



# City of Seattle

Seattle Police Department

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October 27, 2016

Mayor Ed Murray  
Seattle City Hall  
600 4<sup>th</sup> Avenue  
Seattle, WA 98124-4769

Council President Bruce A. Harrell  
Seattle City Hall  
600 4<sup>th</sup> Avenue  
Seattle, WA 98124-4769

RE: OPA 2016-0281

Dear Mayor Murray and Council President Harrell:

I am writing to report on the findings in OPA 2016-0281, pursuant to SMC 3.28.812. The incident in question occurred on February 27, 2013. OPA received the complaint that led to this investigation on March 17, 2016, nearly three years and one month after the date of the incident. The collective bargaining agreement (CBA) between the Seattle Police Officers' Guild (SPOG) and the City prevents "disciplinary action resulting from a complaint of misconduct where the complaint is made to the Internal Investigations Section more than three years after the date of the incident which gave rise to the complaint" (SPOG CBA Article 3.6(G)) and a labor arbitrator has interpreted the City's CBA with SPOG to preclude the Chief of Police from issuing a "sustained" finding in a case where the at-issue incident occurred over three years before the complaint was filed; a sustained finding itself was characterized as disciplinary. It was determined that I am bound by the City's CBA with SPOG and the labor arbitrator's decision. As such, I did not evaluate the merits of this allegation and made a finding in this matter of "Not Sustained – Timeliness". As the matter involved an allegation of dishonesty, the investigation has been referred to the local prosecuting authorities for evaluation under *Brady v. Maryland*, 373 U.S. 83 (1963).

I must mention that this same incident was the subject of a previous complaint and investigation. There OPA focused on offensive and racially charged language used by the officer. In that instance, the complaint was received within the three year timeframe; I sustained the policy violation and more than doubled the recommended discipline as I was appalled by the officer's language. Where the collective bargaining agreement permits, I do not shy away from evaluating cases on their merits and holding officers fully accountable for their actions.



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Sincerely,

A handwritten signature in black ink that reads "Kathleen M. O'Toole".

Kathleen M. O'Toole  
Chief of Police

cc: Peter Holmes, Seattle City Attorney  
Pierce Murphy, Director Office of Professional Accountability  
Sally Bagshaw, Councilmember  
Tim Burgess, Councilmember  
Lisa Herbold, Councilmember  
Lorena Gonzalez, Councilmember  
Rob Johnson, Councilmember  
Debora Juarez, Councilmember  
Mike O'Brien, Councilmember  
Kshama Sawant, Councilmember  
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