



## ***CLOSED CASE SUMMARY***

ISSUED DATE: JANUARY 14, 2021

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0247

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

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 7. Employees Engaged in Department-Related Activities Identify Themselves When Requested	Not Sustained (Inconclusive)
# 2	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Inconclusive)
# 3	15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a Report	Sustained

#### **Imposed Discipline**

Resigned Prior to Proposed DAR – Discipline

***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 the Named Employee treated her unprofessionally during a phone call.

### **SUMMARY OF INVESTIGATION:**

The Complainant called 911 to report that a milkshake had been thrown at her by an employee of a Jack in the Box. The dispatcher routed the call to Named Employee #1 (NE#1) who was, at that time, assigned to the Telephone Reporting Unit (TRU). NE#1's job was to triage calls that could be documented rather than necessitating an in-person response from a patrol officer.

The Complainant later initiated an OPA complaint in which she alleged that NE#1 was unprofessional during the call. She told OPA that NE#1 called her and said that she would take a report. However, NE#1 kept focusing on what the name of the witness was. When the Complainant was reluctant to provide that information, NE#1 began chuckling at her. The Complainant recalled that NE#1 said that, without the witness's name, the Complainant did not have a case and a report could not be made. The Complainant characterized NE#1 as rude and insensitive. She said that she asked NE#1 for her badge number and NE#1 did not initially provide that information. She indicated that she needed to ask her five to six times before the information was provided.

OPA also interviewed the Complainant's friend, who was with her at the time. The friend said that NE#1 did not call the Complainant for over an hour. When NE#1 finally did so, she laughed at the Complainant. The friend, like the



Complainant, alleged that the Complainant had to ask NE#1 for her name and badge number multiple times before the information was provided.

As part of its investigation, OPA reviewed the 911 calls made by the Complainant. Pursuant to TRU policy, the call between NE#1 and the Complainant was not recorded. OPA further confirmed that NE#1 did not generate a report concerning this incident and, instead, closed the incident out.

OPA lastly interviewed NE#1. She stated that, at the inception of the call, she provided her name to the Complainant. She said that the Complainant told her that the Jack in the Box employee was “snarky” towards her, but would not provide the reason why she believed this and also would not provide details concerning the verbal interaction she had with the employee. NE#1 felt that this was relevant to explore why the milkshake was thrown. NE#1 said that the Complainant indicated that the milkshake hit her friend’s purse but did not strike the Complainant. NE#1 asked for the name and phone number of the friend, as the milkshake being thrown at the purse could have constituted property damage. The Complainant declined to provide this information. NE#1 explained that this information was needed to write the report. NE#1 asked the Complainant if she was injured and, in response, the Complainant asked if NE#1 was making fun of her. NE#1 said that she was not and that she was just trying to get information concerning the incident. The Complainant then asked for her name and badge number. As she had already provided her name, NE#1 tried to calm the situation down by telling the Complainant that she just needed a little more information to complete the report. However, the Complainant continued to demand her badge number. NE#1 then provided this information. The call ended. NE#1 said that she called the Complainant back twice more and left a voicemail asking for additional information to facilitate the completion of the report. The Complainant did not call NE#1 back. NE#1 denied that she ever mocked the Complainant, acted unprofessionally, or violated any other SPD policies.

#### **ANALYSIS AND CONCLUSIONS:**

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

##### ***5.001 - Standards and Duties 7. Employees Engaged in Department-Related Activities Identify Themselves When Requested***

SPD Policy 5.001-POL-7 requires that SPD employees who are engaging in Department-related activities identify themselves when requested.

Here, the Complainant stated that she had to ask numerous times for NE#1’s identifying information before it was provided, and that NE#1 was reluctant give this information to her. This was confirmed by the friend who reported overhearing the conversation. NE#1 said that she provided her name at the outset. She acknowledged that she did not immediately provide her badge number, but that this was because she was trying to de-escalate the Complainant in order to get sufficient information to complete her report. She said that, when she determined that the Complainant was not interested in providing any additional information, she provided her badge number.

If NE#1, as the Complainant recounted, repeatedly refused to provide her identifying information, this would violate policy. On the other hand, if, as NE#1 stated, she provided her name immediately and her badge number promptly upon determining that the Complainant was not further interested in communicating with NE#1, this would be consistent with the Department’s expectations.

As discussed above, the conversation between the Complainant and NE#1 was not recorded. Without a recording, OPA does not have objective evidence of what was discussed. Given the significant disputes of fact between the



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Complainant and NE#1 – which go directly to the question of whether NE#1 violated policy – OPA cannot conclusively determine what occurred.

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

Recommended Finding: **Not Sustained (Inconclusive)**

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

#### ***5.001 - Standards and Duties 10. Employees Shall Strive to be Professional***

The Complainant alleged that NE#1 was rude and dismissive to her during the phone call, as well as that NE#1 laughed at her at one point. If true, this would constitute unprofessional behavior on NE#1's part. NE#1 denied that she was unprofessional and said that she did not laugh at the Complainant. NE#1 asserted that she attempted to ask the Complainant questions to allow her to fully document what occurred, but the Complainant did not want to cooperate with NE#1.

Similar to Allegation #1, whether NE#1 was unprofessional depends on the substance of her conversation with the Complainant. OPA does not know what they discussed as it was not recorded. As such, OPA cannot reach any other finding than inconclusive.

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

Recommended Finding: **Not Sustained (Inconclusive)**

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

#### ***15.180 Primary Investigations 5. Officer Shall Document all Primary Investigations on a Report***

SPD Policy 15.180-POL-5 requires that officers document all primary investigations on a General Offense Report. Even where victims of crime refuse to cooperate and to give a statement, officers are still expected to document that fact in a report. (SPD Policy 15.180-POL-5.) The report generated by an officer must be complete, thorough, and accurate. Lastly, the Department's expectation, which has been clearly conveyed to officers, is that this report will be completed prior to the end of their shift on the date of the incident.

There are no facts that are truly in dispute concerning this allegation. The Complainant reported to NE#1 that a milkshake was thrown at her and that it hit her friend's purse. While NE#1 was right to seek the identity of the friend in order to flesh out the report, the lack of this information did not preclude the report being written as NE#1 seemed to suggest. From OPA's perspective, and based on a logical application of the policy, NE#1 was aware of an allegation of criminal activity and, whether or not she felt that it actually established a crime, she should have completed a report. The failure to do so was improper.

For the above reasons, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**