



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 23, 2019

CASE NUMBER: 2019OPA-0030

Allegations of Misconduct & Director’s Findings

Named Employee #1

| Allegation(s): | | Director’s Findings |
|----------------|------------------------------------------------------------------------------------------------|---------------------|
| # 1 | 5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication | Sustained |

Imposed Discipline

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| Termination |
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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:

It was alleged that the Named Employee was dishonest during his interview from a prior OPA investigation.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication

On January 11, 2019, detectives from the Tacoma Police Department (TPD) were conducting a background investigation into Named Employee #1 (NE#1), who was seeking employment at TPD. Part of that background investigation included reviewing NE#1’s past OPA files at OPA’s office. Pursuant to OPA’s procedures, an OPA staff member was present during the review to ensure that it stayed within the bounds of the executed release for information. As the TPD detectives were reviewing the file from 2016OPA-1291, they remarked that NE#1 may have been dishonest in his reporting. The OPA staff member who was present notified OPA’s Acting Captain of NE#1’s potential dishonesty and, as a result, this investigation was initiated.

During its investigation, OPA determined that, as part of his TPD background review, NE#1 was asked the following question in writing: “Have you ever caused any damage before, during, or after a domestic violence dispute?” NE#1 responded in the affirmative and wrote: “After an argument with my ex-spouse...I struck a coffee table and a refrigerator with my fist.” The TPD detectives followed up on this question and NE#1 disclosed that, in or around 2015-2016, he dented a coffee table and refrigerator after an argument with his ex-wife. NE#1 reported that he owned the coffee table in question.



This domestic incident was the subject of a prior OPA investigation under case number 2016OPA-1291. In that case, NE#1's ex-wife alleged he had physically assaulted her. She further reported that, on another occasion, he struck a refrigerator and a table in anger, causing damage to both. During his interview in that case, which took place approximately six months after the damage was allegedly incurred, NE#1 was informed of the general allegations made by his ex-wife, including those concerning the property damage, and was asked to provide a general account of what occurred. NE#1's immediate response included the following statement: "I don't recall ever damaging any property in the home, I know that there were several occasions that we did have heated arguments." Later in his interview, NE#1 was asked the following question: "So you – do you remember punching a hole through a coffee table?" NE#1 answered "no." NE#1 was then asked: "How about punching the refrigerator during that incident?" NE#1 again responded "no."

As part of its investigation into NE#1's alleged dishonest statement, OPA interviewed both of the TPD detectives that performed the background review. The TPD detectives told OPA that they informed NE#1 of the expectation that he be truthful during the review, as well as stated that he signed a certification indicating that his answers to the personal history questionnaire were truthful and complete. They confirmed the information that NE#1 provided during his background review and, specifically, that he acknowledged striking and denting both the coffee table and the refrigerator. They stated that NE#1 further denied that he physically assaulted his ex-wife. Detective #1 recalled that NE#1 explained that he was the owner of the coffee table in question and that, given this, he did not think it was a "big deal." Detective #1 said that she reminded NE#1 that this was a DV incident and that he stated that he understood that. Detective #2 noted that, when NE#1 disclosed this information, NE#1 joked that he still had the dented coffee table.

Detective #1 recounted that, during the file review at OPA, both she and Detective #2 noted discrepancies in NE#1's statements. She stated that Detective #2 remarked aloud that NE#1 had lied. Detective #2 told OPA that NE#1 also "minimized" several aspects of the DV incidents and Detective #2 confirmed that he remarked that NE#1 lied to OPA about the striking of the coffee table and the refrigerator.

OPA further interviewed NE#1. He explained that, at the time of his interview in the prior investigation, he did not recall striking or denting either the coffee table or the refrigerator. He confirmed that he later told TPD that he did, in fact, engage in this conduct. NE#1 told OPA that he still owned the coffee table in question, which he purchased from Ikea, and verified that he told TPD that it was dented. Regarding the discrepancy between his accounts to OPA and the TPD detectives, NE#1 stated the following:

Lots of time had passed between the time that I had applied to lateral with Tacoma Police, and between the time that I had—had this interview with [the OPA Sergeant]. I discussed a lot of the events that happened with my ex-wife...we have a better relationship now and we've been able to discuss a lot of things that happened. I'm able to recall a lot more things—a lot more—incidents that happened between us, a lot more things that we talked about and argued about.



In response to follow-up questioning on this issue from OPA, NE#1 added the following:

I—again, I’ll say that—during the time that I interviewed with [the OPA Sergeant], I was still—in a lot of emotional distress, I would say, there were still a lot of things in the—in the air about my divorce, about the division of assets, about the custody of our daughter, still disagreements between my ex-wife and I at the—you know, still things that we were sorting out. And, a lot of the things that still didn’t have exact clarity on that I hadn’t had—you know, been able to reflect on and recall specifics about. And, at the time, when I interviewed with Tacoma, I—I had every intention to be perfectly clear and honest with everything that I remembered. At that time, again, now with—with clarity and time, and space to—to understand and remember everything that had happened—I wanted to be full and honest with them about everything.

Lastly, NE#1 was asked why he remembered things so clearly 27 months after the incident but not six months later. NE#1 explained:

I would say that again, that six months post—was still, like I said, still things were going on, still things hadn’t been finalized and there was still a lot of distress between her and I, and a lot of arguments. And I would say a lot of—a lot of emotional things going on for me at the time.

NE#1 ultimately denied that that the statements he made to OPA during the prior investigation were dishonest.

Dishonesty is prohibited by Department policy. Specifically, SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications. Truthfulness is a fundamental characteristic of a Seattle Police Officer and the making of intentional false and misleading statements, especially during an internal misconduct investigation, are incompatible with the Department’s and Community’s expectations.

When evaluating all of the evidence in this case, OPA concludes that NE#1 engaged in intentional and material dishonesty in his statements in 2016OPA-1291. In reaching this decision, OPA relies on multiple pieces of evidence that are discussed more fully below.

First, OPA finds it significant that both of the TPD detectives that evaluated NE#1’s statements in his prior OPA interview and during his background investigation believed that he lied. Indeed, Detective #2 stated that conclusion aloud and Detective #1 concurred. They confirmed this belief during their OPA interviews in this case.

Second, OPA finds it implausible that NE#1’s recollection would be better 27 months after the incident than it would be at six months. This is largely due to the fact that NE#1 owned the coffee table in question during that entire period and would have repeatedly seen the dent.



Third, OPA believes that NE#1's explanation for why he had a clear recollection of this incident during his TPD background review but not during the OPA investigation fails to overcome the substantial evidence of his dishonesty. Further convincing to OPA is the fact that NE#1, as described by Detective #2, minimized other aspects of the domestic incidents that he was involved in with his ex-wife.

Ultimately, OPA concludes that, at the time he was interviewed by OPA in the initial investigation, NE#1 knew that he had struck and dented both the coffee table and the refrigerator and that NE#1 deliberately withheld this material information from OPA. As such, OPA determines that he engaged in dishonesty and recommends that this allegation be Sustained.

Recommended Finding: **Sustained**