



CLOSED CASE SUMMARY

ISSUED DATE: MAY 4, 2018

CASE NUMBER: 2017OPA-1155

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	Rules of Conduct - Acceptance of Responsibilities	Not Sustained (Inconclusive)
# 2	Rules of Conduct - Obedience to Rules	Not Sustained (Inconclusive)
# 3	Rules of Conduct - Gratuities, Gifts, Regards, etc.	Allegation Removed

Named Employee #2

Allegation(s):		Director’s Findings
# 1	Rules of Conduct - Acceptance of Responsibilities	Allegation Removed
# 2	Rules of Conduct - Obedience to Rules	Allegation Removed

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 shot at him in 1988 and embezzled funds, both in violation of law.

STATEMENT OF FACTS:

The Complainant called OPA to discuss his concerns with an investigation into a cold case which involved the murder of a retired SPD officer and his wife. At first, the Complainant wanted to discuss the investigation and provide some information to OPA. At that time, he indicated that he was not reporting any police misconduct.

The assigned OPA investigator called SPD’s Cold Case Unit and spoke to a detective. The OPA investigator relayed that the Complainant contended that he had information concerning this cold case. The detective asked for the Complainant’s contact information and mentioned that someone had called him “a while back” concerning this case. The detective relayed that this individual had disclosed that he had been shot at by an unidentified SPD officer in 1988. The detective asked the OPA investigator if the Complainant had alleged being shot at and the investigator indicated that he had not.

The OPA investigator again spoke to the Complainant and the Complainant disclosed that he had, in fact, been shot at in 1988. The Complainant stated that he was driving on the street when a 1956 or 1958 Ford truck pulled up next to him and a man shot at the Complainant. The Complainant stated that he reported this matter twice to the police. The first time in 1988 and again in 1990. The Complainant did not specify how he reported this matter in either instance and, instead, just stated that he tried to report the shooting. The Complainant eventually told OPA that the officer that shot at him was Named Employee #1 (NE#1). The Complainant explained that he discovered NE#1’s identity through his own private investigation.



The OPA investigator against spoke to the detective, who confirmed that the Complainant alleged that he was shot at by NE#1. The detective stated that he discussed this matter with the Complainant and then briefed his supervisor, a sergeant. The OPA investigator also spoke to the sergeant. The sergeant stated that he learned of the shooting allegation in 2016. He told OPA that he tried to call the Complainant multiple times but that the Complainant never returned his calls. The sergeant indicated that he searched for any Department shootings that matched this alleged incident and found no such cases. The sergeant further told the OPA investigator that the Complainant had spoken to one other retired detective. The OPA investigator spoke to this retired detective who stated that he talked to someone seeking information concerning the cold case. The retired detective told OPA that this individual never mentioned being shot at by an officer.

The OPA investigator then again interviewed the Complainant and obtained a recorded statement. In this statement, the Complainant further expounded on the alleged shooting and claimed that NE#1 had also embezzled funds purposed for the murdered officer's family.

Based on the nature of the Complainant's allegations, OPA referred this matter to SPD for criminal investigation. The criminal investigator went to the Complainant's residence and interviewed him. The criminal investigator also interviewed NE#1. NE#1 denied shooting the Complainant and stated that the allegation was absurd. NE#1 declined, however, to give a recorded statement, telling the criminal investigator that it would be a waste of time to do so.

This matter was referred back to OPA after the criminal investigation did not yield any conclusive evidence of criminality. OPA's administrative investigation then ensued.

ADMINISTRATIVE NOTE:

As the conduct in question allegedly occurred in 1988, the policies under which this matter is evaluated are those that were in force at that time.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

Rules of Conduct - Acceptance of Responsibilities

The policies governing Rules of Conduct – Acceptance of Responsibilities reads as follows: “Sworn employees at all times, on or off duty, shall accept the responsibilities imposed upon them by law as to their duties and authority. When within the boundaries of the City, they shall preserve the public peace, detect and arrest violators of the law, prevent crime, protect life and property, and enforce the criminal laws of the State of Washington and the ordinances of the City of Seattle.”

If it could be proved that NE#1 shot at the Complainant, this conduct would clearly be in violation of this policy. Similarly, if NE#1 embezzled money purposed for the family of the deceased officer, that conduct would also violate this policy. Here, however, the evidence is insufficient to establish that NE#1 engaged in such behavior.

As noted in the Case Summary, there were a number of discrepancies between the Complainant's accounts to both OPA and the criminal investigator. Most notably, the Complainant told OPA that his vehicle was shot in the “A-



frame” and told the criminal investigator that the shot went into his windshield. He further described to OPA that NE#1 was wearing jeans and boots at the time of the shooting, but also told OPA that he never saw NE#1 get out of the vehicle on the date in question. As such, it is unclear how the Complainant knew of the jeans and boots, particularly given that NE#1 was allegedly seated in a pickup truck at the time.

Moreover, neither OPA nor the criminal investigator could locate any evidence conclusively establishing that this shooting occurred. There was no record of any similar officer-involved shooting from 1988. Moreover, there was no evidence that the Complainant ever actually reported this matter to any law enforcement agency, despite his claims that he did so.

The Complainant was further unable to provide any specific details or concrete evidence concerning the alleged embezzlement. Notably, the only witness to this behavior – an individual named “Mike Shoddy” who was identified by the Complainant – was deceased.

The above being said, I find it peculiar that NE#1 did not agree to a recorded interview, particularly given how serious these allegations were. If NE#1 believed this matter to be frivolous, I am unclear why he would not provide a recorded statement, even if brief, to explain why.

Ultimately, the evidence in this matter is insufficient to prove that NE#1 engaged in the claimed misconduct. Similarly, NE#1’s failure to provide a substantive statement to the criminal investigator prevents OPA from conclusively disproving these allegations. As such, the question of whether NE#1 violated this policy by engaging in the conduct alleged by the Complainant is inconclusive.

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

Named Employee #1 - Allegation #2
Rules of Conduct - Obedience to Rules

The policy concerning Rules of Conduct – Obedience to Rules reads as follows: “Employees shall be familiar with, abide by, and conform to all laws and ordinances of the City of Seattle, and to Department rules and procedures.”

For the same reasons as indicated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #1 - Allegation #3
Rules of Conduct - Gratuities, Gifts, Rewards, etc.

This policy applies to the acceptance of gifts, gratuities, rewards, and other items of value. It does not apply to the willful embezzlement of funds. This conduct is captured by the policies set forth in Allegation #1 and Allegation #2. As such, I recommend that this allegation be removed as this policy is inapplicable to the alleged misconduct.

Recommended Finding: **Allegation Removed**



Named Employee #2 - Allegation #1

Rules of Conduct - Acceptance of Responsibilities

There does not appear to be any additional allegations against officers other than NE#1. As such, I recommend that this allegation be removed.

Recommended Finding: **Allegation Removed**

Named Employee #2 - Allegation #2

Rules of Conduct - Obedience to Rules

There does not appear to be any additional allegations against officers other than NE#1. As such, I recommend that this allegation be removed.

Recommended Finding: **Allegation Removed**