

201600501  
Laurie Smith

A boy entered the bathroom in a public playground to find that there were two other youths, one of whom he recognized, smoking cannabis in the bathroom. The boy tried to leave but the older boys held shut the bathroom door, and one of them pointed a gun at him. The boy was able to leave, and the older boy told him the gun he had shown was a BB gun. The boy was not sure if the gun was a BB gun or real, but felt threatened by the older boys. Worried about calling the police himself, he texted his mother, asking her to call the police, and went home.

Two police officers, Helen Flavin and Laurie Smith, arrived on the scene. Unbeknownst to them, the mother was recording the incident. The police officers refused to exit their vehicle and refused to take a report; the recording shows one officer stating that “this is what teens do.” When the mother stated that she was going to call 911 to find other officer who would take a report of the teen threatening her son with a gun, the officers stated (as the video confirmed) “if you call 911 I will arrest you for making a false report.” A sergeant later arrived and took a report of the gun threat.

In her interview, Officer Smith, who did not know about the recording, stated that neither officer had threatened to arrest the woman, and gave an account of the incident that was inconsistent with the video evidence.

Officer Flavin did not lie about what the officers had said, though she stated that in an unrecorded part of the incident the woman had been belligerent. The CCRB found that Officer Flavin had abused her authority when she threatened to arrest the boy, that both officers had failed to provide their names and badge numbers, and that Officer Smith had made a false statement in her CCRB testimony.

Both officers had resigned from the NYPD before any discipline was imposed.

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## Interview Details

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On January 28, 2016, [REDACTED] was interviewed at the CCRB.

On January 7, 2016, at around 5:00 p.m., [REDACTED] was walking in [REDACTED] in a playground across the street from his apartment building at [REDACTED]. While walking in the playground, he encountered a guy he knew around the neighborhood as [REDACTED] who he said is a smoker and a bad kid. [REDACTED] was with another unidentified teenage male. [REDACTED] pointed a gun at [REDACTED] and [REDACTED] ran back across the park about a block, where he encountered his friend [REDACTED]. [REDACTED] explained to [REDACTED] what had happened; [REDACTED] told [REDACTED] that it was only a BB gun and that he had seen [REDACTED] with it earlier. [REDACTED] said he wanted to call 911, but [REDACTED] said, "We'll look like snitches." [REDACTED] then texted his mother [REDACTED] to surreptitiously call 911 about what had happened, and began to walk home by himself to [REDACTED] to meet her.

[REDACTED] approached the front of [REDACTED] and met [REDACTED] who had come downstairs. [REDACTED] explained to [REDACTED] fully what had happened. About a minute after he arrived, a marked RMP containing PO1 and PO2 pulled up at the front of the building. Neither PO1 or PO2 exited the RMP.

PO1 and PO2 seemed to not want to hear the story. [REDACTED] explained what had happened, and PO1 and PO2 both said it was "kids being kids," and "this is how teens play." [REDACTED] said it was serious, and she needed the officers to take a report. PO1 asked [REDACTED] sarcastically if he was in the Parks Police. They spoke for a while, and PO1 and PO2 both did not listen and said they would not take a report for teens playing around. [REDACTED] could not recall if [REDACTED] asked the officers their names or shield numbers, and did not recall if they voluntarily provided this information. [REDACTED] told the officers she was going to call 911 again and get real police to come and take a report, and PO1 threatened to arrest her. [REDACTED] could not recall the exact wording PO1 used, but believed she said, "If you call 911 I'll arrest you for making a false report."

Several minutes had passed since the officers first had pulled up; they still had not exited their RMP. A second RMP pulled up, and LT1 emerged and said he would assist. LT1 offered to take [REDACTED] and [REDACTED] to the 50<sup>th</sup> Precinct stationhouse, and they took this offer. On the way, [REDACTED] explained to LT1 that they wanted to file a complaint against PO1 and PO2. LT1 explained fully how she could do this. At the stationhouse, PO2 assisted [REDACTED] in filling out the paperwork for the complaint, and he was taken up to the detective squad to fill out a further report. After this, the family went home and [REDACTED] believed [REDACTED] then filed the complaint.

PO1 – Uniformed light-skinned female, 30s, blond hair, driver

PO2 – Uniformed dark-skinned female, 30s, brown hair, passenger

LT1 – Uniformed black male, unknown height, blue uniform

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## Interview Details

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On January 28, 2016, [REDACTED] was interviewed at the CCRB.

Around 5:00 p.m. on January 7, 2016, [REDACTED] was making dinner at home when she received a text from her son [REDACTED] explaining a man had pointed a gun at him on [REDACTED]. [REDACTED] told him to come home, and that she would call 911. [REDACTED] called 911 to report what had happened, and then went downstairs; a minute later, [REDACTED] arrived in front of [REDACTED]. [REDACTED] explained that he had been walking into the public men's room at [REDACTED] when he partially opened the door and saw two guys he recognized from the neighborhood smoking marijuana. [REDACTED] attempted to walk away, but some other friends of his ran up and banged on the door because they thought it would be funny. The perpetrator then exited the bathroom and pointed a gun at [REDACTED].

Another few minutes later, an RMP pulled up containing PO1 and PO2. The officers did not exit the RMP, but parked four feet from the curb with their lights blaring. PO1 shouted out the window, "What happened?" and waved [REDACTED] and [REDACTED] over. [REDACTED] tried to speak into the passenger's side window of the RMP, but the lights were blinding. [REDACTED] asked the officers if they could turn the lights off, and they did not comply. As [REDACTED] explained the story, PO1 and PO2's tone and posture were hostile, as if they were annoyed with their time being wasted. [REDACTED] told the whole story, and as he finished PO1 interrupted him by saying, "What do you expect? If this is who you hang out with."

[REDACTED] was surprised, and PO1 continued criticizing [REDACTED] saying he hung out with derelicts, and that it sounds like the perpetrator was laughing and joking. [REDACTED] said the perpetrator was laughing but he was still in fear because he did not know if it was a real gun or not. PO1 said, "If you hang out with these kinds of guys, you don't need to be calling us." [REDACTED] began to protest, and PO1 asked her if she was there. [REDACTED] asked PO1 if it would be better if she came out of the vehicle, and PO1 told [REDACTED] to go take a walk around the corner, because she was not there. [REDACTED] told PO1 she did not like her tone. [REDACTED] switched on her cell phone video recording function and held it close to her chest. PO2 seemed to notice, and she grew quiet and did not speak; PO1 continued talking onto the recording.

PO1 sarcastically asked if [REDACTED] was the park police, as he was knocking on doors in the bathroom. [REDACTED] said he did not do this. PO1 said, "You should only call the police for real emergencies." [REDACTED] then said, "We need real cops," and asked [REDACTED] for his cell phone to call 911. PO1 told [REDACTED] twice, "If you call the police, I will arrest you for making a false report." [REDACTED] took the phone and asked PO1 and PO2 their names and shield numbers. Neither responded, but PO1 said she would get it later. PO1 and PO2 never provided their names or shields.

A minute later, two other marked RMPs arrived on scene. SGT1 exited the nearest one and identified himself as the supervisor. When he arrived on scene, PO1 and PO2's demeanor changed, and PO2 actually exited her RMP. SGT 1 and [REDACTED] spoke, and SGT1 offered to drive [REDACTED] and [REDACTED] to the stationhouse; at this time, [REDACTED] stopped recording on her cell phone. On the way to the 50<sup>th</sup> Precinct stationhouse, [REDACTED] said she wanted to make a complaint against the officers, and SGT1 explained how she could do this. In the stationhouse, SGT 1 told PO2 to take [REDACTED] complaint, and introduced him as well to a detective. SGT1 also introduced [REDACTED] to a lieutenant, and explained she had a complaint about PO1 and PO2.

On the record, [REDACTED] played the first approximately ten minutes of her video of the incident.

Mediation was presented to [REDACTED] both off the record before the interview, and on the record at the end of the interview. [REDACTED] rejected mediation as she wants the officers disciplined. [REDACTED] expressed that she has had issues with these officers several years ago when she first moved to the neighborhood, and that they were so unhelpful that she is afraid to call 911 to report a crime now. [REDACTED] expressed that she lives in a high crime neighborhood and it is important to trust the police, and she has family who are police, but PO1 and PO2 bring a bad name to them and they are the kind of officers you see on the news every day not helping the people they are supposed to serve.

PO1 – Uniformed white female  
PO2 – Uniformed black female  
SGT1 – Uniformed black male "Murray" or "Morrough"  
PO3 – Uniformed black male

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## Interview Details

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On February 8, 2016, PO Laurie Smith was interviewed at the CCRB.

On January 7, 2016, PO Smith was recorder in RMP # [REDACTED] with PO Flavin as operator working sector ABCD in the confines of the 50<sup>th</sup> Precinct. At 4:52 p.m. they received a radio run for a dispute with a firearm in the park. No description came over other than a male perp, and they arrived at the location at [REDACTED] and [REDACTED] near [REDACTED]. The complainant and his mom were waiting on the sidewalk for them to arrive (identified as [REDACTED] and [REDACTED]). PO Smith pulled up and began speaking to [REDACTED]. PO Smith and PO Flavin were the first unit on scene.

PO Smith attempted to interview [REDACTED] but [REDACTED] could not give a description of the perpetrator. [REDACTED] also could not give a name for the perpetrator, but said that he sees him around the park. PO Smith was the one doing the talking to [REDACTED]. PO Smith several times said, “[REDACTED] said a couple of things” without specifying, but indicated he did not have his story straight. PO Smith attested that [REDACTED] said he knocked on a bathroom door and spooked a couple of guys inside who chased him down and aimed a gun at him. The gunman then laughed and said it was a BB gun. PO Smith interviewed [REDACTED] closely as she thought he might be making up a story, as it was after dark and [REDACTED] said it was past his curfew.

PO Smith found it difficult to interview [REDACTED] because [REDACTED] was irate and constantly interjecting into [REDACTED] story, as if she were there for the incident. PO Smith described [REDACTED] as disrespectful, verbally combative, and had a “horrible tone” with the police officers. [REDACTED] was irate from the very beginning, without any obvious trigger or catalyst; she seemed to be irate solely with the police. PO Smith asked [REDACTED] to move away so she could speak to [REDACTED] but [REDACTED] did not comply. PO Smith asked her three or four times, and [REDACTED] did not move. [REDACTED] shouted, “This is my son and I am allowed to be here,” and “Where are the real cops? Get out of the car and do a report.” PO Smith felt that [REDACTED] was being verbally combative, and “annihilating me with her words.” PO Smith did not get out of the car because she feared how combative [REDACTED] was. [REDACTED] was not verbally combative, but because she was going “back and forth” with the officers PO Smith felt it could escalate.

[REDACTED] told the officers they were “useless” and that she was going to call IAB. [REDACTED] made the phone call, and PO Smith could hear her complain to someone on the other end. PO Smith denied that PO Flavin threatened to arrest [REDACTED] if she called 911. PO Smith denied that they ever threatened her with arrest. [REDACTED] did not commit an arrestable offense at any time on scene. [REDACTED] asked both PO Smith and PO Flavin for their names and shield numbers, and both of them provided it to her. PO Flavin and PO Smith provided it by tapping on their nameplates and allowing [REDACTED] to read it. They did not provide them verbally. [REDACTED] also asked PO Smith for a pen to write the information down; PO Smith did not provide her a pen, because it is a sharp weapon and she felt that [REDACTED] would jab it into her eye or ear. Neither [REDACTED] or the officers used any profanity on scene.

Moments afterwards, Sgt. Murillo arrived on scene and [REDACTED] exclaimed, “Now here are the real cops.” PO Smith now exited the car, as she was no longer afraid of [REDACTED]. [REDACTED] calmed down, and spoke to Sgt. Murillo. Sgt. Murillo took [REDACTED] and [REDACTED] back to the 50<sup>th</sup> Precinct stationhouse and PO Flavin and PO Smith followed them. PO Flavin never exited the car. PO Smith did not interview [REDACTED] at the stationhouse, but only filled out the UF-61; he was interviewed by the detective squad.

PO Smith was not aware that any portion of the interview was filmed by [REDACTED]. PO Smith was shown the video footage taken by [REDACTED]. PO Smith identified all voices and images in the video positively. PO Smith indicated it was PO Flavin making the threat of arrest for “false report.” PO Smith did not believe that the report that [REDACTED] was giving was false, but wished she would stop interjecting. PO Smith reiterated that there is a portion of the video cut off in the beginning. PO Smith did not recall if PO Flavin ever said she would not take a report because this is what teens do. Though PO Smith never asked for a description once in the video, she indicated she asked for the description before the video began. PO Smith indicates that it was after [REDACTED] asked for names and shield numbers and while she was accusing them of refusing to provide their names and shield numbers that she and PO Flavin tapped on their nameplates. When asked why she provided her information this way as opposed to verbally (as [REDACTED] clearly did not receive it), PO Smith said that because she is taught that way in the muster room to tap on the nameplate to make a sound, and that some people just do not understand when they are in that kind of mood. PO Smith explained that combative people do not understand what she would say, so when she taps on her nameplate the noise causes the person’s eyes to “begin to zoom in on what you’re tapping on.” PO Smith advised she was not trying to be funny. PO Smith maintained that she tapped on her nameplate while speaking to [REDACTED] and that PO Flavin did so also.

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## Interview Details

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On February 12, 2016, PO Helen Flavin was interviewed at the CCRB.

On January 7, 2016, PO Flavin and PO Smith were patrolling on the [REDACTED] in the confines of the 50<sup>th</sup> Precinct when they heard a 52-firearm come over the radio at [REDACTED] and [REDACTED]. PO Flavin, who was the operator, raced to the scene and arrived at [REDACTED] and [REDACTED] where the complainant and his mother were waiting, identified as [REDACTED] and [REDACTED].

PO Flavin pulled up the car, and PO Smith spoke to [REDACTED] to attempt to get a description and story of events. [REDACTED] stated that several hours prior he had knocked on the door of a bathroom inside [REDACTED] at which point a guy he knew from around the neighborhood came out and pointed a handgun at him. [REDACTED] texted his mom about what happened several hours later, at which point [REDACTED] called 911. [REDACTED] stated that the guy told him it was a BB gun. PO Smith asked for a description, which [REDACTED] provided, along with a first name. PO Flavin could not recall if PO Smith put that description and name over the radio, but testified that she herself did not do so.

[REDACTED] was hostile from the very beginning, interjected into [REDACTED] story as if she were there, and accused the officers of not taking a report. PO Flavin iterated that interviewing [REDACTED] was “very hard” and “like pulling teeth” as [REDACTED] never left his side throughout the entire interview. PO Flavin acknowledged that [REDACTED] was upset they did not get out of the RMP, and explained that because this came over as a crime in progress job, they did not leave the RMP because frequently they would go with the complainants for a canvass. PO Flavin stated this did not get to that point because of the difficulty of interviewing [REDACTED]. Referring to the mother, PO Flavin said that, “As soon as my partner asked a question, she would interject.” PO Flavin did not believe that [REDACTED] was using profanity, though she may have cursed “once.”

After attempting to interview [REDACTED] [REDACTED] exclaimed, “Get out of the car and take a report. I need real cops,” and asked for [REDACTED] cell phone. PO Flavin believed she was going to call 911, but later documented in her memo book that she was on the phone to either IAB or CCRB based on her conversation on the phone that she overheard. PO Flavin believed that [REDACTED] was going to call 911 to say that officers were refusing to take a report, which was false. PO Flavin told [REDACTED] “If you call 911 I will arrest you for making a false report,” or words to that effect. PO Flavin denied that she believed [REDACTED] story about the gun was false, and said that the “false report” only pertained to [REDACTED] allegation that PO Flavin and PO Smith were refusing to take a report. PO Flavin said this was false, and that calling 911 for this reason was a waste of police resources. PO Flavin did not specify a penal code this would fall under.

PO Flavin believed that [REDACTED] asked them for their names and shield numbers, one or two times. In response to this query, PO Flavin pointed at her shield, and she believed that PO Smith did likewise. PO Flavin stated that [REDACTED] probably did not see her shield, as she was on the other side of the car. When asked why she did not provide her shield number verbally, PO Flavin answered because she was planning to stay on scene for a while, so there was no rush as [REDACTED] could get it later.

Shortly afterwards, Sgt. Murillo and other officers arrived on scene. [REDACTED] spoke to Sgt. Murillo and explained what was going on. Sgt. Murillo drove [REDACTED] and [REDACTED] back to the 50<sup>th</sup> Precinct stationhouse, and PO Flavin and PO Smith followed. [REDACTED] was interviewed at the detective squad at that location, and PO Smith filled out the UF-61.

At the time of the incident, PO Flavin was not aware that [REDACTED] was recording or had recorded any part of the incident on her phone. PO Flavin heard [REDACTED] ask for her son’s phone, but she believed that [REDACTED] just did not have her own phone on her. The recording was played for PO Flavin. When asked who she was saying, “Yes” to when it appears that [REDACTED] is asking if she is refusing her name and shield number, PO Flavin stated she was saying yes to another unit that pulled up alongside her. When asked what she referred to when she said, “This is what teens do,” PO Flavin said that sometimes teens joke and play, or tease each other by knocking on the door or showing BB guns, so she wanted to make sure it was actually a crime. PO Flavin reiterated that the false report she referred to was [REDACTED] “false report” of officers not taking her complaint.