

INTERNAL AFFAIRS INVESTIGATIVE SUMMARY

IA2017-017

AMY LANGAN #B1565

1. *Failure to Perform Duties*
2. *Unprofessional Conduct*
3. *Integrity Violation*

Investigator: Sgt. Melissa Palopoli #759

ALLEGATION

It is alleged that Forensic Scientist Amy Langan acted inappropriately during a court testimony and that she provided false or misleading statements.

INVESTIGATION

On Monday, February 28, 2017, I met with Director Steve Garrett and Manager Kris Cano. Garrett and Cano provided me with information related to the allegation against Langan. They gave me several documents for review to include; Langan's court testimony transcript, notes prepared by Supervisor Raines, and other lab related documents.

Garrett explained that Langan had testified in court on January 24, 2017. He stated that they received a complaint from City Prosecutor, Caron Close. Close felt that Langan had acted unprofessionally in her court testimony and she questioned the validity of some of her statements. She provided them with the audio recording of her testimony. Garrett had the testimony transcribed.

Garrett instructed Raines to inform Langan that a complaint was issued against her by the Prosecutor's Office. Raines gave Langan a copy of the courtroom transcript and told her that she would need to meet with her and Garrett the next day. The following day, Garrett went through the courtroom testimony with Langan and asked her the questions she was asked in court. Langan provided clear and accurate answers. Garrett felt that if she had prepared better for court, she would have done a good job testifying. Langan provided statements to Garrett that made him unsure if she was being deceptive to him or if she had actually just misspoke in her courtroom testimony.

Garrett confirmed with Assistant Chief Scott Popp that a complaint on personnel (CP) would need to be initiated.

Assistant Chief Popp assigned this case to me. All documents provided to me by Garrett were added to the case file.

INTERVIEW OF SUPERVISOR MINDY RAINES:

On February 28, 2017, I asked Forensic Scientist Supervisor Mindy Raines to come to the Internal Affairs Office to be interviewed. I provided her with a Notice of Investigation and she signed it. The interview was recorded and transcribed. The transcription was added to the case file.

I asked Raines to explain the issues related to Langan's testimony. She told me that the case in which she was testifying for was a driving under the influence (DUI) trial. Langan was called in as an expert witness by the prosecution for her blood analysis testimony.

Raines explained to me that on November 11, 2016, Langan ran the blood for this specific case prior to the trial. Langan had a batch of cases that she was assigned to test. The Prosecutor's office advised that they no longer needed a test done on one of the cases. However, Langan had already made her work list. When she was working off of her work list, she realized that one case sample had been removed from her batch. Langan then hand corrected her work list. This is attached to this case file for reference.

Raines explained that Langan pipetted her samples (this is the transfer of the blood into the vials to get them ready to put on the instrument) and then hit the "Run" button. She had created a new work list; however, the new work list inadvertently had a sample on it that was not supposed to be there. This shifted all the samples and they were now out of order. Langan caught the error when she did her paperwork later on. She prepared a memo dated December 19, 2016, to explain the error on the work list and that the results of the batch were still scientifically valid. She told Raines about this error and told her that she was comfortable with explaining what happened technically and also why it was a scientifically valid batch. She did not feel the need to rerun the samples.

I asked Raines if the error was more of a clerical error and she stated that it was "definitely more of a clerical error."

This case then went to trial and Langan was called to testify on January 24, 2017. The prosecuting attorney was concerned with Langan's testimony. Raines was notified by Caron Close that there were some concerns, so she proceeded to investigate them. Raines received the audio file of Langan's testimony and listened to it prior to sending it to be transcribed. Raines stated that there were a lot of technical issues in Langan's testimony.

I went over the transcript with Raines and had her point out the issues. She told me that Langan testified that she needed a supervisor to update her work list. Raines said that this is not true; an employee can update a work list. A supervisor is only needed to change or cancel a case in the Laboratory Information Management System (LIMS).

Raines talked about Langan's face sheet for this event. Pointing at the face sheet, she said, "Normally the notes, the additional notes down here would say, 'Testing proceeded as expected,' that way they knew there was nothing wrong with the batch. She said that if there was something wrong with the batch they would tell the prosecutors what was wrong with it. Since Langan had an issue with the work list, she and Raines had a discussion about what to put on the face sheet. Raines told Langan that she could not put "testing proceeded as expected" because the work list was mislabeled. Langan suggested, "How about if I put all QC (quality control) parameters meet?" Raines agreed to this. Raines said that in court, Langan testified that she uses, "All QC parameters were met" and "All testing proceeded as expected," interchangeably. Raines said that this is not true. Raines went back and looked at Langan's previous face sheets and she had never used that terminology until this one. Raines felt that Langan had been untruthful when she made this statement to the court.

Raines stated that Langan was hired as an experienced analyst from Nebraska. She said that they looked at her training to see what she had and what she would need. Raines said that their analysts often get sent to Standard Field Sobriety Test/Horizontal Gaze Nystagmus (SFST/HGN) school because they tend to get asked questions related to these tests during a trial. During this trial, Langan was asked a question about gross motor skill impairment. According to Raines, Langan was unable to answer the question. She said that she should have been able to answer it based on her SFST/HGN training. Instead of referring to her training, Langan stated, "I don't have any information, I would think. My experience would say – not because of my training but

just my experience with drinking, I would think so.” Raines felt that this was an unprofessional statement to make in court.

Raines said that Langan was then asked a question about why lab requests were sometimes submitted eight months after the violation occurred. Langan is aware that lab requests are submitted by prosecutors when a trial is pending. Instead of stating this in her testimony, Langan used an analogy of McDonald’s to Burger King to her old department and Scottsdale. She said that they both have different management styles and that her old department would run lab requests within two weeks of the event. Raines felt that Langan should have answered, “The standard procedure is…” Raines said that when Langan got hired they met with the prosecutors and they went over how they request lab results for blood alcohol.

Raines summarized her review of the testimony stating that she feels that Langan makes up stories when she is confronted and not prepared. She stated that part of Langan’s job requirements are to testify in court. She stated that it would be an expectation that a Forensic Scientist would provide accurate court testimony. From reading the court transcript, Raines feels that Langan did not provide accurate court testimony.

This concluded my interview of Raines.

INTERVIEW OF FORENSIC SCIENTIST AMY LANGAN:

On March 2, 2017, I issued Langan an NOI. She signed the NOI and we scheduled her interview for Friday, March 3, 2017. On March 3, 2017, Sgt. Chris Blumling and I interviewed Amy Langan in the Internal Affairs Office; she did not request an observer to be present. The interview was recorded and transcribed. The transcription was added to the case file.

Langan has been employed by the City of Scottsdale as a Forensic Scientist II for approximately one year. She worked in Nebraska as a Forensic Scientist prior to being employed here. I asked Langan what some of her duties related to her current assignment are. She stated, “I maintain chain of custody on evidence, I test evidence at the lab bench and handle different requests through scientific analysis from law enforcement and then I participate in legal proceedings.” I asked her if testifying in court would be one of her job requirements and she stated, “Yes.” Langan told me that she received training in Scottsdale related to court testimony. She said that

she was put through a mock trial with city prosecutors. Langan also attended SFST/HGN training.

I then asked Langan if she remembered testifying in court on January 24th, 2017. She said that she remembered testifying that day. I asked her if she provided testimony related to an error regarding blood samples that were tested. She said that she did. I asked Langan if she creates her work lists. She said that she does. I asked her if there was an error on a work list: would it be an error that was created by her? She said that it would be her error as she makes the list. I asked, "During your court testimony, why did you testify in court that someone else created your work list and would have been responsible for the error?" Langan answered, "I did testify that I created the work list and then in my narrative response I did say the word, 'they' created the work list and that was a mistake on my part."

I asked Langan if she recalled being asked questions in court related to Field Sobriety tests. She stated that she remembered parts of this testimony. I read part of the transcript to Langan. I read the question she was asked by the defense counsel, "So an officer chooses not to do a physical test because there's so much gross motor skill impairment demonstrated and a person's fall-down drunk it is likely that the person would also have a significant difficulty driving?" Langan answered, "I don't have that information. I would think – my experience would say – because of my training – but just my experience with drinking I would think so." I asked Langan if she felt that it was unprofessional to say, "My experience with drinking?" Langan began to justify what she meant when she said this in her court testimony. I asked her again, "Do you think that's a professional statement to make in a courtroom?" She said, "Okay so we are just talking about that and that was prob, no, that was probably not the best word choice." I reminded Langan that she was testifying in court as an expert witness for blood alcohol analysis and to relate anything to her own experience with drinking would be unprofessional. She agreed.

During Langan's testimony, she compared the City of Scottsdale and Nebraska to Burger King and McDonalds. Langan remembered stating this. I asked her why she used this comparison. She said, "I was just using that comparison to, ah, hopefully relate to the jury that there are two different entities with two different business models. In both places I test blood alcohol and in both businesses they make hamburgers. I asked her if she felt that this was something that an

expert witness should use in a court testimony. Langan stated, "I have no idea why it's inappropriate or why you wouldn't use it as an analogy."

The jury asked Langan a question about when blood tests are performed in Scottsdale and if it's normal that they do those eight months after the incident. Langan told the jury that she didn't know how "they prioritize their work because I am not a manager." Langan said that the prosecutors or sometimes an officer will request the blood to be analyzed. I asked Langan, "Would it make sense to you that because it's coming in eight months later that the case is continuing on to trial; which is why they wanted the blood tested? She said, "Yes."

I asked Langan about her use of the word "they" during her courtroom testimony. Sgt. Blumling stated, "You are testifying as an expert, as an employee for the City of Scottsdale. So when you say 'they' you're referring to the City of Scottsdale employees, that you don't know how 'they' do things. Do you understand how that might look to a jury, like you are not part of them and you're saying, "I don't know how they do it." He told her that we were trying to point out that there was probably a better way to testify. Langan agreed with him.

Raines stated that Langan testified in court that she needed a supervisor to update her work list. Raines said that this is not true, the person creating the work list can make changes. Langan stated that she misspoke during the trial and did not mean to say "they" created her work list.

During Langan's testimony, she told the jury that she uses the phrases "All QC parameters were met" or "Testing proceeded as expected" interchangeably on her face sheets. I asked her if she remembered making that statement and she said that she did. I told her that she actually only used the phrase, "All QC parameters were met" on this one face sheet. Langan did not understand why I was asking her about this. I showed her the transcript from her court testimony and read this section to her. I asked, "So you weren't providing a misleading statement to the court by saying you use those phrases interchangeably?" Langan responded, "I don't think it was misleading but I don't really have the same perception or definition of interchangeably as you do. I have used it in the past." There was some confusion during this part of the interview. Sgt. Blumling and I tried to explain to Langan what we were asking. She was not really understanding us and I finally asked, "Would a more accurate statement in your testimony have

been to say, "This is the only time that I've used 'All QC parameters were met' – I typically use, 'Testing proceeded as expected.'" Langan said, "Yes."

Langan recognized that she needs to improve in her courtroom testimony. She stated that she is willing to accept feedback and would like the opportunity to stay and work on these issues. Langan stated, "This was not my best testimony experience and it pointed out a lot of weaknesses." She said, "This was only my second time testifying in this city. I feel like I'm still on a learning curve with the process here. You had asked me about if I did the same thing in Nebraska and the answer is yes. There are differences and I feel like I'm acclimating to those differences and I know that people look at my history and say, 'But you have this much experience,' I have this much experience in a different organization and in a different state with different processes – different types of court questions so – I'm not saying that Scottsdale did not prepare me but I'm just saying that I - or blaming that, is on anybody but me." Langan feels that with more practice testifying she would get better. She said she joined Toastmasters to help with the fluidity of her organizational style, presentation, and leadership skills.

I did not have any further questions for Langan and the interview was ended.

FINDINGS

The allegation of **Integrity Violation** is **NOT-SUSTAINED**.

The allegation of **Failure to Perform Duties** is **SUSTAINED**.

The allegation of **Unprofessional Conduct** is **SUSTAINED**.

Document Review:

Langan's Courtroom Testimony transcript

Lab documents

Analysis and Applicable Policies

General Orders, Forensic Services Division – Organization and Management;

3. While performing FSD responsibilities, FSD is committed to responding to requests for service in a manner that is courteous, helpful, and timely, while satisfying legal mandates and department standards.

General Orders, Disciplinary Procedures – Misconduct;

9. Conduct unbecoming an employee that tends to bring discredit to the employee, the department, or the city.

City of Scottsdale Forensic Scientist, Amy Langan, testified in court on January 24, 2017. The lead prosecutor on the case felt that Langan's testimony was inaccurate and unprofessional. She filed a complaint to Langan's supervisor, Mindy Raines.

Raines reviewed the court testimony and she also believed that there were some inaccurate and unprofessional statements made by Langan. Raines believed that Langan had not prepared well for court and she stated that this is one of Langan's job requirements. Langan admitted that she did not have her best testimony experience. She stated that she feels as though she is still on a learning curve and needs more experience testifying to improve her skills.

Raines stated that Langan testified in court that she needed a supervisor to update her work list. Raines said that this is not true, that the person creating the work list can make changes. Langan stated that she misspoke during the trial and did not mean to say "they" created her work list. This is not a deceptive or misleading account. Langan misspoke in the trial and realized that she made a mistake when she reviewed the court transcript.

Raines noted that when Langan testified in court, she used the phrases "Testing proceeded as expected" and "All QC parameters were met" interchangeably on her face sheets for blood analysis. Raines explained that this was the first time she used "All QC parameters were met". She said that she looked back at all of Langan's prior face sheets and she had never used that phrase before. Langan had always used, "Testing proceeded as expected." Langan told me that she has used both phrases before. She had a hard time understanding that I was trying to

determine if she was being truthful to the court when she made that statement. I asked her if there could have been a better way to have explained this to the court. When I provided her with an example, she admitted that this would have been a better way to have explained this. I do not believe Langan was being misleading to the court or trying to be deceptive in any way to me. Langan likely misspoke when she testified that she uses both phrases "interchangeably." I do not feel that Langan failed to accurately report these facts during her testimony. This was more an issue of semantics and it did not impact the outcome of the trial.

Raines stated that in her review of the court transcript from Langan's testimony, she saw that Langan spoke about her own experience with drinking. She stated that this was unprofessional and that she should not have mentioned anything about her own experiences with drinking while testifying. Langan admitted that this was an unprofessional statement and "probably not the best word choice." Langan speaking about her own experience with drinking while testifying in court as an expert witness would bring discredit to herself and the department.

During her testimony, Langan used an analogy (McDonald's to Burger King) that Raines felt was unprofessional. Langan stated that was trying to relate to the jury and compared two different entities with two different business models. She did not feel this was inappropriate as it was her way of explaining something to the jury. While it may have not been the best analogy to use, I do not believe that this brought any discredit to Langan or the department.

Raines said that Langan didn't seem to want to take responsibility for anything during her testimony. She often used the term "they" when she spoke of the practices of the City of Scottsdale. Raines felt that this was not professional. Langan admitted that there was probably a better way to testify and using the term "they" would make it seem as if she is not a part of the city. Langan could have taken ownership as an employee of Scottsdale and this may have given her more credit as an expert witness during this testimony.

Langan admitted that some statements that she made during this testimony were unprofessional. She also stated that she should have been better prepared to testify in court. She admitted that this is a job requirement for her position. Langan believes that with additional training and more practice at testifying that she could succeed in this assignment.

Therefore;

The allegation of **Integrity Violation** is **NOT-SUSTAINED**.

The allegation of **Failure to Perform Duties** is **SUSTAINED**.

The allegation of **Unprofessional Conduct** is **SUSTAINED**.

Sergeant Melissa Palopoli #759

Internal Affairs Unit