



## **CLOSED CASE SUMMARY**

ISSUED DATE: MARCH 20, 2018

CASE NUMBER: 2017OPA-0981

### **Allegations of Misconduct & Director’s Findings**

**Named Employee #1**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	5.001 - Standards and Duties 10. Employees Shall Be Truthful and Complete In All Communication	Not Sustained (Inconclusive)
# 2	15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a General Offense Report	Sustained

***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 Named Employee #1 submitted a false statement that was not supported by what actually occurred and that this false statement led to the Complainant's conviction and fines being imposed in regards to a traffic collision.

#### **ANALYSIS AND CONCLUSIONS:**

##### **Named Employee #1 - Allegation #1**

##### ***5.001 - Standards and Duties 10. Employees Shall Be Truthful and Complete In All Communication***

The Complainant alleged that NE#1 made a false statement in a report he submitted concerning a traffic accident. The Complainant indicated to OPA that, on the date in question, he was driving his vehicle and his daughter was in the rear seat. He explained that he got into an accident when he pulled out of his driveway and did not see a vehicle traveling towards him. He said that he suffered a concussion and other crash-related injuries. The Complainant contended that no one else was injured. The Complainant stated that, given his injuries, he had no memory of either the accident or his interaction with the officers who responded. The Complainant stated that either the description of his statements by NE#1 were false or, in the alternative, NE#1 interviewed him at a time that he was medically impaired.

NE#1’s report in question read in pertinent part: “During an interview, the defendant stated to Police that as he was exiting his driveway, onto Delridge Wy SW, he failed to look left due to a medical issue he was experiencing. Just as the defendant entered the roadway from his driveway, he was immediately struck by a vehicle that was traveling northbound already occupying the roadway as the defendant attempted to enter it.” This report was signed by NE#1 under penalty of perjury that the statements therein were true and accurate.

The Complainant told OPA that he was not suffering a medical issue at the time of the accident that prevented him from looking left or, for that matter, any medical issue that impaired his driving. The Complainant stated that, based on NE#1’s account, the judge presiding over his trial on this citation imposed the maximum fines allowable. OPA did not independently verify this information. The Complainant admitted that he had no insurance at that time, but denied that the remainder of NE#1’s report was truthful and accurate.



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During its investigation, OPA interviewed the other officer who responded to the accident. The officer indicated that he spoke to both the Complainant and the Complainant's daughter in the immediate aftermath of the accident. The officer recounted that the Complainant stated that he did not see the vehicle traveling towards him but that he did not provide a reason for why he did not see it. The officer said that he conveyed the substance of the driver's statement to NE#1. He stated that he also told NE#1 that the driver was a little "loopy." The officer recounted that he was informed by the Seattle Fire Department that the Complainant probably had a concussion and was potential knocked unconscious. This was corroborated by the Complainant's daughter who said that she was trying wake her father up after the accident. The officer recalled that the Complainant's wife came out of their apartment and stated that the Complainant was a diabetic, but that he was fine when he left to take their daughter to school.

The officer stated that he did not recall ever being told by the Complainant that the Complainant could not look left due to a medical condition that he was experiencing. The officer further stated that, as far as he knew, he never told NE#1 this information.

OPA attempted to interview NE#1 during its investigation. However, at the time of the investigation of this case, OPA learned that NE#1 had left the employment of SPD. OPA attempted to contact NE#1 to schedule him for an interview; however, he never responded and OPA was unable to interview him relating to this case.

OPA obtained the In-Car Video (ICV) recordings for both NE#1 and the other officer who responded. The ICV captured the entirety of the officers' conversations with the Complainant, the Complainant's daughter, and the other driver involved in the accident.

The ICV reflected that the Complainant was clearly disoriented from the accident. When asked, he told the other officer that he had taken medication for diabetes but that this medication did not make him "loopy." His wife also could be heard telling the officer that, while her husband suffered from diabetes, he was fine when he left their apartment moments before. Based on my review of the ICV, the Complainant never told the officer that he unable to look left to see the oncoming vehicle because of a medical condition.

When NE#1 arrived on the scene, his conversation with the other officer was recorded. The officer told NE#1 that the Complainant had not seen the other car and was disoriented from the crash. The officer stated to NE#1 that the Complainant's wife reported that he was diabetic but that he was fine when he left their apartment five minutes prior. Based on my review of the ICV, the officer never reported to NE#1 that the Complainant was unable to look left to see the oncoming vehicle because of a medical condition.

NE#1's communications with the involved parties and witnesses was also recorded. Based on my review of the ICV, no one ever told NE#1 that the Complainant was unable to look left to see the oncoming vehicle because of a medical condition.

SPD Policy 5.001-POL-10 requires that SPD employees be truthful and complete in all communications.

Here, based on my review of the record, NE#1's report was clearly inaccurate and not complete. There was no evidence whatsoever that the Complainant was unable to look left and see an oncoming car due to a medical condition. Moreover, while NE#1 did suffer from diabetes and take medication for that illness, it was clearly



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communicated to the officers that he was fine when he left his residence five minutes earlier and that this medical condition did not cause the accident. I have no idea where this information came from and why NE#1 wrote this in his report. It is unclear whether it was a mistake or a deliberate falsification of the facts. If the latter, I cannot figure out what possible motivation NE#1 would have had to be materially dishonest in his reporting. The oncoming driver had the right of way and the Complainant was at fault regardless of whether he had a medical condition that prevented him from looking left. NE#1 did not participate in an OPA interview, so OPA was unable to determine an explanation for his actions.

While I am greatly concerned with the significant material inaccuracies in NE#1's report, based on the evidence before me and based on the quantum of proof needed to sustain this allegation, I cannot conclusively determine that NE#1 engaged in dishonesty in violation of policy. As such, I recommend that this allegation be Not Sustained – Inconclusive. That being said, this finding should not be interpreted to condone NE#1's behavior in this matter. Moreover, I conclusively find that there was false information in NE#1's report and that this information was unfairly used against the Complainant.

Recommended Finding: **Not Sustained (Inconclusive)**

**Named Employee #1 - Allegation #2**

***15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a General Offense Report***

SPD Policy 15.180-POL-5 requires that officers document all primary investigations on a General Offense Report. The policy further requires that these reports be complete, thorough, and accurate.

As discussed above, while I cannot conclusively determine that he was deliberately dishonest, the report generated by NE#1 was clearly materially inaccurate, as well as not thorough or complete. There is no explanation in the record for why this was the case and I am greatly troubled by this. This report was signed by NE#1 under penalty of perjury that the statements therein were true and accurate. However, this was not the case. Accordingly, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**