



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-1488

Issued Date: 07/24/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 11.050 (1) Detainee Property: Officers Secure Detainee Property (Policy that was issued October 1, 2014)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 7.010 (1) Submitting Evidence: Employees Secure Collected Evidence (Policy that was issued February 19, 2014)
OPA Finding	Not Sustained (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 7.010 (2) Submitting Evidence: Employees Document Evidence Collection (Policy that was issued February 19, 2014)
OPA Finding	Sustained
Allegation #3	<u>Seattle Police Department Manual</u> 11.050 (1) Detainee Property: Officers Secure Detainee Property (Policy that was issued October 1, 2014)
OPA Finding	Not Sustained (Inconclusive)

Allegation #4	<u>Seattle Police Department Manual</u> 11.050 (2) Detainee Property: Officers Record Detainee Property and its Disposition on the Detainee Property Form (form 26.4) (Policy that was issued October 1, 2014)
OPA Finding	Sustained
Allegation #5	<u>Seattle Police Department Manual</u> 11.050 (3) Detainee Property: Officers Photograph Detainee Property (Policy that was issued October 1, 2014)
OPA Finding	Sustained
Allegation #6	<u>Seattle Police Department Manual</u> 15.180 (5) Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report (Policy that was issued April 1, 2015)
OPA Finding	Allegation Removed
Final Discipline	Written Reprimand

Named Employee #3	
Allegation #1	<u>Seattle Police Department Manual</u> 7.010 (1) Submitting Evidence: Employees Secure Collected Evidence (Policy that was issued February 19, 2014)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 7.010 (2) Submitting Evidence: Employees Document Evidence Collection (Policy that was issued February 19, 2014)
OPA Finding	Not Sustained (Unfounded)
Allegation #3	<u>Seattle Police Department Manual</u> 11.050 (1) Detainee Property: Officers Secure Detainee Property (Policy that was issued October 1, 2014)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #4	
Allegation #1	<u>Seattle Police Department Manual</u> 7.010 (1) Submitting Evidence: Employees Secure Collected Evidence (Policy that was issued February 19, 2014)
OPA Finding	Sustained
Allegation #2	<u>Seattle Police Department Manual</u> 7.010 (2) Submitting Evidence: Employees Document Evidence Collection (Policy that was issued February 19, 2014)
OPA Finding	Not Sustained (Unfounded)
Allegation #3	<u>Seattle Police Department Manual</u> 11.050 (1) Detainee Property: Officers Secure Detainee Property (Policy that was issued October 1, 2014)
OPA Finding	Not Sustained (Inconclusive)
Allegation #4	<u>Seattle Police Department Manual</u> 5.140 (5) Bias-Free Policing: Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	Oral Reprimand

Named Employee #5	
Allegation #1	<u>Seattle Police Department Manual</u> 7.010 (1) Submitting Evidence: Employees Secure Collected Evidence (Policy that was issued February 19, 2014)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 7.010 (2) Submitting Evidence: Employees Document Evidence Collection (Policy that was issued February 19, 2014)
OPA Finding	Not Sustained (Unfounded)
Allegation #3	<u>Seattle Police Department Manual</u> 11.050 (1) Detainee Property: Officers Secure Detainee Property (Policy that was issued October 1, 2014)
OPA Finding	Not Sustained (Inconclusive)

Allegation #4	<u>Seattle Police Department Manual</u> 5.140 (5) Bias-Free Policing: Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	N/A

Named Employee #6	
Allegation #1	<u>Seattle Police Department Manual</u> 7.010 (1) Submitting Evidence: Employees Secure Collected Evidence (Policy that was issued February 19, 2014)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 7.010 (2) Submitting Evidence: Employees Document Evidence Collection (Policy that was issued February 19, 2014)
OPA Finding	Not Sustained (Unfounded)
Allegation #3	<u>Seattle Police Department Manual</u> 11.050 (1) Detainee Property: Officers Secure Detainee Property (Policy that was issued October 1, 2014)
OPA Finding	Not Sustained (Inconclusive)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employees were involved in the arrest of the Complainant.

COMPLAINT

The Complainant alleged Named Employees #1 and #2 did not properly secure his personal property and did not return his property to him. OPA discovered during investigation of this complaint that Named Employees #3, #4, #5, and #6 may have discovered narcotics on the Complainant and/or retrieved them from the Complainant but did not properly secure into evidence the narcotics or document the property found. OPA could find no mention of potential narcotics or items found on the Complainant documented in the General Offense Report (GOR) written by the Primary Officer (Named Employee #2) in potential violation of SPD policy regarding primary investigations. In addition, the Complainant appeared to have made an

allegation of bias to the transporting Named Employees (#4 & #5) and OPA could find no record of a supervisor being called to investigate.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint
2. Search for and review of all relevant records and other evidence
3. Review of In-Car Videos (ICV)
4. Interviews of SPD employees

ANALYSIS AND CONCLUSION

The preponderance of the evidence showed that Named Employee #1 had no direct contact with the Complainant's property and was not responsible for its security.

The preponderance of the evidence from the OPA investigation showed that Named Employee #4 found a small baggie with a white powder substance inside one of the Complainant's pockets. This evidence of a potential VUCSA violation was never submitted into evidence as required by SPD Policy 7.010(1). Named Employee #2 told OPA he was aware of the found baggie and that the powdery residue inside the baggie field-tested positive for cocaine. Named Employee #2 also told OPA that he did not know quite what to do with the baggie since all of the residue inside had been used in the field test. Named Employee #2 said that he asked some of the other officers in the precinct and Named Employee #1, a supervisor, and all said that Named Employee #2 should just throw the baggie away. Named Employee #1 denied having such a conversation with Named Employee #2. Named Employee #2 told OPA he followed the advice he had been given and threw away the baggie. As the primary officer for this incident and arrest, Named Employee #2 had ultimate responsibility for making sure that the evidence collected was handled and submitted as required by policy. At the same time, the OPA Director recognized that Named Employee #2 was a very new officer at the time of this incident and relied on the advice of more senior officers.

As primary officer for this incident, Named Employee #2 was responsible to ensure that the collection of the baggie of presumed narcotics residue found in the Complainant's pocket during a search following his arrest was documented in the General Offense Report (GOR) for this incident and arrest. The discovery, handling, testing and disposal of the evidence all should have been documented in the GOR.

The evidence was unclear regarding what personal property the Complainant actually had with him at the time of his arrest. This lack of clarity was a direct result of the failure to photograph the Complainant's property and document it on a Detainee Property Form.

The evidence from the OPA investigation was clear that the Complainant's property was not recorded on a Detainee Property Form. While one of the transporting officers could have completed this form, the responsibility for getting it done rested with the primary officer for this incident, Named Employee #2.

The GOR should have documented the finding, collection and disposition of the possible narcotics evidence found in the Complainant's pocket. However, this issue was adequately addressed with Allegation #2, above (SPD Policy 7.0100(2)).

The preponderance of the evidence from the OPA investigation showed that Named Employee #3 had no personal involvement in finding, collecting or handling evidence in this incident.

The preponderance of the evidence from the OPA investigation showed that Named Employee #4 found a plastic baggie containing a white powdery substance while searching the Complainant. ICV showed Named Employee #4 collecting the property taken from the Complainant during the search and putting that property into a paper bag. Named Employee #4 told OPA he recalled telling "one of the primary officers" that he (Named Employee #4) had found possible narcotics. ICV also appeared to show Named Employee #4 take the plastic baggie as he was collecting the property. The baggie and its white powdery substance disappeared and was not logged into evidence. Named Employee #4 admitted to OPA that he found the baggie while searching the Complainant but said he did not know what happened to it. Named Employee #4 said he did not know who may have picked up the baggie from the hood of the police car where he placed it, or where it may have gone. Named Employee #4 also told OPA that the primary officer for this incident, Named Employee #2, never delegated to him (Named Employee #4) the task of testing and submitting the baggie and its contents into evidence. According to Named Employee #4, the responsibility for securing and submitting evidence rests with the primary officer unless that officer delegates the responsibility to someone else. While the OPA Director agreed with Named Employee #4's statement regarding the overall responsibility of a primary officer for securing evidence and documenting its collection, this does not relieve an officer who finds evidence and collects it from securing it until it is in the hands of the primary officer or someone delegated by the primary officer. In this regard, Named Employee #4 failed. According to his testimony during his OPA interview, Named Employee #4 did not know if he or someone else took the baggie and its contents from the hood of the car where he placed it. It was known from this investigation that the baggie likely found its way to the precinct where it may have been field-tested for narcotics. More than one of the Named Employees in this investigation recalled seeing the baggie at the precinct and a test being done that resulted in a positive result for the presence of cocaine. Absent a clear and intentional "hand-off" of this evidence from Named Employee #4 to another officer who accepted responsibility for it, Named Employee #4 retained responsibility for its security.

Although Named Employee #4 was responsible for the security of the evidence until he handed it over to another officer, the same could not be said of the responsibility to document its collection. The evidence from the OPA investigation showed that Named Employee #2, the primary officer, was aware that a baggie with white powdery residue that tested positive for

cocaine had been found during a search of the Complainant. As such, Named Employee #2 was responsible for making certain that this fact was properly documented in his GOR. He could have delegated that task to the officer who found it (Named Employee #4), but he did not.

ICV from the police car used by Named Employee #4 and Named Employee #5 to transport the Complainant from the scene to the precinct showed that both Named Employee #4 and Named Employee #5 heard and responded to a comment or comments made by the Complainant about the fact that all the officers involved in this incident were white. It was not clear, from the content and context of the brief exchange whether or not the Complainant was articulating an allegation of bias-based policing. However, given the fact that the Complainant brought up the subject of race and appeared to have been pointing out a perceived racial disparity between himself and the officers, Named Employee #4 and Named Employee #5 should have followed up on his comments by asking the Complainant what he meant and if he was expressing a complaint of bias-based policing.

The preponderance of the evidence from the OPA investigation showed that Named Employee #5 was not the primary officer for this incident, nor the officer who found the baggie containing a white powdery substance in the Complainant's pocket.

The preponderance of the evidence from the OPA investigation showed that Named Employee #6 was neither the primary officer for this incident, nor the officer who found the baggie containing a white powdery substance in the Complainant's pocket.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that Named Employee #1 was not responsible for the security of the Complainant's property. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Detainee Property: Officers Secure Detainee Property*.

Named Employee #2

Allegation #1

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Submitting Evidence: Employees Secure Collected Evidence*.

Required Training: Named Employee #2 should receive clear training and coaching from his supervisor regarding proper handling and securing of evidence as required by policy.

Allegation #2

A preponderance of the evidence showed that Named Employee #2 was responsible to ensure that the discovery, handling, testing and disposal of the evidence all should have been documented in the GOR. Therefore a **Sustained** finding was issued for *Submitting Evidence: Employees Document Evidence Collection*.

Allegation #3

The evidence was unclear regarding what personal property the Complainant actually had with him at the time of his arrest. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Detainee Property: Officers Secure Detainee Property*.

Allegation #4

The evidence was clear that the Complainant's property was not recorded on a Detainee Property Form. Therefore a **Sustained** finding was issued for *Detainee Property: Officers Record Detainee Property and its Disposition on the Detainee Property Form (form 26.4)*.

Allegation #5

The evidence was clear that the Complainant's property was not photographed as required. Therefore a **Sustained** finding was issued for *Detainee Property: Officers Photograph Detainee Property*.

Allegation #6

This Allegation was removed.

Discipline Imposed: Written Reprimand

Named Employee #3

Allegation #1

A preponderance of the evidence from the OPA investigation showed that Named Employee #3 had no personal involvement in finding, collecting or handling evidence in this incident. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Submitting Evidence: Employees Secure Collected Evidence*.

Allegation #2

A preponderance of the evidence from the OPA investigation showed that Named Employee #3 had no personal involvement in finding, collecting or handling evidence in this incident. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Submitting Evidence: Employees Document Evidence Collection*.

Allegation #3

A preponderance of the evidence from the OPA investigation showed that Named Employee #3 had no personal involvement in finding, collecting or handling evidence in this incident. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Detainee Property: Officers Secure Detainee Property*.

Named Employee #4

Allegation #1

A preponderance of the evidence showed that absent a clear and intentional “hand-off” of the evidence from Named Employee #4 to another officer who accepted responsibility for it, Named Employee #4 retained responsibility for its security. Therefore a **Sustained** finding was issued for *Submitting Evidence: Employees Secure Collected Evidence*.

Allegation #2

A preponderance of the evidence showed that although Named Employee #4 was responsible for the security of the evidence until he handed it over to another officer, the same could not be said of the responsibility to document its collection. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Submitting Evidence: Employees Document Evidence Collection*.

Allegation #3

The evidence was unclear regarding what personal property the Complainant actually had with him at the time of his arrest. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Detainee Property: Officers Secure Detainee Property*.

Allegation #4

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Bias-Free Policing: Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing*.

Required Training: Named Employee #4 should receive training and counseling from his supervisor regarding the importance SPD places on bias-free policing and his responsibility to listen carefully for expressions of concern about bias and to follow up on statements or questions from members of the public that may signal a possible complaint of bias.

Discipline Imposed: Oral Reprimand

Named Employee #5

Allegation #1

A preponderance of the evidence showed that Named Employee #5 was not the primary officer for this incident, nor the officer who found the evidence. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Submitting Evidence: Employees Secure Collected Evidence*.

Allegation #2

A preponderance of the evidence showed that Named Employee #5 was not the primary officer for this incident, nor the officer who found the evidence. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Submitting Evidence: Employees Document Evidence Collection*.

Allegation #3

The evidence was unclear regarding what personal property the Complainant actually had with him at the time of his arrest. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Detainee Property: Officers Secure Detainee Property.*

Allegation #4

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Bias-Free Policing: Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing.*

Required Training: Named Employee #5 should receive training and counseling from his supervisor regarding the importance SPD places on bias-free policing and his responsibility to listen carefully for expressions of concern about bias and to follow up on statements or questions from members of the public that may signal a possible complaint of bias.

Named Employee #6

Allegation #1

A preponderance of the evidence showed that Named Employee #6 was not the primary officer for this incident, nor the officer who found the evidence. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Submitting Evidence: Employees Secure Collected Evidence.*

Allegation #2

A preponderance of the evidence showed that Named Employee #6 was not the primary officer for this incident, nor the officer who found the evidence. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Submitting Evidence: Employees Document Evidence Collection.*

Allegation #3

The evidence was unclear regarding what personal property the Complainant actually had with him at the time of his arrest. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Detainee Property: Officers Secure Detainee Property.*

NOTE: The Seattle Police Department Manual policies cited for the allegation(s) made for this OPA Investigation are policies that were in effect during the time of the incident. The issued date of the policy is listed.