

Issued Date: SEPTEMBER 12, 2022

From: Director Gino Betts, Jr. 
Office of Police Accountability

Case Number: 2022OPA-0103

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 7.010 - Submitting Evidence 7.010-POL 1. Employees Secure Collected Evidence

Finding: Not Sustained - Management Action

2. **Allegation #2:** 5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional

Finding: Sustained

- **Imposed Discipline:** Oral Reprimand

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections may be written in the first person.

Executive Summary:

The Complainant alleged Named Employee #1 (NE#1) removed evidence from designated storage locations without a justifiable need and acted unprofessionally by disregarding orders from a superior and the evidential integrity process.

Summary of Investigation:

On April 4, 2022, OPA received a Blue Team complaint from Evidence Unit Sergeant 1 (Sgt#1). Per Sgt#1's complaint, on March 15, 2022, Named Employee worked as an Evidence Unit Senior Evidence Warehouse. That day, Sgt#1 reviewed NE#1's supplemental report about DNA extracts processed by the Washington State Patrol Crime Lab (SPD case #2021-233586). Sgt#1 found the narrative of NE#1's report was "too brief and did not provide an item description, which would save valuable detective follow-up time..." In response, Sgt#1 relayed his concerns to an Evidence Unit Chief Evidence Warehouse (WE#1), NE#1's direct report. WE#1 shared Sgt#1's concerns about NE#1's supplemental report. WE#1 contacted NE#1 and asked her to add specifics to her report's narrative. NE#1 complied and resubmitted the report for approval within

minutes. WE#1 went to Sgt#1's office to let him know NE#1 revised her report. NE#1 entered Sgt#1's office challenging the criticism of her initial report and recommended a unit standard, so expectations are clear. NE#1 further claimed her initial narrative substantially compared to approved narratives in reports drafted by NE#1's colleagues. Sgt#1 agreed to standardize item descriptions and supplemental report language, ordering WE#1 to draft it.

WE#1 directed NE#1 back to her workstation, the lobby's front counter, to intake evidence. Roughly 45 minutes later, WE#1 found NE#1 in "K06" aisle of the Evidence Unit with a stack of DNA evidence envelopes in hand. WE#1 asked NE#1 what she was doing. NE#1 replied she pulled the items "to show how it's always been done." NE#1 also stated she intended to copy the evidence. WE#1 inspected the items NE#1 pulled. He found several DNA envelopes connected to open investigations. He determined NE#1 retrieved those items from their proper storage "without an authorized, legitimate business need (intake, placing in storage, check-out, release, audit, inventory, consolidation, or disposal) ..." WE#1 instructed NE#1 to return the items to storage and herself to her post to process evidence intakes. Thereafter, NE#1 emailed her union representative, WE#1, and Sgt#1, citing four approved 2020 cases with narratives substantially similar to the narrative in her initial report. NE#1 again requested Sgt#1 issue a unit standard clarifying report expectations, despite Sgt#1's prior acceptance of the recommendation. In response, OPA investigated the matter, including separate interviews of NE#1 and WE#1, emails from NE#1 and Sgt#1, and supplemental reports referenced in NE#1's email.

On August 10, 2022, OPA interviewed WE#1, who corroborated Sgt#1's complaint. Specifically, WE#1 noted NE#1 grew agitated, defensive, and belligerent when asked to correct her report. He further recounted twice ordering NE#1 to return to her assigned task, once in Sgt#1's office and again when he found her in a warehouse aisle handling stored evidence. Concerned about potential chain-of-custody issues, and overall evidence integrity, WE#1 reported the incident to Sgt#1.

On August 15, 2022, OPA interviewed NE#1. She believed Sgt#1's complaint was retaliatory, based on prior complaints NE#1 filed against Sgt#1 with OPA and the Seattle Department of Human Resources. NE#1 further defended leaving her post to gather comparable reports, citing inadequate and inconsistent training and her union representative's advice to evidence disparate treatment.

Analysis and Conclusions:

Named Employee #1 - Allegation #1

7.010 - Submitting Evidence 7.010-POL 1. Employees Secure Collected Evidence

SPD Policy 7.010-POL-1 requires employees to secure collected evidence. It further requires employees to place evidence in the Evidence Unit or an authorized evidence storage area before shift's end. Last, employees may not "keep collected evidence for personal use."

Here, there is no provision of 7.010 explicitly addressing NE#1's actions. There is no indication NE#1 failed to return the items she took to their authorized storage area by the end of her shift.

Rather, according to NE#1, she had those items for about “two minutes” before returning them to their assigned storage area. Given that short period, there is insufficient evidence NE#1 kept the items in question for personal use (emphasis added). While OPA recognizes the potential dire consequences of violating evidence chain-of-command policies, absent clear policies, further training and counseling is the appropriate disposition.

Recommended Finding: **Not Sustained - Training Referral**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional

SPD Policy 5.001-POL-10 requires employees “strive to be professional.” The policy instructs, “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001- POL-10.) Lastly, “Failure to obey lawful orders from a superior officer constitutes insubordination.” (Id.)

Here, WE#1 and NE#1 disagree about the extent of evidence processing and handling Evidence Unit employees receive. According to WE#1, evidence warehouse workers endure a six-month one-on-one apprenticeship. He stated there are limited reasons to retrieve stored evidence, like it being requested for testing, detective review, return to the owner, or disposition. However, under no circumstance should evidence be handled without notation in the Mark 43 system. WE#1 described the implications failure to update the chain-of-custody could have on the criminal case: “We have to prove that an item is not adulterated in any way pending litigation...(the) criminal justice system is dependent on having an ironclad chain of custody...items can’t be (mishandled) or...adulterated in any way before their time in court.” WE#1 also had great concerns about NE#1 stating she copied the items in question, citing the undermining of public trust regarding the mishandling and insecurity of evidence collected for forensic purposes. Last, WE#1 found NE#1’s actions inexcusable given her experience and the standards Evidence Unit employees are trained to observe.

However, NE#1 described the process as “training by fire.” She also disagreed she had a duty to update the chain-of-custody for the items she handled, claiming chain-of-custody was only updated when items left the warehouse not when handled by various Evidence Unit employees. NE#1 further claimed there was no guidance on the subject, however, OPA notes the Seattle Police Department -Evidence Packaging/Submission Guide (Revised 1/2020), SPD Policy Manual Title 7, and Washington State Patrol’s Forensic Services Guide [referenced in SPD Policy Manual (7.010)(1)] all cover evidence handling and processing. While not following training, in itself, is not a policy violation, NE#1 did more than fail to follow training and ignore available guidance. [see SPD Policy Manual (5.001)]. Her actions ultimately deteriorated public trust in the Department’s ability to maintain a proper chain-of-custody and secure evidence.

Recommended Finding: **Sustained**