



## ***CLOSED CASE SUMMARY***

ISSUED DATE: JANUARY 26, 2021

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0468

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

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication	Not Sustained (Inconclusive)

***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:**

It was alleged that the Named Employee may have been dishonest during his interview in a prior OPA investigation.

### **ANALYSIS AND CONCLUSIONS:**

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

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

In 2020OPA-0118, OPA investigated Named Employee #1 (NE#1) for purported unprofessional conduct and retaliation. It was alleged that NE#1 violated these policies when he gave a negative Yelp review to a food cart whose employees had insulted him while he was on duty. OPA ultimately recommended that these allegations be Sustained, and discipline was imposed.

During his interview in that case, NE#1 asserted that he did not engage in a negative back and forth with the community member, who he said insulted him. However, the community member stated that this back and forth did occur, with NE#1 making a racially motivated comment towards him. In addition, OPA interviewed NE#1's supervisor who recounted discussions he had with both the community member and NE#1 after the incident. The supervisor said that, based on these discussions, it was his impression that a back and forth conversation had occurred between the two.

Based on the significant discrepancies between NE#1's account on one hand and the accounts of the community member and the supervisor on the other, OPA initiated a new case, in which it was alleged that NE#1 may have engaged in dishonesty.

As part of this investigation, OPA conducted a further interview of NE#1. He maintained his denial that he engaged in a back and forth with the community member. He also denied that he made a statement attributed to him by the



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supervisor (“he had it coming”) or that he told the supervisor that he had a back and forth with the community member. NE#1 affirmed that he was not dishonest to OPA.

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

Even after reinterviewing NE#1, OPA still has questions concerning his honesty. Indeed, given his new denial of specific statements attributed to him by the supervisor, this is even more the case now and the discrepancies have grown. However, this allegation is simply unprovable at this time, predominantly because there were not independent witnesses to or video of either the initial interaction with the community or the later conversation with the supervisor. This ultimately prevents OPA from reaching a conclusive determination here.

For these reasons, OPA recommends that this allegation be Not Sustained – Inconclusive.

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