



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2016-1277

Issued Date: 05/11/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 15.180 (5) Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report (Policy that was issued April 1, 2015)
OPA Finding	<b>Not Sustained</b> (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (10) Standards and Duties: Employees Shall Be Truthful and Complete In All Communication (Policy that was issued April 1, 2015)
OPA Finding	<b>Not Sustained</b> (Inconclusive)
Final Discipline	N/A

#### **INCIDENT SYNOPSIS**

The Named Employee completed a Certification of Probable Cause in a criminal case that was heard in trial.

#### **COMPLAINT**

OPA received a complaint via the King County Prosecuting Attorney's Office (KCPO) alleging that the Named Employee included untrue information in his Certification of Probable Cause to the Court in a criminal case that the Named Employee later contradicted at trial. KCPO indicated in their referral this was a "cut-and-pasting error", but did not provide proof of that fact to OPA.

## **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 In-Car Videos (ICV)
4. Interviews of SPD employees

## **ANALYSIS AND CONCLUSION**

The Named Employee included the following statement in the body of the General Offense Report (GOR) he authored after arresting a subject: "Defendant provided a video and audio statement in which he admitted that he came to the location to meet the 15-year minor female child for sex and pay her \$50.00." The evidence also showed that the person the Named Employee arrested, the subject, did not make any statement in which he specifically admitted to this. Despite several attempts by the Named Employee to get the subject to make such an admission, the subject made no such statement. When asked by the Named Employee if he knew how old the girl was, the subject responded, "I have no idea." The subject told the Named Employee that he (the subject) was "stupid" for showing up. When the Named Employee pressed the matter and directly asked the subject if it would be correct to assume the subject showed up that day expecting to meet someone the subject believed was 15 so he (the subject) could pay the 15-year-old girl \$50 to perform a sex act on him, the subject answered, "stupid," and "you know, I don't know what I was expecting. I wasn't really expecting to meet anybody." After a little more conversation, the subject told the Named Employee, "I don't look for juveniles, actually. I figured it was bullshit."

When asked by OPA to reconcile the difference between what the subject actually said during the Named Employee's recorded interview of him and what the Named Employee wrote in his GOR, the Named Employee agreed with the OPA investigator's suggestion it was possible he (the Named Employee) had inadvertently included "boiler plate" language from a previous report whose contents he may have "copied and pasted" into the GOR of this arrest. However, the Named Employee had no specific memory of doing that in this case. The Named Employee asserted the essential accuracy of what he wrote in the GOR by telling OPA that the subject's body language, head nodding and statements that he (the subject) was stupid for showing up, were tantamount to an admission by the subject that he knowingly came to meet a person he believed was 15 years-old so he could pay her for sex.

The statement included by the Named Employee in the GOR that the subject admitted to the crime was misleading and ambiguous. Others in the criminal justice system depended on the veracity and completeness of this statement, which was included as a "Certification of Determination of Probable Cause" on the Superform. The Named Employee also could have easily written that he (the Named Employee) believed, based on his training and experience,

that the subject provided an admission to the crime through his evasive answers, statements he (the subject) was “stupid”, absence of a clear denial and non-verbal behaviors.

As discussed above, the preponderance of the evidence supported the conclusion that the Named Employee included in his GOR a misleading and possibly inaccurate statement regarding the subject’s supposed admission of guilt. However, the OPA Director did not find clear and convincing evidence to prove that the Named Employee submitted the GOR and “Statement of Probable Cause” knowing it contained a false statement. It was possible the Named Employee either inadvertently included the statement when he copied and pasted wording from a previous case or genuinely believed that the combination of non-verbal movements and evasive responses from the subject amounted to an admission of guilt.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report*.

**Required Training:** The importance of accurately and unambiguously describing what an officer does, sees, hears or is told in a General Offense Report, Certification of Probable Cause or any other official document should be made clear to the Named Employee by his supervisor.

#### Allegation #2

There was no preponderance of evidence to prove that the Named Employee submitted the GOR and “Statement of Probable Cause” knowing it contained a false statement. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Standards and Duties: Employees Shall Be Truthful and Complete In All Communication*.

*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.*