



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-1039

Issued Date: 07/20/2017

Named Employee #1	
Allegation #1	<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 May 12, 2009)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employee prepared an Affidavit for Search Warrant in a murder case that occurred in Illinois.

COMPLAINT

The Complainant alleged that in 2011, the Named Employee executed an Affidavit for Search Warrant that (1) "misrepresented the facts in the case to the point of filing a fraudulent affidavits," (2) "did not read the documents he claimed to have read, or he lied about what the documents said," and (3) "he used the implied integrity ascribed to a seasoned officer of the Seattle Police department to filed fraudulent affidavits in King County."

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint
2. Search for and review of all relevant records and other evidence
3. Review of court documents
4. Interview of SPD employee

ANALYSIS AND CONCLUSION

The Complainant alleged that the Named Employee committed perjury by knowingly including materially false information in a sworn Affidavit for Search Warrant. The Complainant pointed to two statements in the affidavit he claimed were untrue.

The first statement had to do with the fact that the defendant in the case changed his name. The Complainant did not dispute that the defendant changed his name. Instead, he alleged that the Named Employee falsely asserted in the affidavit that the defendant changed his name after he enlisted in the Air Force but before he transferred to the Army. In fact, however, the name change happened some thirty years later. A review of the actual affidavit showed no specific date given. The Named Employee told OPA he did not know when the defendant changed his name. For that reason, the Named Employee did not include any date in the affidavit. The Named Employee said he included the information about the name change in his affidavit so that the judge who reviewed it would understand the connection between the suspect in the murder- under the defendant's old name- and the occupant of the residence to be searched- under the defendant's new name. The Named Employee denied any attempt to infer that the defendant changed his name in order to avoid capture shortly after the crime. It should be noted that the statement about the name change included no date but was included in the affidavit between a sentence about the defendant joining the Air Force and one about him transferring to the Army. Taken in context, it was not unreasonable to infer that the name change took place between those two events, shortly after the crime. While the affidavit was unclear, perhaps even misleading with respect to when the name change took place, it was not untrue.

The second instance of an alleged false statement in the affidavit, according to the Complainant, had to do with the actual time of the crime. This was a fact in dispute in the criminal case; a fact at the heart of the question about the guilt or innocence of the defendant since the defendant asserted an alibi that put him miles away at the time the crime occurred. As far as the former OPA Director could tell from his review of the file, there was no definitive or irrefutable evidence upon which to establish the precise time the crime took place. The Complainant asserted that the crime occurred at 7pm, while the affidavit stated it was around 6pm. The Named Employee told OPA he included the 6pm time in the affidavit because that was what the criminal investigators from Illinois told him. Since there was no definitive or irrefutable evidence upon which to know the precise time of the crime and given there was no

basis upon which to dispute the Named Employee's claim he merely included in the affidavit the time he was given, there was no evidence to support the allegation that the Named Employee knowingly included false information about the time in his affidavit.

FINDINGS

Named Employee #1

Allegation #1

There was no evidence to support the allegation that the Named Employee knowingly included false information about the time in his affidavit. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy*.

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.