



City of Seattle

Seattle Police Department

November 20, 2018

Jenny A. Durkan, Mayor
City of Seattle
P.O. Box 94749
Seattle, WA 98124

Bruce Harrell, President
Seattle City Council
P.O. Box 34025
Seattle, WA 98124

Lorena González, Chair
Public Safety Committee
P.O. Box 34025
Seattle, WA 98124

Peter S. Holmes, City Attorney
Seattle City Attorney's Office
701 Fifth Avenue, Suite 2050
Seattle, WA 98104

Andrew Myerberg, Civilian Director
Office of Police Accountability
P.O. Box 34986
Seattle, WA 98124

Fé Lopez, Executive Director
Community Police Commission
P.O. Box 94765
Seattle, WA 98124

Lisa Judge, Inspector General
Office of the Inspector General
P.O. Box 34025
Seattle, WA 98124

RE: OPA Case No. 2018-0243

Dear Mayor Durkan and Council President Harrell:

I am writing to report on the findings in OPA 2018-0243. This case involves an allegation of dishonesty by an officer. As you know, the Office of Police Accountability (OPA) independently manages misconduct investigations and submits recommended findings to the Department concerning the alleged policy violations. In this case, OPA recommended that I sustain a finding that an employee¹ violated the Department's policy mandating that employees be truthful and complete in all communications. I have reviewed the record in this case thoroughly, including OPA's investigation and the statements made during the *Loudermill* meeting with the officer. I also met with the Director of the OPA to hear directly his thoughts on the investigation and proposed findings. After much consideration, for the reasons summarized below, I do not agree with the OPA Director's recommending findings. As explained below, I am changing the recommended Sustained finding for violation of the Department's Truthfulness policy to Not Sustained—Inconclusive.

¹ SMC 3.28.812 directs that this letter not contain the name of the subject employee or any personal information.

This case is related to an earlier one, OPA 2017-0982. In that case, I agreed with OPA's recommended findings and imposed a four-week (28 work days) suspension. That case involved an officer whose nephew was involved in a one-car accident in the early morning hours. The nephew had spent an evening in a bar, left driving the officer's car, and crashed it into a retaining wall. The officer lied to his insurance company, falsely claiming that he (the officer) was driving the car at the time of the crash. He acknowledged to OPA that this claim was false. It was also an unlawful act, under RCW 48.30.230(1)(a): "It is unlawful for any person, knowing it to be such, to: (a) Present, or cause to be presented, a false or fraudulent claim, or any proof in support of such a claim, for the payment of a loss under a contract of insurance..." The officer received an extensive suspension as a result. I presumed that termination would be the appropriate measure of discipline due to the sustained finding of dishonesty but also considered several mitigating factors, including the fact that the incident occurred entirely off duty, was not directly related to his law enforcement duties, and was the first serious disciplinary incident in more than two decades of service with the Department. Weighing all these considerations led me to conclude that the lengthy suspension was the most appropriate outcome.

During its original investigation, OPA initiated a separate investigation into whether the officer lied to OPA during his interview regarding the initial case. Specifically, the OPA reviewed whether the officer lied to OPA about knowing that his nephew was intoxicated at the time of the accident. The OPA Director recommended a finding that the officer was dishonest to OPA. I carefully reviewed the OPA investigation, including the Director's Certification Memorandum and all witness statements. After much consideration, I find insufficient evidence to conclude that the officer lied to OPA.

The investigation here revealed he-said, she-said and circumstantial evidence. The officer, who spent years on the DUI squad, asserted that his nephew showed no signs of impairment shortly after the accident. The officer's former spouse, who brought allegations of dishonesty to OPA only after her divorce from the officer was final and nine months after the incident, asserted that the nephew showed clear signs of intoxication. A second witness stated that the officer told her the nephew was intoxicated. The officer disputes making any such statement and claims that the second witness is a close friend of his former spouse. No receipts or video were located from the restaurant/bar where the nephew spent the evening, the nephew did not respond to OPA, and no clearly independent witnesses were identified. There was no contemporaneous police report or field sobriety test taken. The officer provided a message that his former spouse sent him soon after she brought information to OPA, indicating that he was going to "lose everyone/thing that means anything in [his] life." Additional information gathered by the OPA investigation, including that the nephew had at least one prior DUI and that the officer sent him away from the accident scene, is both circumstantial and were reasonably challenged by the officer's explanations.

Honesty is fundamental and vital in law enforcement; it is central to our mission and our relationship with the communities we serve. A finding of dishonesty will substantially impact, and possibly end, the career of a law enforcement officer. Ultimately, in fully assessing all of the evidence, I believe that reasonable minds could disagree about whether the officer lied to OPA. I agree with the OPA Director that the officer's actions here raise questions, but do not find enough evidence to support a finding that he lied to OPA. As such, I am changing the recommended Sustained finding for violation of the Truthfulness policy to Not Sustained—Inconclusive.

Please let me know if you have additional questions.

Sincerely,

Handwritten signature of Carmen Best in cursive.

Carmen Best
Chief of Police

cc: Sally Bagshaw, District 7
Lisa Herbold, District 1
Rob Johnson, District 4
Debora Juarez, District 5
Teresa Mosqueda, Position 8
Mike O'Brien, District 6
Kshama Sawant, District 3
File