



## ***CLOSED CASE SUMMARY***

ISSUED DATE: JUNE 15, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0481

### **Allegations of Misconduct & Director's Findings**

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001-POL-2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained - Unfounded
# 2	5.001-POL-11. Employees Will Be Truthful and Complete in All Communication	Not Sustained - Unfounded
# 3	15.080 - Follow up Unit Notification & Follow up Investigation 15.080-POL-2 Follow-Up Unit Investigation 1. Follow-Up Investigations Will Include Certain Minimum Components	Not Sustained - Unfounded

***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 (NE#1) made false statements in the Certification of Probable Cause, Superform, and August 2021 trial pertaining to a May 2, 2015 homicide. These allegedly false statements included the duration of the defendant's time at the scene of the incident and the emotional state of the victim prior to the incident. The Complainant also alleged that NE#1 failed to take certain investigative steps during his investigation of the May 2, 2015 homicide, including, but not limited to, interviewing witnesses relevant to the incident.

### **ADMINISTRATIVE NOTE:**

Due to present OPA staff limitations, this is an abbreviate Director's Certification Memorandum. At the Director's discretion, an expanded Director's Certification Memorandum may be issued at a later time.

Due to delays in the OPA investigation, this case was submitted to OIG to review for certification on June 7, 2022. OIG is afforded a minimum of ten days to review full investigations for certification. In this case, OPA submitted the case to OIG with fewer than ten days before the 180-day timeline expired. OPA is issuing findings in this case without an OIG certification to meet the 180-day deadline.

### **ANALYSIS AND CONCLUSIONS:**

OPA's analysis is that the preponderance of the evidence does not establish that any policy violations occurred or rose to the level of misconduct.



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**Named Employee #1 - Allegation #1**

***5.001-POL-2. Employees Must Adhere to Laws, City Policy and Department Policy***

The Complainant alleged that NE#1 violated law and policy by making false statements in paperwork and at trial.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

As an initial matter, the Complainant's allegations were submitted to the King County Prosecuting Attorney's Office (KCPAO) for criminal review. After reviewing the Complainant's allegations, KCPAO determined that there was "insufficient cause warranting a criminal investigation of [NE#1] for perjury." The level of cause to warrant a criminal investigation—probable cause—is an even lower burden of proof than the relevant standard for OPA investigations, preponderance of the evidence.

Furthermore, the two allegedly false statements on which the Complainant premised his complaint were both supported by either objective evidence (such as cell phone records) or trial witness testimony. Finally, the Complainant was hired as a defense investigator by the defense team in the underlying homicide trial. NE#1 then testified in open court at a trial, during which these allegedly false statements would have been known to the defense attorney, who was free to cross examine NE#1 on these points.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #1 - Allegation #2**

***5.001-POL-11. Employees Will Be Truthful and Complete in All Communication***

SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications.

For the same reasons set forth above at Named Employee #1, Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #1 - Allegation #3**

***15.080 - Follow up Unit Notification & Follow up Investigation 15.080-POL-2 Follow-Up Unit Investigation 1. Follow-Up Investigations Will Include Certain Minimum Components***

SPD Policy 15.080-POL-2(1) states that follow-up investigations shall include specified minimum components and the policy sets forth what those components are. As a general matter, the policy has three general categories. First, it sets forth the analysis and review that it expects follow-up unit detectives to conduct. This includes: reviewing previous and related reports; collecting the criminal history of the subject and including it in the file; and making an attempt to link the subject to other crimes using a "modus operandi analysis." Second, the policy provides guidance for investigations. This guidance includes: contacting and interviewing witnesses, victims, and suspects all when appropriate, as well as interviewing uniformed personnel when necessary; and, as a general matter, viewing the scene



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of the crime, conducting searches in a systematic and thorough manner, and collecting and properly processing any evidence located. Third, the policy sets forth preferred practices for case preparation. These practices include: preparing the case files to meet standards set forth by prosecuting attorneys' offices; and responding to requests for additional information from prosecutors

The Complainant alleged that NE#1 failed to abide by certain standards for follow-up unit investigations by, allegedly failing to interview certain witnesses. However, the evidence showed that, more likely than not, all of the witnesses identified by the Complainant were either interviewed by SPD or determined through evidence to be irrelevant or unnecessary. The Complainant's other allegations that NE#1's investigation was deficient were determined to concern investigative steps that were either done, not the responsibility of NE#1, or were determined through evidence to be irrelevant and/or unnecessary.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**