



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 4, 2019

CASE NUMBER: 2019OPA-0354

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	7.150-TSK-1 Officer Submitting Property to the Evidence Unit for Safekeeping	Not Sustained (Training Referral)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	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:

The Complainant alleged that officers took his property into evidence and that certain of that property, including money, was not returned to him.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

7.150-TSK-1 Officer Submitting Property to the Evidence Unit for Safekeeping

Named Employee #1 (NE#1) responded to a report of an individual who had been shot. The individual was in a car awaiting assistance. NE#1 arrived at the scene and located the individual, who is the Complainant in this case. The Complainant received medical treatment at the scene and was transported to the hospital. NE#1 collected the Complainant’s belongings at the scene, included the Complainant’s wallet, and brought those items to the hospital. At the hospital, NE#1 was given other property belonging to the Complainant. When NE#1 was relieved at the hospital by another officer, NE#1 went to the precinct. At the precinct, NE#1 inventoried the Complainant’s property, including the wallet and its contents. NE#1 documented that the wallet contained \$85 in U.S. currency. He placed that currency in an envelope. NE#1 separately documented the wallet itself, the cards and driver’s license therein, and a metal mouth grill possessed by the Complainant. NE#1 entered these items into safekeeping, consistent with SPD Policy 7.150. Lastly, NE#1 also inventoried the clothes that the Complainant was wearing on the date of the incident and, given that there was an active criminal investigation into the shooting, NE#1 entered that clothing into evidence.

After his recovery, the Complainant alleged to a Department supervisor that some of his property was missing. He asserted that, at the time of the shooting, he had \$160 in his wallet but that he only received \$80 in return. He



alleged that an officer may have misappropriated his money. The Complainant also claimed that his clothing, as well as items that an unknown officer took from his vehicle, were not returned to him.

As part of its investigation, OPA looked for video that might reveal when and how the Complainant's property was collected and processed. NE#1's initial response to the scene was captured on Body Worn Video (BWV). The BWV showed him take custody of the Complainant's wallet and clothes at the scene prior to the Complainant being transported to the hospital. The video did not capture, however, NE#1 removing money from the Complainant's wallet and placing that money into safekeeping. In addition, and consistent with Department policy, NE#1 did not activate his BWV at the hospital. As such, there was no video documenting whether he searched the wallet there. Lastly, NE#1 did not record any sorting and inventorying of the property while at the precinct.

SPD Policy 7.150-TSK-1 governs how officers are to inventory and then submit non-detainee property into safekeeping. Relevant to this case, the policy states that officers must inventory the property with a witness officer present and also photograph the property and load those photographs into a Department database. Lastly, the policy states that officers must document the inventoried property, which includes but is not limited to completing a Safekeeping (SKO) Tag for all items and providing a copy of the tag to the owner.

NE#1 told OPA that he thought he recorded the inventorying of the wallet, but that he later determined that he did not. He asserted his belief that he was permitted to use his BWV instead of taking photographs. NE#1 confirmed that he had a witness officer sign the back of the property envelope. He did not recall who that officer was. He did not, however, put that officer's name and serial number in his report. He told OPA that he did not know that this was a requirement in policy. He further did not provide the SKO Tag for the inventoried property to the Complainant. He stated that he was unable to do so because the owner was unconscious while at the hospital and could not accept the tag. There is no indication from the record that NE#1 left a copy of the tag with hospital staff to later provide to the Complainant.

As indicated by the above, NE#1 did not comply with several aspects of SPD Policy 7.150-TSK-1. Most notably, he did not photograph the property or, in the alternative, record it with his BWV. The lack of this evidence prevented OPA from conclusively determining whether money was taken from the Complainant's wallet and not returned. Moreover, he did not provide the Complainant with a copy of the SKO Tag or leave it with hospital staff.

However, given NE#1's recognition that he failed to complete several of the steps required, the minor nature of the policy violation, and lack of evidence that this was intentional misconduct, OPA recommends that NE#1 receive the below Training Referral rather than a Sustained finding.

- **Training Referral:** NE#1 should be retrained as to the requirements of SPD Policy 7.150-TSK-1 and, specifically, the direction that he document – by either BWV or camera – evidence that he inventories. This training and any associated counselling should be documented and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**



Named Employee #2 - Allegations #1

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

As discussed above, the Complainant stated that property was taken out of his vehicle and was not returned to him. The Complainant also alleged that an unknown officer took and did not return money that was in his wallet

With regard to the Complainant's allegation concerning property that was taken from his vehicle and not returned, OPA's investigation yielded no evidence to support that this occurred.

However, if an unknown officer did misappropriate money belonging to the Complainant, this would constitute theft. Accordingly, OPA classified SPD Policy 5.001-POL-2 for investigation, which precludes officers from engaging in criminal activity.

OPA's investigation could not confirm or deny how much money the Complainant had in his wallet at the time of the initial police response. Moreover, there was no video of the search of the Complainant's wallet and how much money was recovered. For this reason, OPA cannot conclusively determine whether or not money was taken from the Complainant's wallet and not returned and, if so, whether this act was conducted by an officer and who that officer was.

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

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