

THE CITY OF SEATTLE, PLAINTIFF

VS

KELLEY, COLE, DEFENDANT

CASE NO.: 629263

Seattle Police Department
Report Narrative

The excerpt from the attached Seattle Police Department General Offense Report 17-011683 is hereby submitted to the Court by the Seattle City Attorney's Office. The City reserves the right to supplement.



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GO# 2017-11683

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Seattle Police Department Case Investigation Report

Case Investigation Report: 2017-11683

Certification for Determination of Probable Cause

That **Wes Friesen** is a Detective with the Seattle Police Department and has reviewed the investigation conducted in Seattle Police Department Case number **2017-11683**. There is probable cause to believe that **Cole Kelley 10/02/1997** committed the crime of **SMC 12A.06.050 Reckless Endangerment** within the City of Seattle, County of King, State of Washington. This belief is predicated on the following facts and circumstances.

On 12-31-2016 at approximately 1445hrs security supervisor for the Space Needle at 400 Broad Street, located in the City of Seattle, County of King and State of Washington was informed by his dispatch office that a guest in the retail area inquiring about a crashed drone. The security supervisor made contact with a Caucasian male who self-identified himself as Cole Kelley. Mr. Kelly informed the security supervisor he had been piloting a drone in the area of the Space Needle and believed he had crashed it on the roof of the building. Security informed Mr. Kelley that, with the setup of the New Year's Eve fireworks show, the drone would be in an area that was temporally inaccessible due to safety concerns. Security collected his contact information and informed him that he would be contacted the following week.

The Space Needle Facilities team later delivered a white DJI Inspire 1 drone to the Security department. The drone was described as being recovered from the roof of the Space Needle. Seattle Police were notified, recovered the drone, and placed it into SPD evidence where it remains, marked evidence number 696241-1. FAA records were later obtained and it was confirmed Cole J Kelly possesses an FAA/UAS (unmanned aircraft system) registration number identifying him as a UAS operator. Kelley's current contact information was located and detectives



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contacted him regarding the incident. Kelley stated he had obtained a lawyer and was advised not to speak to investigators.

I later interviewed the supervisor of the pyro technicians who was present that day on the roof of the Space Needle. He reported the following:

At the time of the incident with the drone, there were five pyro-technicians on top of the space needle installing pyrotechnics boxes for the New Year's Eve celebration. The boxes were approximately 2' x 5' with pyrotechnic products contained inside. The boxes were being installed on the roof just below the 'Flat Top', in the North, South, East, West, and additional boxes in the Northwest locations. The supervising technician was on the highest rooftop there is on the Needle, the Flat Top portion, tending a self-retracting safety line for another technician installing a box on the North side. The technician was working on wiring up one of the North facing boxes. This is a lengthy process that can take many minutes.

The Technicians tending the safety line looked to the South facing Seattle neighborhood of Queen Anne, and noticed a drone hovering out slightly below his eye level, He estimated the drone distance to be a few hundred feet directly to their North and just below his eye level by 5 to 10 degrees. The winds were coming up out of the South East about 5-10 MPH but the drone flew steady and didn't appear to be buffeted by the winds. The technician who observed the drone informed the other technicians of its presence so they could monitor its location due to the fact it posed a safety hazard.

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The technician who first observed the drone wanted to see where the drone might land so he suggested to the crew to keep an eye on its whereabouts. The drone flight path travelled above their eye level (the space needle is approximately 605 feet high and the technicians were on the very top) by a few degrees (maybe 10-20 degrees) and proceeded to hover in place. After a few minutes, it travelled to the South East and gained in altitude. It flew several hundred yards away, but was still easily identifiable due to its structure against the cloudy background. After a few minutes, the drone began to get closer, approaching the Needle from the South East. The technician alerted a second set of crewmembers who were working on the East side of the roof so that they could get a visual on it. The drone stayed a few hundred feet to the South of the Needle and passed from South East to South West of them at approximately their altitude, eventually hovering due West of their position. The drone hovered and began to slowly descend. Eventually the visual line of sight was broken by the Space Needle's Halo. The drone was still a few hundred feet away, and they lost sight of it at about 30 degrees below the horizon. The crew talked about drone flights and legalities, etc. for a few minutes as they continued to wire the pyrotechnics at that time the drone was out of sight and we could not hear it.

A few minutes passed and the crew heard a collision. There was a sudden burst of noise on the West side of the rooftop that startled the crew. The drone had crashed onto the roof and was entangled in an orange safety ratchet strap the technicians had installed for the boxes facing Northwest. One of the drone's spinning blades was dangerously near wiring from one of the boxes, one motor



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was well wrapped up in the strap, one blade had shattered, and the drone itself was kicking around threatening the wiring of the pyro technique devices.

The technicians were able to pin the drone to the roof. Since they had been working in the cold they were wearing thick gloves so one of the safety technicians reached down and began searching for an OFF button or a method of removing a battery. An off button was eventually located and the drone was disentangled from the strap and the wiring was checked. Technicians radioed to the ground and notified a supervisor.

The flight of the drone itself and the subsequent strike on the Space Needle was a serious safety hazard for a number of reasons. The operator of the drone violated FAA rules including the prohibition for flying above 400 feet of altitude. Based on the size and quality of the device, physical injury could result from simply being struck from this size of a drone during basic hovering maneuvers, specifically due to the size, speed and composition of the rotating blades. According to information provided by the manufacturer, the drone itself weighs 6.74 pounds and has 4 rotors, each made out of carbon fibers and measuring 13 inches long, that spin at over 5,000 rpm. Its top speed is nearly 50 miles per hour. The hazards of the technicians work environment required the workers to be tied off to a self-retracting lanyard to avoid falling off the flat top of the Needle, onto the sloping roof some 10-15 feet below. Although the equipment they were installing was tied off and secured with safety straps in their final firing positions (as at the actual time of drone strike), there is a time during installation that workers may only have a handhold on these appliances while getting them

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installed. If hit by a drone at that moment, a worker could lose his/her grip on either the appliance, or their own footing, resulting in an arrested fall and equipment possibly being lost over the side of the roof they are working on. Although most of the crew was aware of the drone during some of its flight, they had all lost sight of it. When it impacted it was a total surprise to the entire crew.

At the time of this strike, two workers were in the compromised position of working at height beyond standard safety rails, hooked to safety lanyards, tools in hands, focused on the work right in front of them, wiring pyrotechnic charges to electrical boxes. In addition to possible injuries inflicted from an initial drone impact, the subsequent 'ground level fall' impact and arrest of lanyard could compound injury further. Add to this the time it might take to retrieve the arrested worker and administer first aid in that location while awaiting professional aid from SFD...It would take a considerable length of time to get the injured worker to the level of care that might be needed.

A search warranted was approved by King County Superior Court Judge Tanya L Thorp to conduct a forensic examination of the Drone. A forensic analysis was conducted by Seattle Police Detective Chris Hansen. During the course of examination, Detective Hanson located several files that appear to be directly related to the incident under investigation, date of occurrence 12/31/2016. Three files of interest are named DJI_0003.MP4, DJI_0004.MP4 and FLY095.DAT. The files are referenced on page 3 of the EnCase Report.



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The video files named DJI_0003.MP4 and DJI_0004.MP4 appeared to contain footage of the drone's flight during the time period leading up to the incident. During a review of DJI_0004.MP4, He found footage that appears to show at least five workers were working at the site of the incident when the drone crashed into their work area. The flight data file named FLY095.DAT appeared to contain information related to the geographical position of the drone during a time period leading up to the incident. Detective Hansen also located a video recorded on or about 12/17/2016, which depicts a person who appeared to be operating the drone in or near Leavenworth, WA on that date. The video is named DJI_0005.MP4. I observed this video and based on known photographs identified the operator as Cole Kelly. Detective Hansen also noted in his report he observed a video recorded on or about 12/14/2016, which depicts an apparent drone flight originating from 106 Berkshire Ln. Pasco, WA. The video is named DJI_0001.MP4. A reference to this video appears on page 5 of the EnCase Report. 106 Berkshire Ln. Pasco, WA is the address listed for Cole Kelley on his Washington State Driver's License and the same address Pasco Police Detectives spoke with him regarding the incident.

Based on the available information I believe there is probable cause to believe that Cole Kelly was operating the drone on 12-31-2016 when it crashed into the space needle and was operating in a manner that created a substantial risk of death or serious physical injury to another person.

Under penalty of perjury under the laws of the State of Washington, I certify that the foregoing is true and correct to the best of my knowledge and belief. Signed and dated by me this **16th** day of **June, 2017** at Seattle, Washington.



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Investigation:

01-12-2017, 1000hrs: Assigned case for review and follow-up. Placed call to Jacob Svegl and requested statement.

01-12-2017, 1014hrs: Received email from Jacob Svegl that contained his statement.

01-12-2017, 1130hrs: Placed call to Ed Stewart – FAA. Requested copy of UAS registration for Cole Kelly.

01-12-2017, 1304hrs: Received UAS registration from FAA via email from Ed Stewart.

01-12-2017, 1446hrs: Contacted Pasco Police Department and requested they make contact and interview Cole Kelley. I later sent an email with a formal request attaching the Seattle Police incident report.

01-13-2017, 0800hrs: Received call from Pasco Police detective requesting information regarding the incident.

01-13-2017 0950hrs: Received call from Pasco Police Detectives advising they contacted Cole Kelly regarding the incident however he stated he obtained an attorney and denied their request for an interview.

01-13-2017, 1532hrs: I requested contact information for all subjects on the space needle during the incident. I later received email containing names and phone numbers of contractors installing pyrotechnics. I placed a call to each one however I was only able to reach and interview Brian Morningstar and Mateo Navarro. Morningstar sent a statement as requested. I interviewed Navarro via telephone who stated he was on the other side of the Space Needle when the incident occurred and limited information to provide. I provided him with my

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email address and requested he send a statement however he failed to do so.

Below is the contact information provided:

- Scott Streeper - 206-930-6969
- Bob Powers - 253-677-1222
- Brian Morningstar - 206-779-0250
- Kevin Underwood - 206-612-8291
- Mateo Navarro - 425-802-0371

01-25-2017, 0958hrs: Requested and received incident report from Pasco Police Dept.

01-25-2017, 1148hrs: Placed call to law office of Harkins Swinburnson & Wagar, PLLC (509) 591-0225. Left message with administrative assistant.

01-31-2017, 1116hrs: left voice message for Space Needle security requesting video surveillance associated with contact of subject.

01-31-2017, 1118hrs: P/C to Scott Streeper - 206-930-6969. Received voicemail indicating mailbox was full and unable to accept messages.

01-31-2017, 1119hrs: P/C to Bob Powers - 253-677-1222 Received voicemail indicating mailbox was full and unable to accept messages.

01-31-2017, 1121hrs: - P/C Brian Morningstar - 206-779-0250. Received voicemail. Left message requesting callback.

01-31-2017, 1126hrs: P/C Kevin Underwood - 206-612-8291. Received voicemail. Left message requesting callback.

01-31-2017, 1137hrs: P/C Mateo Navarro - 425-802-0371 Received voicemail. Left message requesting callback.

01-31-2017, 1139hrs: P/C to Dave Mandapat. Received voicemail. Left message requesting call back regarding extraction of video and other possible content.



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Director of Public Relations
Space Needle LLC
206-905-2164

01-31-2017, 1733hrs: Received call from Mateo Navarro.

02-01-2017, 0952hrs: Received call from Brian Morningstar. He stated he had provided a statement to the FAA and would be able to email it to me. I requested he send it to me.

02-01-2017, 1010hrs: Received email statement from Brian Morningstar.

02-01-2017, 1105hrs: Sent Morningstar and additional email requesting a second statement be provided regarding his assessment on safety risk and hazards of the drone strike.

02-01-2017, 1315hrs: Received additional statement from Morningstar.

02-08-2017, 1133hrs: Sent email requesting Space Needle staff review their security footage. I requested any footage associated with the contact of the drone operator.

02-08-2017, 1141hrs: Received email advising there was no footage of the incident. The email indicated decorations for the New Year's Eve festival blocked the cameras view.

03-02-2017, 1419hrs: Drafted for review a search warrant requesting authorization to search the drone. I met with King County Superior Court Judge Tanya L Thorp. Judge Thorp reviewed and approved the warrant.

03-02-2017, 1449hrs: Responded to SPD Evidence and checked out the drone for forensic review. Drone was transported to Det. Hansen.

06-29-2017, 0900hrs: Recovered drone and Det. Hansen and placed it back into SPD Evidence. Received forensic report from Det. Hansen. Reviewed forensic report.

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06-30-2017, 1400hrs: Conducted area search for any security cameras that may have captured the drone flight. Negative results.

07-06-2017, 1200hrs: Prepared case for submission to Seattle Law Department for review.



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