



## OFFICE OF POLICE ACCOUNTABILITY

### Closed Case Summary

Complaint Number 2017OPA-0274

Issued Date: 09/27/2017

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>Sustained</b>
Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (2) Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy (Policy that was issued April 1, 2015)
OPA Finding	<b>Sustained</b>
Allegation #3	<u>Seattle Police Department Manual</u> 5.001 (9) Standards and Duties: Employees Shall Strive to be Professional at all Times (Policy that was issued April 1, 2015)
OPA Finding	<b>Sustained</b>
Allegation #4	<u>Seattle Police Department Manual</u> 5.170 (7) Alcohol and Substance Use: No Employee Shall Use or Possess any Controlled Substance, Except at the Direction of a Medical Authority (Policy that was issued November 21, 2012)
OPA Finding	<b>Sustained</b>
Final Discipline	Termination

## **INCIDENT SYNOPSIS**

The Named Employee was interviewed by the Office of Police Accountability (OPA) in relation to a previous investigation.

## **COMPLAINT**

The complainant, OPA, alleged that the Named Employee was not truthful during his in-person interview for an existing complaint against the Named Employee. The complainant also alleged that the Named Employee violated law and department policy by using a controlled substance, providing a controlled substance to another SPD employee, patronizing a prostitute, and engaging in the transfer of images in violation of RCW 16.52.205.

## **INVESTIGATION**

The OPA investigation included the following actions:

1. Review of the original OPA case
2. Search for and review of all relevant records and other evidence
3. Review of In-Car Video (ICV)
4. Interviews of SPD employees

## **ANALYSIS AND CONCLUSION**

It was alleged that the Named Employee did not provide truthful and complete answers to questions asked by OPA investigators during his interview on a previous case. The Named Employee was interviewed in connection with 2015OPA-1450. During that interview, the Named Employee made several statements that were contrary to information already known to investigators. When interviewed a second time by OPA for this case, the Named Employee gave contradictory and evasive answers that demonstrated a pattern of deception in violation of SPD policy. Numerous contradictory statements were referenced in the case summary. The Named Employee's statements were contradicted by text message evidence from another officer's phone that was searched pursuant to a search warrant as part of a criminal investigation.

It was alleged that the Named Employee violated state and federal law when he possessed a controlled substance, marijuana, without a valid prescription. It was further alleged that the Named Employee violated state and federal law on multiple occasions when he delivered marijuana without legal authority to do so. It was also alleged that the Named Employee violated state and federal law when he delivered Cialis, also a controlled substance, without legal authority. It was alleged that the Named Employee violated state and local law by purchasing sex from a prostitute. Finally, it was alleged that the Named Employee violated state law when he transmitted to another officer via text message a photograph of a woman engaged in a sex act with a horse.

The Named Employee was interviewed by OPA as a named employee in 2015OPA-1450. During that interview, the Named Employee disclosed that he engaged in previously unreported misconduct. The Named Employee stated that he smoked marijuana in violation of federal law and Seattle Police Department policy. During his interview he said initially that he started smoking marijuana after the State of Washington decriminalized it as a state offense. Later in that same interview, the Named Employee changed his statement and admitted to using marijuana prior to state legalization. The Named Employee acknowledged he knew that possession of marijuana remained a violation of federal law as a Schedule I controlled substance, and that Seattle Police Department employees were prohibited from possessing or using marijuana. In addition to using marijuana, the Named Employee revealed to OPA that he purchased marijuana from friends and delivered it to another SPD officer. The Named Employee told OPA that the other officer paid the Named Employee for the delivery of the marijuana. Under state law, marijuana must be purchased from a retail establishment licensed to sell marijuana by the Washington State Liquor Control board. It remains a Class C felony for anyone not licensed to sell and or deliver marijuana to another person. By his own admission, the Named Employee violated state law by purchasing marijuana from friends rather than a licensed retail establishment and furnishing it to the other officer on multiple occasions.

OPA review of cell phone records from the criminal investigation into the activities of the Named Employee and the other officer revealed text messages in which the Named Employee and the other officer discussed the exchange of Cialis pills back and forth between the two of them. The Named Employee stated that he would deliver Cialis to the other officer in violation of RCW. He said that he had a prescription and that he knew that the other officer had a prescription for the drug. Regardless of whether another individual has a prescription for a controlled substance it cannot be furnished to someone else without lawful authority, such as a pharmacy would have. The Named Employee acknowledged he did not have lawful authority to deliver Cialis to the other officer. The state tightly regulates the delivery of controlled substances, requiring verification of a valid prescription, strict record keeping and other specific regulations. The unlawful delivery of Cialis is a Class B felony under current state law. Even if the Named Employee had been a licensed pharmacist, the manner in which the delivery was made constituted a Class C felony.

With respect to the allegation that the Named Employee engaged in acts of prostitution, in January 2015 the Named Employee texted the other officer stating he couldn't get together because he was hiring a "tranny". Two weeks later he was involved in an incident in which the Named Employee called 9-1-1 to report a disturbance. SPD Patrol officers responded to the call. A review of the incident by OPA found that the Named Employee was in a car with a Transsexual woman (subject) when her boyfriend confronted the Named Employee and a disturbance ensued. The boyfriend told the Patrol officers that the subject was a prostitute and accused the Named Employee of engaging in an act of prostitution with her. The Named Employee denied engaging in prostitution with the subject when interviewed by OPA and said the relationship between them was merely a friendship going back approximately five years when she worked near police headquarters. The Named Employee told OPA he was just giving the subject a ride home the night he was confronted by her boyfriend because she had been

locked out. The Named Employee acknowledged to OPA that he knew the subject was a sex worker and had seen her advertisement on a classifieds list. In August 2015, the Named Employee sent a text message to the other officer stating that he was going to hire a "t girl" off the classified list and wanted to get some Cialis from the other officer. When interviewed by OPA, the Named Employee denied ever hiring a prostitute or having any sexual contact with anyone in exchange for money. He did admit that he saw an ad for the subject he was with on the classified list and that she was a sex worker. The Named Employee told OPA he and the subject were only friends, there had never been any sexual contact between them, and he had seen her since the disturbance incident in January 2015, with the latest contact being at the beginning of 2017. Based on the text message communication discussing the hiring of transsexual prostitutes off of the classifieds list and the fact that the Named Employee was in a vehicle with a person he knew was transsexual prostitute, the OPA Director found it to be more likely than not that the Named Employee was involved in prostitution.

Finally, the preponderance of the evidence supported the conclusion that the Named Employee sent the other officer a text message containing an image of a woman engaged in a sex act with a horse. RCW 16.53.205 makes it a Class C felony to transmit a photograph of a person engaged in a sexual act or contact with an animal.

In summary, the preponderance of the evidence showed that the Named Employee unlawfully possessed and delivered controlled substances, was involved in prostitution and committed an act of animal cruelty in the first degree.

It was alleged that the Named Employee was unprofessional when he engaged in illegal activities with another Seattle Police Department employee. SPD Policy 5.001(9) states, in part "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers." SPD employees, especially sworn members, are expected to conduct themselves in a manner that supports the Department's core values. Whether on or off-duty, an officer's behavior can reflect either positively or negatively on the Department. The public expects and the Department demands that officers will conform to the laws they are sworn to uphold. When an officer engages in activities that are clearly illegal, it undermines the public trust and erodes the confidence of the communities served by the Department. The Named Employee chose to possess and consume illegal substances, deliver controlled substances in violation of state and federal law, engage in acts of prostitution and electronically transmit a photo of an act of bestiality. The Named Employee's behavior was egregious, unprofessional and if known by the public would likely do serious harm to the credibility of SPD and its officers.

The complainant alleged that the Named Employee violated state and federal law when he used and possessed marijuana without legal authority or a medical prescription. The Named Employee during his interview in 2015OPA-1450 disclosed that he used marijuana in violation of department policy, state and federal law. He initially stated that he did not use marijuana until after the state decriminalized it under state law. The Named Employee later told OPA he was using marijuana before the State of Washington decriminalized it and while he was employed as a SPD officer. The Named Employee stated that he knew it remained a violation of federal law

and that the Seattle Police Department had a prohibition against employees using marijuana. In addition to his marijuana use, the Named Employee said he obtained Cialis unlawfully from the other officer. While the Named Employee told OPA he had a valid prescription for Cialis, he did not lawfully obtain the controlled substance.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

A preponderance of the evidence showed that the Named Employee gave contradictory and evasive answers that demonstrated a pattern of deception in violation of SPD policy. Therefore a **Sustained** finding was issued for *Standards and Duties: Employees Shall Be Truthful and Complete In All Communication.*

#### Allegation #2

A preponderance of the evidence showed that the Named Employee unlawfully possessed and delivered controlled substances, was involved in prostitution and committed an act of animal cruelty in the first degree. Therefore a **Sustained** finding was issued for *Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy.*

#### Allegation #3

A preponderance of the evidence showed that the Named Employee's behavior was egregious, unprofessional and if known by the public would likely do serious harm to the credibility of SPD and its officers. Therefore a **Sustained** finding was issued for *Standards and Duties: Employees Shall Strive to be Professional at all Times.*

#### Allegation #4

A preponderance of the evidence showed that the Named Employee violated state and federal law when he used and possessed marijuana without legal authority or a medical prescription, and that he did not lawfully obtain the Cialis. Therefore a **Sustained** finding was issued for *Alcohol and Substance Use: No Employee Shall Use or Possess any Controlled Substance, Except at the Direction of a Medical Authority.*

**Discipline Imposed:** Termination

*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.*