



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 8, 2018

CASE NUMBER: 2017OPA-0253

Allegations of Misconduct & Director’s Findings

Named Employee #1

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)
# 2	7.010 - Submitting Evidence 1. Employees Secure Collected Evidence	Not Sustained (Inconclusive)
# 3	7.010 - Submitting Evidence 2. Employees Document Evidence Collection	Not Sustained (Inconclusive)
# 4	7.020 - Found Property 1. Employees Investigate Found Property	Not Sustained (Inconclusive)
# 5	7.020 - Found Property 3. Department Employees Cannot Claim Found Property	Not Sustained (Inconclusive)
# 6	7.020-TSK-2 Completing a Found Property Investigation with a Known Owner	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 the Named Employee may have violated law and several policies by being in possession of property that was previously stolen and may have mishandled evidence in regards to a bag of items found on top of his locker in the South Precinct.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

In 1990, Named Employee #1 (NE#1) completed a stolen property report for a handgun that was taken during a residential burglary. Approximately 17 years later, this stolen handgun was located in a blue athletic bag that was above NE#1’s locker. Another officer, who occupied the locker next to NE#1, looked through the bag and noticed that it was full of firearms and other objects, including a black and red wrist brace used for bowling and a knife with the initials “C.H.M.” on the handle. This officer specifically noticed one particular handgun, which was an older Walther PPK that appeared to be in good condition. The officer ran the firearm on his MDT and determined that it had been stolen in 1990 and never reported recovered. At that point, the officer also documented the serial numbers of all of the other firearms in the bag and reported this issue to a supervisor.



The Walther PPK was identified as the firearm that was reported stolen in 1990 and for which NE#1 completed the stolen property report. The other firearms did not come back as stolen and could not be traced to NE#1. The supervisor referred the issue of an officer being potentially in possession of stolen property to OPA and noted that the bag had been located above NE#1's locker.

OPA interviewed NE#1 on three occasions. On the first occasion, NE#1's preferred Guild representative was not available and he asked for the interview to be rescheduled. During his second interview, NE#1 responded to OPA's inquiries concerning this matter. At his OPA interview, NE#1 explained that he had been assigned to the South Precinct for approximately 30 years. He further stated that his locker was #17. NE#1 stated that other officers would use the area above lockers as storage areas, but that the bag that was located above his locker did not belong to him. NE#1 explained that he had been a bowler but that he had not been bowling for approximately eight years. He stated that, when he did bowl, he used a wrist brace that he believed was black. He stated, however, that he never stored his bowling bag, which was blue, at the precinct. NE#1 was shown a picture of the bowling wrist brace, which he claimed was not his.

During his OPA interview, NE#1 explained the process for handling collected evidence. He told OPA that he had never failed to follow that procedure during his career and had never collected a gun that he failed to enter into evidence as required. NE#1 acknowledged to OPA that had someone been in possession of this stolen handgun, that person would have consequently been in violation of the law. However, NE#1 denied that he had possessed the handgun and denied any knowledge of how it came to be found in a bag directly above his locker. NE#1 stated that he did not recall recovering this stolen handgun and that it was not possible that he recovered the handgun, failed to enter it into evidence, and intentionally retained it. He further denied that any of the other handguns in the bag belonged to him. Notably, none of the other handguns could be traced to NE#1.

NE#1 explained that he buys guns frequently from private parties and that he does not register them. He stated that he is not required by law or policy to do so. He recalled that, at one point, he saw an ad in the South Precinct concerning someone selling a Walther PPK. He stated that, in response to the ad, he bought the handgun. He did not know the identity of the individual he bought the firearm from, but it was not a police officer. NE#1 assumed that the person was a friend of an officer given that the ad was posted in the precinct. He recalled that this occurred between four and five years ago. NE#1 later showed that handgun to OPA. That handgun looked very similar, if not identical, to the stolen handgun recovered from the bag above NE#1's locker.

At his third OPA interview, NE#1 was asked about the knife that was also found in the bag, which bore the initials "C.H.M." At that time, NE#1 admitted that this knife belonged to him. He had no convincing explanation of how his knife found its way into the same bag that the stolen firearm and the wrist brace were located in and that he denied was his.

If NE#1 is telling the truth, which I cannot prove or disprove that he is not, this case represents some of the most fantastical coincidences that I have seen during my time at OPA. Among these coincidences are that a blue athletic bag, which matches the color of a bowling bag once used by NE#1, was found above his locker, where he had been situated for a number of years. Inside the bag was a wrist brace that matched the color of his wrist brace, a knife that was admittedly his, and a handgun that he completed a stolen property report for 17 years ago. NE#1's account, if true, is that it just so happened that these items all found their way into the bag on top of his locker that had not moved for at least seven years. Moreover, the bag contained a number of other handguns that could not be



traced and NE#1 admittedly regularly purchased handguns from private parties that he did not (and was not required to) register.

Normally, in any given situation, the simplest explanation is usually the right one. From my perspective, that explanation is that NE#1 recovered the firearm sometime after completing the report, did not enter it into evidence, and kept it in his personal possession, either intentionally or unintentionally. That being said, given NE#1's denials, and as implausible as those denials may seem to me, I cannot prove or disprove that this is the case. As such, I cannot prove or disprove that NE#1 violated the law in this instance – namely by possessing stolen property – or the myriad other policies that he is alleged to have violated in this case. Accordingly, and while I have significant reservations in doing so, I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #1 - Allegation #2

7.010 - Submitting Evidence 1. Employees Secure Collected Evidence

SPD Policy 7.010-POL-1 requires that SPD employees secure collected evidence. It further states that employees “will place evidence into the Evidence Unit or an authorized evidence storage area before they end their shift.” Lastly the policy instructs that employees “will not keep collected evidence for personal use.”

For the same reasons as articulated above (see Named Employee #1, Allegation #1) and while I have great concerns about this case and the implausibility of the explanations provided by NE#1, I cannot prove or disprove that NE#1 collected this evidence and/or retained it for personal use. As such, I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #1 - Allegation #3

7.010 - Submitting Evidence 2. Employees Document Evidence Collection

SPD Policy 7.010-POL-2 requires that employees document evidence collection.

For the same reasons as stated above, I cannot prove or disprove that NE#1 collected this stolen handgun and failed to document that evidence collection. As such, I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #1 - Allegation #4

7.020 - Found Property 1. Employees Investigate Found Property

SPD Policy 7.020-POL-1 requires that SPD employees investigate found property. It further sets forth when the individual who finds the property – which explicitly does not include officers – can retain that property.



As I cannot prove or disprove that NE#1 found and retained the stolen handgun, I am unable to make a conclusive determination concerning this allegation. As such, I recommend that it be Not Sustained – Inconclusive.

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

Named Employee #1 - Allegation #5

7.020 - Found Property 3. Department Employees Cannot Claim Found Property

SPD Policy 7.020-POL-3 states that Department employees cannot claim found property.

Again, as discussed more fully above, I cannot prove or disprove that NE#1 found and retained the stolen handgun. As such, I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #1 - Allegation #6

7.020-TSK-2 Completing a Found Property Investigation with a Known Owner

SPD Policy 7.020-TSK-2 sets forth the requirements for completing a found property investigation with a known owner.

Here, NE#1 claims that he did not ever recover or possess this stolen firearm. As such, if his account is believed to be true, he would not have been required to complete a found property investigation, which he admittedly did not do. Again, as I cannot prove or disprove that NE#1 found and possessed this stolen handgun, I recommend that this allegation be Not Sustained – Inconclusive.

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