sergeant and member of this department's command staff, you are necessarily held to a higher standard of conduct. You have a duty to exemplify these standards. You have a responsibility to serve as a role model, to act as a mentor, and to demonstrate leadership at all times.

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For the two allegations that I consider sustained this will serve as your notice that should there be a repeat of such conduct you may anticipate more serious disciplinary action up to and including suspension. A copy of this memorandum will be placed in your HR file for consideration during your next performance evaluation.

PAK/

c: File
Employee Admin. & HR files

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PORT OF SEATTLE POLICE DEPARTMENT
MEMORANDUM

DATE: January 22, 1998

TO: Chief Kasnick

FROM: Sgt. Anderson *JA*

SUBJECT: Rebuttal

Due to the repeated violations of the contract and the Operating Procedures Manual during the investigation, and my explanation justifying the usage of the computer, exoneration of the charges relating to computer use was appropriate.

Sustaining the charge of Neglect of Duty based upon this investigation is not appropriate. According to the OPM, Neglect of Duty is defined as

“Employees shall not engage in any activity which would cause them to neglect or be inattentive to duty.”

This investigation did NOT establish that I was conducting a non-priority activity while I had other supervisory responsibilities. There is nothing in this investigation that addressed the time that I allegedly neglected my duty, therefore there is nothing in this investigation on which to base this charge. If discipline is warranted in these circumstances, it should be totally unrelated to this investigation.

Regarding the violation of 1.16.65, if this section is read in the way proposed, every violation viewed would have to be reported to the entire chain of command, i.e. a Sergeant becomes aware of a violation of a rule of conduct by an officer would be obligated to report it to the Lieutenant. When the Lieutenant becomes aware of this violation, it would have to be reported to the Captain, and so on up the entire chain. I do not think this is the intent of this section. It has been the position of management that supervisors should deal with the problems of their subordinates, when they occur, and not pass them off onto the chain of command. In this case, upon discovery of the officer on the computer, I handled the situation in a manner consistent with past practice, as well as within my discretion as a supervisor. Past practice, as set forth by Lt. Harmon, was when confronted with the situation where an officer is viewing sexually graphic material, the supervisor should tell the officer to stop and remove the pictures from the workplace. This is what I did. In none of the past incidents was there any direction to notify the Patrol Lieutenant of the situation.

If Sergeants are expected to be responsible for their squads, they should have the authority to deal with the problems of the squads.

And finally, regarding the comment that I was being vague and perhaps evasive during my interview, I feel obligated to point out that what you saw in my statement was only a part of the interview. The interviewers in this case set the tone for the interview before the tape recorder was turned on. I had some simple questions regarding the interview, and not only were the answers I received from the interviewers vague and evasive, they were adversarial and demeaning. If there is an expectation that an interview should be professional, it should be professional by everyone involved.

Your final admonition regarding a higher standard of conduct and demonstrations of leadership are very appropriate and applicable to all those involved in this investigation.