



## CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 10, 2022

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0463

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

Named Employee #1

Allegation(s):		Director’s Findings
# 1	15.180 Primary Investigations 3. Officers Shall Take Statement in Certain Circumstances	Not Sustained (Lawful and Proper)
# 2	5.001 Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication	Not Sustained (Lawful and Proper)
# 3	5.001 Standards and Duties 6. Employees May Use Discretion	Not Sustained (Lawful and Proper)

***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 he called 911 to report an incident and provided his phone number if SPD needed further information, but that SPD never followed up. The Complainant alleged that SPD did not make a reasonable effort to contact 911 callers. The Complainant also alleged false statements were later made about the incident by SPD.

### **ADMINISTRATIVE NOTE:**

This case concerns an unknown SPD employee and as such, the 180-day timeline normally applied to OPA investigations is inapplicable here. For administrative purposes, the 180-day deadline has been set to the date of issuance of this DCM.

### **ANALYSIS AND CONCLUSIONS:**

This complaint arose from an incident that occurred on the evening of June 14, 2020. The Complainant was a volunteer medic in the CHOP zone and at one point in the evening was directed to the incident location, a business storefront. The Complainant had been told that someone was holding a suspect at gunpoint. The Complainant went to the location to see if anyone needed medical attention. He was informed by the business owner, Witness #1 (W#1), that no medical attention was needed. After leaving, the Complainant called 911 to report the incident.

The Complainant told the 911 call taker that he was a witness to an incident and that the police could reach out to him if they needed any additional information. He gave the call taker his phone number. No one from SPD reached out to the Complainant.



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SPD later published a press release regarding the incident. The press release stated that the business owners, referred to in the press release as “victims” of an attempted robbery, had contacted the police but that “officers were unable to reach the victims by phone at the time of the incident.”

OPA reviewed the phone logs from the night of the incident. The records indicated that W#1 had made several phone calls to SPD reporting a break-in and a fire at his business. A 911 call taker called W#1 back, but the call went to voicemail. W#1 called back a minute later, but the call disconnected. The call taker called W#1 back again and W#1 provided details regarding the suspect that broke into his business. There was no indication that a callback was ever made to the Complainant or any other witnesses who called in the incident from that evening.

OPA also reviewed relevant police reports from the time of the incident. Officers had staged themselves nearby to where the incident occurred but did not enter because it was located in or around the CHOP area. When W#1 reported a fire at his business, officers used binoculars to see if there was a fire and asked people walking by if they had seen a fire in the business. There was no indication that a fire had been observed. Seattle Fire Department declined to respond to the call from W#1 because SPD did not first respond to the incident location to declare it safe.

OPA interviewed the Complainant about his allegations. The Complainant stated that he never heard back from SPD after providing his contact information and that he never saw any officers at the scene. He also said that he did not stay at the scene until the incident was cleared because it was near the end of his time volunteering as a paramedic that day.

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

***15.180 Primary Investigations 3. Officers Shall Take Statements in Certain Circumstances***

SPD Policy 15.180-POL-3 requires that officers shall take victim statements in all domestic violence investigations, and instructs that, where it is a felony investigation, witness statements are also mandatory. (SPD Policy 15.180-POL-1) Officers are further encouraged to take statements in other investigations “as they deem necessary.” (*Id.*)

The Complainant was not a victim of the incident he reported to 911. Accordingly, officers were not required to contact the Complainant even though he gave his number to 911 and offered to provide additional information. The fact that SPD did not contact the Complainant to take a witness statement does not violate policy. As such, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**

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

***5.001 Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication***

SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications. (SPD Policy 5.001-POL-11) The Complainant alleged that SPD was untruthful in its press release regarding the incident because he had not been contacted to provide details to the officers.

Upon review, OPA finds there is insufficient evidence to prove that the press release was materially inaccurate. The press release stated that SPD tried to contact the victims, which included W#1. The call logs confirm that at least two



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attempts were made by 911 to call W#1 back; one went to voicemail, and the other reached W#1 who provided details regarding the break in.

OPA is aware of general concerns about misstatements made by SPD personnel, and has made recommendations to the Department to increase transparency and ensure public statements are accurately fact-checked before release. (See 2020OPA-0425.) However, after reviewing the press release at issue here, OPA does not find that it was inconsistent with the call logs from the night of the incident. In particular, OPA notes that the press release stated that SPD was unable to take a full statement from W#1, which was consistent with the fact that W#1 provided only a partial statement to the 911 call taker. Accordingly, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**

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

***5.001 Standards and Duties 6. Employees May Use Discretion***

As indicated in SPD Policy 5.001-POL-6, “[e]mployees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the department and duties of their office and assignment.” This policy further states that “[D]iscretion is proportional to the severity of the crime or public safety issue being addressed.” (SPD Policy 5.001-POL-6.)

For the same reasons as stated above, OPA does not believe that SPD officers abused their discretion when they did not contact the Complainant in response to his 911 call. Again, the officers attempted to make contact with the business owner – who was the victim of the incident. While obtaining additional statements – such as from the Complainant – would have been optimal, SPD had significant staffing challenges at that time and not doing so did not violate policy.

Accordingly, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**