



## CLOSED CASE SUMMARY

ISSUED DATE: MARCH 14, 2025

FROM: INTERIM DIRECTOR BONNIE GLENN  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0372

### Allegations of Misconduct & Director's Findings

#### Named Employee #1

Allegation(s):		Director's Findings
# 1	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations, 5.002-POL 6. Employees Will Report Alleged Violations	Not Sustained - Management Action (Expedited)

***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:

Following a hearing in a criminal case, a King County Superior Court Judge (Judge #1) found that two SPD officers (Officer #1 and Officer #2) acted with a "reckless disregard for the truth." SPD and the City Attorney's Office contested this finding in both trial and appellate courts. OPA was not notified of the incident for nearly three years, when the Pierce County Prosecuting Attorney's Office (PCPAO) sent a letter notifying OPA that Officer #1 had been placed on their potential impeachment list.

### ADMINISTRATIVE NOTE:

This case was approved for Expedited Investigation for the purpose of submitting a Management Action Recommendation (MAR). That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue a recommended finding for a Management Action based solely on its intake investigation to address a clear gap in policy.<sup>1</sup>

On October 25, 2024, OIG certified OPA's Expedited Investigation as thorough, timely, and objective.

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<sup>1</sup> See OPA Internal Operations and Training Manual 5.4(B)(iv), setting forth the requirements for an Expedited Investigation for the purpose of issuing a MAR:

Where an Expedited Investigation is contemplated for the purpose of issuing a MAR, the following elements must be met: (1) there is a clear gap in policy and/or training or a pattern of officer behavior that suggests a systemic practice; (2) the conduct at issue is a result of a gap in policy and/or training or consistent with the identified systemic practice; (3) there is no evidence indicating willful misconduct; and (4) the matter is best addressed with a MAR.



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**SUMMARY OF INVESTIGATION:**

On or about July 26, 2024, the PCPAO sent a letter notifying OPA that Officer #1 had been placed on their potential impeachment list.<sup>2</sup> The PCPAO referral included court documents from a criminal case heard in King County Superior Court. The court documents showed that Judge #1 held hearings on a Criminal Rule 3.6 Motion<sup>3</sup> and a *Franks* Hearing<sup>4</sup> on October 20 and 21, 2021. On October 25, 2021, Judge #1 entered written findings of fact and conclusions of law from the hearings. Among other findings, Judge #1 found “both detectives lack credibility.” Judge #1 wrote Officer #1 and Officer #2 acted with “reckless disregard for the truth” in different aspects of the case.

On May 15, 2022, SPD sought—through a motion filed by the Seattle City Attorney’s Office (SCAO)—to intervene, seeking leave to file a motion for relief from Judge #1’s October 25, 2021, ruling. In the motion, SPD and SCAO acknowledged that Judge #1 had ruled adversely on the credibility of both Officers. Both Officers submitted declarations in support of the motion, in which both Officers acknowledged becoming aware of Judge #1’s findings sometime around March 2022. Judge #1 declined to reconsider his ruling in an Order, entered August 23, 2022.

On February 1, 2024, SCAO filed an *amicus curiae* brief on behalf of SPD in the criminal defendant’s appeal, which was heard in Division 1 of the Washington Court of Appeals. As in the earlier motion of intervene, the *amicus* brief raised multiple factual and legal arguments challenging Judge #1’s adverse credibility rulings. On August 12, 2024, the Court of Appeals affirmed the lower Court’s order denying the criminal defendant’s motion to suppress evidence. In a one-sentence footnote, the Court of Appeals wrote: “Because we affirm the order denying [the Criminal defendant’s] motion to suppress evidence, we decline to reach the State’s cross-appeal on the trial court’s Franks findings and conclusions.”

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 – Allegation #1**

***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations, 5.002-POL 6. Employees Will Report Alleged Violations.***

OPA alleged that an unknown employee failed to report an alleged policy violation.

SPD Manual 5.002-POL-6 concerns the reporting of misconduct by Department employees. It specifies that minor misconduct must be reported by the employee to a supervisor, while potential serious misconduct must be reported to a supervisor or directly to OPA. SPD Manual 5.002-POL-6. The policy further states the following: “Employees who witness or learn of a violation of public trust or an allegation of a violation of public trust will take action to prevent aggravation of the incident or loss of evidence that could prove or disprove the allegation.” *Id.* SPD policy requires the

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<sup>2</sup> OPA investigated the allegation that Officer #1 was dishonest in 2024OPA-0347, recommending a finding of Not Sustained – Unfounded. OPA’s recommended finding was adopted by the SPD chain of command.

<sup>3</sup> A CrR 3.6 motion is a suppression hearing in which a defendant seeks to exclude physical, oral, or identification evidence from trial. See CrR 3.6(a).

<sup>4</sup> A *Franks* hearing allows a defendant to challenge the veracity of information an officer presents in an affidavit used to secure a search warrant. See *Franks v. Delaware*, 438 U.S. 154 (1978). The defendant must show, among other things, a “false statement knowingly and intentionally, or with reckless disregard for the truth, was included by the affiant in the warrant affidavit.” *Id.*



department to accept allegations of policy violations “from any source and by any means.” SPD Manual 5.002-POL-1. Dishonesty, violations of any policy that are “intentional or reckless,” potential criminal violation of law, and failure to report serious policy violations to OPA are all defined as serious policy violations. *See* SPD Manual 5.002-POL-5.

During the investigation of the underlying incident (2024OPA-0347), OPA identified a significant institutional gap in SPD policy and practice. Specifically, SPD has no policy or procedure defined in its Manual to address the proper management, evaluation, or reporting of adverse credibility rulings by courts of competent jurisdiction. These judicial findings may raise allegations that an SPD officer engaged in serious misconduct, carrying important ramifications for criminal defendants, individual officers, and the larger criminal justice system. Moreover, county prosecutors and law enforcement agencies have legal obligations to maintain a protocol for the types of allegations that may be raised by adverse credibility rulings. *See* RCW 10.93.180 (protocol for potential impeachment disclosures).

However, as in this case, the individual officers may not be notified of the judicial findings until the next time they are called to testify—possible months or years later. Also, as here, the involvement of individual officers, prosecuting attorney’s office, SPD’s legal advisors, and the City Attorney’s Office create diffused responsibility, where no single entity takes the initiative to notify OPA of the potential misconduct. Without a clearly defined process in the SPD Manual, each individual and institutional actor may reasonably assume that another entity notified OPA. This is especially true in a case such as this one, where the individual officers, SPD, SCAO, and KCPAO all appeared to believe Judge #1’s adverse credibility ruling was not supported by fact or law.<sup>5</sup> While these parties were entitled to seek relief from Judge #1’s findings through the court system, SPD policy must clearly require an OPA referral to conduct the administrative investigation on behalf of SPD. *See* SPD Manual 5.002 – Responsibilities of Employees Concerning Alleged Policy Violations. *See also* Seattle, Wash., Ordinance 125315, 3.29.100(G) (June 1, 2017) (“OPA’s jurisdiction shall include all types of possible misconduct.”), and RCW 10.93.150 (forbidding disciplinary action against a peace officer “solely” because the officer was placed on a prosecuting attorney’s *Brady* List, but permitting agency administrative action for the underlying acts or omissions so long as the agency conforms to its rules, procedures, and collective bargaining).

OPA refers this issue to SPD as a Management Action to create a policy for managing and evaluating all adverse credibility rulings. OPA looks forward to engaging with SPD to create a system in which the Department consistently manages and evaluates all adverse credibility rulings, and concurrently ensures these allegations are timely reported to OPA for administrative investigation.<sup>6</sup>

Accordingly, OPA recommends this allegation be Not Sustained – Management Action (Expedited).

- **Management Action:** SPD should create a policy for managing and evaluating all adverse credibility rulings and require specific supervisory personnel to ensure such rulings are timely reported to OPA in every instance.

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<sup>5</sup> See, e.g., See responses to ruling in King County Superior Court ruling: No. 21-1-00286-5 KNT.

<sup>6</sup> See, e.g., NYPD Newsroom, Police Commissioner O’Neil on his Zero-Tolerance Policy for Perjury (Mar. 4, 2018) (distinguishing adverse credibility rulings from findings of perjury, and outlining NYPD’s system for monitoring courtroom testimony, receiving adverse credibility rulings, opening an administrative file, reviewing testimony, conducting remedial training for affected officers, and involving the Internal Affairs Bureau), available at <https://www.nyc.gov/site/nypd/news/s0304/police-commissioner-o-neill-his-zero-tolerance-policy-perjury>.



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SPD should review the policies and procedures developed by other large-city police departments for managing adverse credibility rulings and consider incorporating formal retraining for any affected officer.

Recommended Finding: **Not Sustained – Management Action (Expedited)**