



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 26, 2019

CASE NUMBER: 2018OPA-0718

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	7.010 - Submitting Evidence 1. Employees Secure Collected Evidence	Not Sustained (Training Referral)
# 2	5.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication	Not Sustained (Unfounded)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	7.010 - Submitting Evidence 1. Employees Secure Collected Evidence	Not Sustained (Training Referral)
# 2	7.010 - Submitting Evidence 2. Employees Document Evidence Collection	Not Sustained (Training Referral)

Named Employee #3

Allegation(s):		Director’s Findings
# 1	1.020 - Chain of Command 7. Command Employees Take Responsibility for Every Aspect of Their Command	Not Sustained (Training Referral)
# 2	7.010 - Submitting Evidence 2. Employees Document Evidence Collection	Not Sustained (Training Referral)

Named Employee #4

Allegation(s):		Director’s Findings
# 1	16.110 - Crisis Intervention Officers Shall Document All Contacts With Subjects Who are in Any Type of Behavioral Crisis	Allegation Removed
# 2	7.150-TSK-1 Officer Submitting Property to the Evidence Unit for Safekeeping	Not Sustained (Training Referral)
# 3	7.150 - Non-Detainee Property for Safekeeping 2. Officers Use the SKO Tag (form 12.8) When Submitting Property for Safekeeping	Not Sustained (Training Referral)

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 on two separate occasions in July of 2018, two of the Named Employees took possession of knives that were owned by the Complainant, and then failed to place them into SPD evidence for safekeeping. As such, the Complainant was unable to later retrieve his property from SPD later. It was further alleged that one or more of the Named Employees failed to: properly supervise the incident; complete required crisis-related reports; and/or accurately document the collection of evidence.

SUMMARY OF INVESTIGATION:

July 7, 2018 Incident

(Named Employee #4)

Named Employee #4 (NE#4) responded to a service call on July 7, 2018 of an individual in an apparent crisis situation. During this call, SPD records reflect that NE#4 interacted with the Complainant and entered a knife belonging to the Complainant into evidence for safekeeping. NE#4 was equipped with Body Worn Video (BWV) and recorded the incident. On the BWV, the Complainant is heard asking NE#4 and another officer to take possession of his knife and to place it into evidence for safekeeping.

OPA located a found property report that NE#4 completed when he submitted the Complainant's knife to the Evidence Unit for safekeeping. OPA found no evidence that the knife was photographed or labeled as it should have been when an item is submitted to the Evidence Unit for safekeeping. Additionally, in OPA's review of the documentation associated with this incident, there was no evidence that NE#4 completed a Crisis Template, which is required by SPD policy when responding to crisis-related service calls.

During NE#4's interview with OPA, he acknowledged that he did not complete the proper documentation or photograph the Complainant's knife when he submitted it into evidence for safekeeping. He stated that his reason for not doing so was that he simply forgot. In terms of completing the Crisis Template, NE#4 provided OPA with evidence that he had, in fact, completed and submitted that report on the date of the incident.

July 18, 2018 Incident

(Named Employees #1, #2, and #3)

On July 18, 2018, officers responded to a reported stabbing that allegedly took place at an Army and Navy Surplus store. After investigating, officers determined from witness accounts that no one was stabbed and that the incident involved an individual in crisis whose knife wounds were self-inflicted. Witnesses reported to officers that the Complainant began cutting himself inside the store with a knife, removed his shirt, and left those items on the floor inside the store before exiting. Store employees told responding officers that one of them collected the knife and shirt from the floor and threw them away in one of the store's garbage cans.

Other officers located the Complainant nearby and detained him as part of their investigation. Ultimately, it was determined that the Complainant needed mental health treatment and he was involuntarily committed for evaluation. However, prior to that decision and the completion of the preliminary investigation, one of the officers



who responded to the location of the store, Named Employee #2 (NE#2), retrieved the knife and shirt from the garbage can and transported those items to the scene of the Complainant's detention.

OPA reviewed the police reports associated with this incident and found that Named Employee #1 (NE#1) was the primary officer and the individual who completed the reports. In NE#1's general offense report, she wrote: "The small pocket knife had been left in the store and was discarded." OPA found nothing in NE#1's reports describing the fact that one of the responding officers retrieved the knife and shirt from the store or what happened to those items after it was determined that there was no associated crime committed in connection with this incident.

All of the responding officers were equipped with BWV. In OPA's review of the BWV, NE#2 is seen and/or heard: retrieving the knife and shirt from the store's garbage can; stating over the police radio that he recovered the knife; placing the knife and shirt in paper bags in the back of his patrol vehicle; and then traveling to the scene where the Complainant was detained. NE#2 is also heard on BWV telling NE#1 about the fact that he had the knife in the back of his vehicle. Named Employee #3 (NE#3) was the Sergeant who arrived on scene to screen the incident. NE#3 is never heard on BWV asking about or receiving information about the existence of the knife.

OPA interviewed all three of the Named Employees associated with this incident. During her interview, NE#1 confirmed that she was the primary officer and that she completed the case reports. NE#1 stated that she did not recall hearing NE#2's radio update that he recovered the knife and shirt from the store. NE#1 acknowledged that NE#2 spoke to her at the scene later, but stated that she was under the impression from what he told her that NE#2 had left the knife and shirt in the garbage can at the store.

NE#2 told OPA that he retrieved the knife and shirt from the store's garbage can because he thought they might be evidence of the reported stabbing incident. NE#2 stated that he learned later that no crime had been committed. As such, NE#2 explained that he discarded the knife and shirt because they were not evidence of a crime. NE#2 stated that, by discarding these items, he was placing them back into the status they were in when he initially retrieved them. NE#2 did not discuss his decision to discard those items with anyone else before doing so.

NE#3 told OPA that, before she arrived on scene, she heard a call over the radio that a knife had been recovered. After NE#3 arrived on scene, she stated that she learned that the matter was not associated with a crime and that her officers were taking steps to address the Complainant's mental health issues. NE#3 stated that the issue of the knife was never raised to her by any of her officers and NE#3 said that she never asked about it. NE#3 stated that she was not aware that the knife and a shirt were collected and transported to the scene by one of the responding officers. NE#3 stated that had she known that information, she would have made sure that whether the property was disposed of or put into evidence for safekeeping was properly documented.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

7.010 - Submitting Evidence 1. Employees Secure Collected Evidence

SPD Policy 7.010-POL-1 requires that employees place evidence into the Evidence Unit or evidence storage before they end their shift.



NE#1 was the primary officer on this incident and was ultimately responsible for maintaining and storing the Complainant's property. Here, NE#1 was informed by NE#2 that he had possession of the knife, but she failed to take custody of it. NE#2 later disposed of the knife and it was ultimately not returned to the Complainant. While NE#1 did not recall hearing NE#2's statement concerning the knife, it was clearly captured on BWV.

NE#1's General Offense Report was incomplete in that it failed to capture the fact that a knife and shirt were recovered during this incident and brought to the scene of the Complainant's detention. Though it was later determined that there was no underlying crime associated with this incident, accurately documenting what took place was required.

The above being said, OPA does not believe that NE#1's actions constitute a violation of policy. Instead, OPA believes that this is a training issue and recommends that NE#1 receive the following Training Referral.

- **Training Referral:** NE#1 should receive additional training concerning SPD Policies 7.010-POL-1 and 15.180 – POL 5, specifically as it pertains to ensuring that all reports must be complete, thorough and accurate. NE#1's chain of command should counsel her concerning this matter and ensure that she more closely complies with these policies moving forward. This retraining and associated counseling should be documented and that documentation should be maintained in an appropriate database.

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

Named Employee #1 - Allegation #2

7.001 - Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication

SPD Policy 7.001-POL-11 requires Department employees to be truthful and complete in all communications.

While there were some issues regarding how NE#1 dealt with and documented the Complainant's property, this was the result of a mistake, not intentional and material dishonesty. There is no evidence that NE#1 was dishonest in any manner. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #1

7.010 - Submitting Evidence 1. Employees Secure Collected Evidence

NE#2 explained that he discarded the knife and shirt after it was determined that there was no underlying crime associated with this incident. Moreover, NE#2 stated that, since he originally found the items discarded in the garbage, he viewed the items as abandoned property that could properly be disposed of.

While OPA understands NE#2's logic, the knife and the shirt were, at least at the inception of the incident, evidence that was collected and that should have been maintained. At the very least, NE#2 should have ensured that the knife and the shirt were transferred into the possession of NE#1.

Ultimately, I think these are minor performance issues that can be addressed with a Training Referral.



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- **Training Referral:** NE#2 should receive additional training concerning his obligations when he collects potential evidence. He should further be reminded that he must document that evidence collection. This retraining and any associated counseling should be documented and this documentation should be maintained in an appropriate database.

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

Named Employee #2 - Allegation #2

7.010 - Submitting Evidence 2. Employees Document Evidence Collection

SPD Policy 7.010-POL-2 instructs officers regarding the process of documenting the collection of evidence. At the time he retrieved the knife and shirt, NE#2 was indisputably collecting evidence. This should have been documented. Moreover, he further should have documented his decision to later dispose of the items. Had he done so, he likely would not have been subject to this OPA investigation.

However, I believe that this is a training issue and I refer to the above Training Referral. (See Named Employee #2, Allegation #2.)

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

Named Employee #3 - Allegation #1

1.020 - Chain of Command 7. Command Employees Take Responsibility for Every Aspect of Their Command

SPD Policy 1.020-POL-6 states that supervisory employees are required to take responsibility for every aspect of their command. The policy further instructs that: "All sergeants and above are fully responsible and accountable for the acts or omissions of their subordinates." (SPD Policy 1.020-POL-6.) Lastly, the policy makes clear that: "Any failure by a subordinate may be assumed to be a failure in supervision or command." (*Id.*)

NE#3 acknowledged that she supervised this incident. NE#3 told OPA that she was the ranking officer who determined that no crime had been committed and screened the Complainant's involuntary commitment to the hospital for a mental evaluation. NE#3 also told OPA that she heard a call over the radio that a knife had been recovered as NE#3 made her way to the scene, but that she never learned anything more about the knife and never asked about it. NE#3 stated that had she learned that the knife was physically recovered and transported to the scene by NE#2, she would have ensured that the knife was properly documented as being disposed of or submitted to the Evidence Unit for safekeeping.

Based on OPA's review of the record, it appears that NE#3 could have taken further steps to affirmatively determine the location of the items and to ensure that they were properly handled and documented. This was particularly the case as she ultimately reviewed and approved the reports associated with this case. However, as with the other Named Employees, I believe that this is a minor performance issue better addressed by a Training Referral.

- **Training Referral:** NE#3 should be counseled concerning this matter and her chain of command should discuss how she could have better ensured that the items in question were properly collected, stored, and



documented by her subordinates. This counseling and any associated retraining should be documented and this documentation should be maintained in an appropriate database.

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

Named Employee #3 - Allegation #2

7.010 - Submitting Evidence 2. Employees Document Evidence Collection

I recommend that this allegation be Not Sustained and refer to the above Training Referral. (See Named Employee #3, Allegation #1.)

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

Named Employee #4 - Allegation #1

16.110 - Crisis Intervention Officers Shall Document All Contacts With Subjects Who are in Any Type of Behavioral Crisis

SPD Policy 16.110 states that officers shall document all contacts with subjects who are in any type of behavioral crisis. Officers do so in a document called a Crisis Template. During OPA's intake investigation, a Crisis Template could not be located for this case and, as such, this allegation was classified against NE#4.

During NE#4's OPA interview, he provided OPA with proof that he submitted the required Crisis Template on the same date as the incident. It appears that OPA was unable to view the Crisis Template for this incident because of a temporary glitch in SPD's electronic recordkeeping system. As such, I recommend that this allegation be removed as it would not have been alleged in the first place but for a system error.

Recommended Finding: **Allegation Removed**

Named Employee #4 - Allegation #2

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

SPD Policy 7.150-TSK-1 details officers' responsibilities when submitting property to the evidence for safekeeping. This includes photographing evidence submitted to the Evidence Unit (see SPD Policy 7.150-TSK-1) and tagging the item and providing a receipt to the property owner. (See SPD Policy 7.150-POL-2.)

These failures represent violations of policy; however, OPA believes that a Training Referral, rather than a Sustained finding, is the appropriate result for two main reasons. First, these are minor violations that are better addressed by training rather than discipline. Second, NE#4 took responsibility for his mistakes at his OPA interview.

- **Training Referral:** NE#4 should receive re-training on the processes for submitting property to the Evidence Unit for safekeeping that are set forth in SPD Policies 7.150-POL-2 and 7.150-TSK-1. Specifically, NE#4 should be reminded to photograph and tag evidence and to provide a receipt to the property owner. This re-training and any associated counseling should be documented and that documentation should be maintained in an appropriate database.



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

Named Employee #4 - Allegation #3

7.150 - Non-Detainee Property for Safekeeping 2. Officers Use the SKO Tag (form 12.8) When Submitting Property for Safekeeping

I recommend that this allegation be Not Sustained and refer to the above Training Referral. (See Named Employee #4, Allegation #2.)

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