



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2016-1517

Issued Date: 06/08/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (10) Standards and Duties: Employees Shall Be Truthful and Complete In All Communication (Policy that was issued April 1, 2015)
OPA Finding	<b>Not Sustained</b> (Inconclusive)
Final Discipline	N/A

#### **INCIDENT SYNOPSIS**

The Named Employee wrote a General Offense Report (GOR) to document a contact.

#### **COMPLAINT**

The complainant, the Office of Professional Accountability, alleged that the Named Employee gave two accounts of the circumstances surrounding his contact with a subject- one account was included in the GOR and the other was made during his OPA interview in connection with a separate complaint- and that the differences between these two accounts were material and differed with such significance that it was possible the Named Employee knowingly provided false information in one or both of these accounts.

## **INVESTIGATION**

The OPA investigation included the following actions:

1. Search for and review of all relevant records and other evidence
2. Review of In-Car Videos
3. Interviews of SPD employees

## **ANALYSIS AND CONCLUSION**

The OPA investigation showed one instance of a material difference between what the Named Employee wrote in his GOR and the statement he made to OPA. In the GOR, the Named Employee wrote,

“While driving south on [REDACTED] I observed a group of people congregating at the entrance of [REDACTED] I recognized one of the subjects as [REDACTED]. I have contacted [REDACTED] on numerous occasions for drinking in public and watched him for a few seconds to see if he was drinking in the park. I saw him open a bottle he had in a paper bag and offer it to another person for a drink. He took the bottle back as I pulled my vehicle forward to give [REDACTED] a friendly reminder that he couldn't have the alcohol in the park.”

During his OPA interview about the incident at the park involving the subject, the Named Employee said that he stopped just to talk to a person he had not seen for a while. The Named Employee described this contact as purely social in nature and told OPA that it was only after he was talking to the subject that he saw a paper bag with a bottle in it and reminded the subject that he could not drink alcohol in the park. This statement to OPA during a complaint investigation interview was materially different from what the Named Employee wrote in his GOR. In addition, this difference was not about something incidental, it was specifically about one of the allegations in the OPA investigation for which the Named Employee was being interviewed. The Named Employee had been accused of failing to activate his In-Car Video (ICV) as required when he first contacted the subject about the open container infraction. When interviewed by OPA for this current investigation regarding the inconsistent statements, the Named Employee said he had not reviewed his GOR prior to the first OPA interview and gave a series of vague and confused answers when asked to explain the difference between the statement in his GOR and what he had told the OPA investigator in the original interview. Other than this, the Named Employee's answers at his second OPA interview provided no explanation for his inconsistent statements. OPA interviewed the supervisor who had spoken with the Named Employee about the incident later that same day. When asked what the Named Employee had said to him, the supervisor told OPA that the Named Employee told him the same basic version of events that was written in the GOR, that the Named Employee saw the subject with the bag and the bottle prior to stopping and making contact with him. It was the supervisor's recollection that the Named Employee was stopping to make contact with the subject to address the open container violation.

The second material difference between the GOR written by the Named Employee and the statements made by him to OPA during his November 2016 interview had to do with the issue of whether or not the Named Employee ordered the subject to pour out the contents of the bottle. This was related to the allegation that was being investigated by OPA in a previous complaint: that the Named Employee had failed to complete a "Terry Stop Template" following his detention of the subject. If the Named Employee gave the subject an order to pour out the contents, this would amount to a detention and the Terry Template would have been required. However, if no such order was given and the subject voluntarily emptied the bottle, no such seizure would have taken place and no Terry Template would have been necessary. In his GOR, the Named Employee wrote that he ordered the subject to pour out the contents of the bottle and that the subject complied. This was also what the Named Employee's supervisor recalled being told by the Named Employee later that same day. However, in his interview with OPA in November 2016 regarding that complaint, the Named Employee stated that, as he was reminding the subject about the ban on alcohol in the park, "he [the subject] kinda brought it out and he was like, oh, okay. And without – I didn't actually know that he had it, and I was telling, and he just started to pour." When the Named Employee was later interviewed by OPA in this present case concerning these contradictory statements, the Named Employee said his report was a "succinct" version of what actually happened, which was more accurately captured in the Named Employee's statement to OPA during his November 2016 interview. Whether the Named Employee order the subject to pour out the contents of the bottle or the subject did that on his own without being compelled, was not clear. The Named Employee was sufficiently vague on the subject and the difference between what was written in the GOR and what the Named Employee told OPA during his November 2016 interview was somewhat subtle.

After careful review of the evidence from the OPA investigation, along with discussion at the Discipline Meeting for this case, the OPA Director found that the evidence fell just short of the clear and convincing standard required under the Collective Bargaining Agreement between the City and the Seattle Police Officers' Guild to sustain a finding of dishonesty. The OPA Director also determined that the Named Employee would benefit from very clear and direct training from his supervisor.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

The evidence fell just short of the clear and convincing standard required to sustain a finding of dishonesty. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Standards and Duties: Employees Shall Be Truthful and Complete In All Communication*.

**Required Training:** The Named Employee should receive very clear and direct training from his supervisor regarding the critical importance of being accurate, complete and truthful in all of his written and oral communications. In particular, he should understand the importance of spending adequate time to prepare for any and all times when he is called to provide testimony and/or be interviewed. This applies to civil and criminal court testimony, depositions, administrative or arbitration hearings, and OPA interviews. Preparation for such testimony and interviews should include, but not be limited to, reviewing related reports, notes, videos, and audio recordings.

*NOTE: The Seattle Police Department Manual policies cited for the allegation(s) made for this OPA Investigation are policies that were in effect during the time of the incident. The issued date of the policy is listed.*