



## **CLOSED CASE SUMMARY**

ISSUED DATE:      JANUARY 11, 2019

CASE NUMBER:     2018OPA-0589

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

**Named Employee #1**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	5.001 Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)
# 2	5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication	Not Sustained (Unfounded)

***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 threatened to shoot her. It was further alleged that the Named Employee was dishonest when she denied doing so.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 - Allegations #1**

#### ***5.001 Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy***

On June 28, 2018, the Complainant exchanged texts with the husband of Named Employee #1 (NE#1) that were sexual in nature. NE#1’s husband had previously engaged in an affair with the Complainant. The Complainant alleged that, later that day, she had engaged in oral sex with NE#1’s husband. She stated that NE#1 subsequently called her and threatened to shoot her. The Complainant called 911 and officers employed by the Kirkland Police Department (KPD) responded. In the report generated by the KPD officers, the Complainant was described as intoxicated and slurring her words. She was later tested and her intoxication and confirmed. She had an unloaded firearm on her person, which she provided to the officers.

The officers then spoke with both the husband and NE#1. The husband acknowledged exchanging texts with the Complainant and previously engaging in an affair with her, but denied that they engaged in sexual activity on that date. The husband stated that he was present for the phone call between the Complainant and NE#1. He contended that NE#1 was calm and did not threaten the Complainant. He stated that the Complainant, to the contrary, yelled and swore at NE#1. The husband provided his phone for the officers to obtain data off of it. The officers heard a message in which the Complainant stated to NE#1: “I just want to tell you that I am filing a police report against Kirkland Police so you are fucked bitch.” The husband offered to take a lie detector test.

NE#1 admitted talking to the Complainant but denied threatening her. NE#1 stated that she was in her husband’s office when the Complainant called. She told the officers that she answered the phone and recounted what was



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discussed during their conversation. NE#1 claimed that the Complainant was lying. NE#1 also offered to take a lie detector test.

The officers further spoke to another employee of the husband's company who was present for the phone call. This witness corroborated the accounts of NE#1 and her husband. He stated that NE#1 did not threaten the Complainant during the call.

The officers interviewed the Complainant again and she provided additional information that was inconsistent with her prior account. She confirmed, however, that NE#1 threatened to shoot her. She also offered to take a lie detector test.

NE#1, the husband, and the witness all took lie detector tests. All denied that NE#1 threatened to shoot the Complainant and all were deemed to be telling the truth.

Ultimately, the officers determined that they could not establish probable cause to believe that NE#1 committed any crime. The case was referred to the King County Prosecuting Attorney's Office (KCPAO) for review. The KCPAO declined to prosecute the case. The assigned prosecutor agreed that there was insufficient evidence to establish probable cause.

OPA then commenced its investigation, which included interviewing all of the parties involved in the KPD investigation, as well as a friend of the Complainant who used to nanny for NE#1 and her husband. The parties all repeated the substance of their previously accounts provided to KPD. The Complainant's friend had no firsthand knowledge of the phone call, but did not believe that the Complainant would lie.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy. Had NE#1 threatened to shoot the Complainant, she would have violated the law and this policy. However, the evidence is insufficient to establish that she did so. Indeed, when applying a preponderance of the evidence standard, I find that the weight of the evidence – most notably, the consistent statements between NE#1, the husband, and the witness, and their passing lie detector tests – supports of finding that NE#1 did not engage in any criminal activity. For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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

**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.

As discussed above, I find that the evidence supports NE#1's account and establishes that she did not threaten to shoot the Complainant. Accordingly, I also find that she did not engage in dishonesty in this incident and recommend that this allegation be Not Sustained – Unfounded.

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