



## CLOSED CASE SUMMARY

ISSUED DATE:      JANUARY 19, 2018

CASE NUMBER:     2017OPA-0761

### Allegations of Misconduct & Director’s Findings

**Named Employee #1**

Allegation(s):		Director’s Findings
# 1	11.050-Detainee Property 2. Officers Record Detainee Property and its Disposition on the Detainee Property Form (form 26.4)	Sustained
# 2	11.050-Detainee Property 11.050-PRO-1 Securing and Transporting Detainee Property	Sustained
# 3	15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a General Offense Report	Not Sustained (Unfounded)

**Imposed Discipline**

Written Reprimand

**Named Employee #2**

Allegation(s):		Director’s Findings
# 1	11.050-Detainee Property 2. Officers Record Detainee Property and its Disposition on the Detainee Property Form (form 26.4)	Sustained
# 2	11.050-Detainee Property 11.050-PRO-1 Securing and Transporting Detainee Property	Sustained
# 3	15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a General Offense Report	Not Sustained (Unfounded)

**Imposed Discipline**

Written Reprimand

**Named Employee #3**

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	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 his cell phone was not returned to him when he was released from the King County Jail. OPA was able to identify the Named Employees as being responsible for the inventorying of the Complainant’s property. OPA further determined that the Named Employees failed to complete a Detainee Property Form. Lastly, the Complainant further alleged that he contacted an Unknown Employee regarding his missing property and never received any response.



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**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

***11.050-Detainee Property 2. Officers Record Detainee Property and its Disposition on the Detainee Property Form (form 26.4)***

SPD Policy 11.050-POL-2 instructs officers to record detainee property and its disposition on the Detainee Property Form. The policy requires a second officer to witness the property inventory and that second officer's name must be listed on the form. (SPD Policy 11.050-POL-2.) Pursuant to the policy, submitted evidence should not be documented on the form and should instead be documented in the General Offense Report. (*Id.*) The policy allows officers some discretion when describing the property. (*Id.*)

Here, after his arrest, various property was taken from the Complainant's person, including, among other items, a cellphone, identification cards and an inhaler. Other items were submitted as evidence, including a quantity of narcotics, \$415 in U.S. currency, and a pill of unknown description.

While the Named Employees, who arrested the Complainant and had custody over him, took his property into their possession, they did not complete a Detainee Property Form as required by policy. NE#1 stated that if the Complainant had personal property, which he did in this case, NE#1 would have completed a Detainee Property Form. (NE#1 OPA Interview, at p. 3.) NE#1 did not recall whether the Complainant had a cell phone, but agreed that the photograph of the Complainant's property showed a phone. (*Id.* at p. 5.)

At his OPA interview, NE#1 stated that NE#2 was responsible for the inventorying of the Complainant's property. (*Id.* at p. 3.) NE#1 believed that he would likely have witnessed the inventory of the property. (*Id.*) As discussed below, at his OPA interview, NE#2 indicated the opposite, stating that NE#1 was the primary officer and intimating that NE#1 was actually responsible for completing the Detainee Property Form. (See NE#2 OPA Interview, at pp. 8-10.) Given this discrepancy, I find that both officers were equally responsible for completing the form and are equally culpable for the failure to do so.

As such, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #1 - Allegation #2**

***11.050-Detainee Property 11.050-PRO-1 Securing and Transporting Detainee Property***

The Complainant's personal property was packaged into a brown bag that was transported with the Complainant to the King County Jail. NE#2 packed the items in the bag and stated that the Complainant's phone was also placed therein. (NE#2 OPA Interview, at pp. 7-8.) NE#2 reported that the brown bag was placed in a locker for safekeeping prior to transport. Upon his release from the jail, the Complainant was returned the brown bag with his property but, at that time, his phone was missing. During its investigation, OPA spoke with Officer Bradley, who is employed by the jail. Officer Bradley indicated that the phone was not among the Complainant's belongings when he was admitted to the jail. OPA also interviewed Officer Kang who transported the Complainant to the jail. Officer Kang



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received the brown bag containing the Complainant's property; however, Officer Kang did not open the brown bag or take anything out of the brown bag prior to handing it over to the jail. (Officer Kang OPA Interview, at pp. 4-5.)

At his OPA interview, NE#1 confirmed that as the arresting officers, he and NE#2 were responsible for ensuring that the Complainant's property was secured and that it was transported with him to the jail. (NE#1 OPA Interview, at p. 4.) NE#2 argued that it was his responsibility to keep the Complainant's property together and to communicate to the transporting officer that the Complainant had property, but that he was not responsible for whether the property arrived at the jail if he was not the person transporting the property there. (NE#2 OPA Interview, at p. 6.) SPD Policy 11.050-PRO-1 states that the "arresting/searching officer" is required to properly secure a detainee's property.

Based on a preponderance of the evidence standard, I find that NE#1 and NE#2 failed to properly safeguard the Complainant's property. While they assert that the entirety of the Complainant's property was placed into the brown bag, the phone was not in the bag when it arrived at the jail. As Officer Kang affirmed that he never opened the bag during the transport and as the bag was secured in a locker prior to the transport, the evidence indicates that the phone was errantly not included among the Complainant's items. It was NE#1's and NE#2's responsibilities to ensure that this occurred. Their collective failure to do so violated policy.

I note that NE#1 and NE#2 also violated this section of the policy when they failed to complete a Detainee Property Form, failed to review the form with the Complainant, and failed to place the yellow copy of the form with the Complainant's property.

As such, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #1 - Allegation #3**

***15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a General Offense Report***

SPD Policy 15.180-POL-5 states that "officers shall document all primary investigations on a General Offense Report." The policy further indicates that "all reports must be complete, thorough and accurate."

While NE#1 and NE#2 failed to generate a Detainee Property Form, I do not read this section of the policy to compel these officers to have included in the general offense report information concerning the Complainant's personal property. Notably, the officers did include an itemization of property taken from the Complainant that was entered into evidence. As such, I recommend that this allegation be Not Sustained – Unfounded.

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



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**Named Employee #2 - Allegation #1**

***11.050-Detainee Property 2. Officers Record Detainee Property and its Disposition on the Detainee Property Form (form 26.4)***

While NE#1 indicated that a Detainee Property Form was required to be completed in this case (NE#1 OPA Interview, at p. 3), NE#2, to the contrary, argued that SPD's policy was ambiguous as to whether the form was required. (NE#2 OPA Interview, at pp. 4-5.) NE#2 further asserted that the policy provides officers discretion as to whether to complete the form, as well as stated that he had received no training regarding when to use or fill out the form. (*Id.*)

I find NE#2's arguments to be meritless. SPD policy requires a prisoner's property to be inventoried and itemized on the Detainee Property Form. This is affirmed by the required steps officers must take in this regard that are set forth in SPD Policy 11.050-PRO-1. The policy does not provide officers discretion as to whether or not to complete the form; instead, officers have discretion in how they describe the property. Lastly, NE#2 indicated that he has completed the form on a number of other occasions, which undercuts his contention that his failure to complete the form in this case was based on his lack of training.

NE#2 further contended that NE#1 was the primary officer in this case and intimated that NE#1, not himself, was responsible for completing the Detainee Property Form. (*Id.* at pp. 8-10.) This is conveniently the exact opposite of what NE#1 said. As explained above, based on this inconsistency, I hold both of them equally responsible for this failure. For these reasons, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #2 - Allegation #2**

***11.050-Detainee Property 11.050-PRO-1 Securing and Transporting Detainee Property***

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #2 - Allegation #3**

***15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a General Offense Report***

For the same reasons as stated above (see Named Employee #1, Allegation #3), I recommend that this allegation be Not Sustained – Unfounded.

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

**Named Employee #3 - Allegation #1**

***5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times***

The Complainant alleged he called an SPD employee for assistance in recovering his missing property and that he went through proper channels, but that this unnamed employee never called him back.



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As such, the basis for this allegation is that the failure to call the Complainant back was unprofessional and violated SPD policy. First, there is insufficient evidence as to who at SPD the Complainant contacted. Second, even if an SPD employee failed to call the Complainant back, while not optimal customer service, I am unsure whether such conduct would rise to the level of a violation of policy.

That being said, I simply do not have sufficient information to determine who this unidentified employee was and the nature of this employee's communications, or lack thereof, with the Complainant. As such, I recommend that this allegation be Not Sustained – Inconclusive.

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