

Case Number: 2004C0050
Date of Violation: 02/29/2004
Date Received: 04/01/2004
Date To Station: 03/15/2005

How Received: Not Specified
Type of Complaint: IAB
Date Back from D/C: 03/15/2005

Complainant(s): Ms [REDACTED] [REDACTED] DOB: [REDACTED]

	<u>BADGE</u>	<u>VIOLATION</u>	<u>RR</u>	<u>OMS</u>	<u>DISPOSITION</u>	<u>ASSIGNMENT</u>
1	109	Improper Procedure - Other	102	OMS-106.02	Not Sustained	District 2
2	109	Law Violation - Theft	115		Not Sustained	District 2



CITY AND COUNTY OF DENVER

DEPARTMENT OF SAFETY

DENVER POLICE DEPARTMENT
ADMINISTRATION BUILDING
1331 CHEROKEE STREET
DENVER, COLORADO 80204-278
PHONE: (720) 913-2000

JOHN W. HICKENLOOPER
Mayor

February 10, 2005

Ms. [REDACTED]
[REDACTED]
Denver, CO 80207

Dear Ms. [REDACTED]

Your complaint alleging improper conduct by a Denver Police officer, Officer Michael Nuanes, has been thoroughly investigated and reviewed by members of the District Two Police Station command staff. Command officers of the Denver Police Department have reviewed the results of that investigation.

Included in the results of this investigation was a review of your statement, witness statements, several officers' statements, other associated documents, including your medical records relating to this complaint and the forensic laboratory report. There must be a preponderance of evidence that any officer violated Denver Police Department standards, rules and regulations in order to discipline that officer. This was not the case in this incident. There was not enough evidence to sustain this complaint. Therefore no formal disciplinary action will be taken in this case.

I am sorry that your encounter with members of the department was not satisfactory. I hope that any future contact you may have with any member of the Denver Police Department will be a positive experience. A copy of your complaint will be maintained in the officers' files in the event there is similar conduct in the future.

If you have any questions concerning this matter, you may contact Lieutenant R.T. "Pete" Conner, Jr. at 720-913-1047.

Sincerely,

Gerald R. Whitman
CHIEF OF POLICE

By: Commander Rhonda Jones
Commander Rhonda Jones, District Two Station

2005 MAR 15 AM 8:51
INTERNAL AFFAIRS BUREAU

**DENVER POLICE DEPARTMENT
INTER-DEPARTMENT
CORRESPONDENCE**

TO: Rhonda Jones, Commander, District Two

FROM: R.T. "Pete" Conner, Jr., Lieutenant, 89046, Detail One Commander

DATE: February 10, 2005

SUBJECT: Internal Affairs Bureau Complaint #2004C0050
Complainant: [REDACTED] [REDACTED]
Officer: Officer Michael Nuanes, 00109

Incident:

Complainant was driving a vehicle intoxicated and decided to pulled over and park. She was contacted by Officer Nuanes and several other officers. The Complainant's car was parked and locked by one of the officer and Officer Nuanes transported her to Detox.

Complaint:

Complainant stated that when she was released from Detox, she didn't have her keys. She checked with the Detox personnel who stated they didn't have her keys. The Complainant stated she had a safe deposit box containing \$3,100 in cash and jewelry under her front seat. The Complainant needed to have a key made. When she arrived at her car, she found the money and jewelry missing from the safe deposit box. The Complainant stated that the box could only be opened by a key that was on her key ring.

Investigation Summary:

Sergeant Robert Garcia received the case for follow and made a thorough investigation. Sergeant Garcia presented the case to the District Attorney's Office for review who declined prosecution due to **No Reasonable Likelihood of Conviction.**

I received the case for review. I reviewed the related documentation, written and audio statements. On 2-29-04 officers were dispatched to the area of E.26th Ave and York St on a report of two cars running. While investigating that report, officers saw an unrelated third car in the area also running. Officers contacted the driver, Complainant. She was intoxicated, but Officer Nuanes decided to take her to Detox instead of arresting her for DUI. Her vehicle was parked and locked by one of the officers. The Complainant was transported to Detox by Officer Nuanes. Officer Nuanes gave the Complainant her keys and left her in the custody of Detox.

When the Complainant was released, she received all of her property but the keys. The Complainant checked with Detox, Officer Nuanes and the Property Bureau but was not able to locate her keys. Approximately one week after she was released from Detox, the Complainant got a new set of keys

made. It was at that time, that the Complainant noticed some money, \$3100, antique earrings and other jewelry missing. The missing items were in a security box under the driver's seat of her vehicle. The box is normally kept at a Public Storage at Parker Rd and S. Dayton St. The Complainant stated that the only way to get into the box is by a key that was on her key ring. The Complainant reported the missing items to IAB approximately three weeks later.

The Complainant stated during her initial interview that it was possible that her boyfriend, [REDACTED] may have taken her property while she was in Detox because he had access to a spare key. Later when the Complainant was in court for an unrelated matter she accused [REDACTED] of taking her money and jewelry.

I reviewed the audio CD of [REDACTED] interview and he appeared surprised when Sergeant Garcia told him that the Complainant had \$3100 and antique jewelry missing. [REDACTED] has never known the Complainant to ever have that much money. [REDACTED] also stated that the Complainant had another male at the house during that time. [REDACTED] stated he has never touched the Complainant's car and that she is very careful about her keys. She is so careful that the Complainant sleeps with them. [REDACTED] also stated he has never seen the security box. The Complainant's daughter was interviewed and also stated it is unusual for the Complainant to have that much money.

The Complainant took the security box to Sergeant Garcia who had it photographed and printed. There was no damage to the box and no prints other than the Complainant's on the box. A review of the Complainant's Detox record showed her to have had a BAC of .176 at the time of admissions. Her property invoice does not list any keys or other valuables. Both the Complainant and [REDACTED] were scheduled for polygraphs and both of them failed to show.

I conducted a follow-up interview with Officer Nuanes under Advisement Pursuant to Internal Investigation which he signed that he understood. Officer Nuanes stated he was never inside of the Complainant's car. The car was parked and locked by an unknown officer who gave him the keys. Officer Nuanes gave the keys to the Complainant the key at Detox. The Complainant later stated those keys were not hers.

Conclusion:

My opinion of this case is that the Complainant did not have the amount of money that she claimed. The people closest to her, her daughter and boyfriend each stated that it would be unusual for her to have that much money in her possession. The Complainant admitted to and test proved that she was more than twice the legal limit for intoxication. Therefore it is possible that any money she may have had was spent or taken at a previous location. Also the Complainant didn't have any other valuables when she was admitted to Detox. The Complainant also accused her boyfriend in court and on the record of having stolen her money. The Complainant and [REDACTED] were scheduled for polygraph examinations but both failed to show. Lastly lab analysis failed to show that the security box was forcibly entered or anyone other than the Complainant handled the box.

It is my opinion that Officer Nuanes gave the Complainant a set of keys when they arrived at Detox. It is unknown if those keys were hers or not. There is also no indication that those keys were inventoried by the Detox staff. As of this report the whereabouts of those keys are unknown. It is common practice however to not remove personal property from an individual for a Detox

commitment. Property is usually removed by the Detox staff. This is consistent whether it is at their facility or when the Denver Cares van responds to a scene.

Findings:

Did Officer Michael Nuanes violate RR-115, Law Violations:

Officers shall obey the Charter of the City and County of Denver, all City Ordinances, and all State or Federal Statutes.

Unfounded

Did Officer Michael Nuanes violate RR-102 Violation of Any Department Rule:

Officers shall obey all departmental rules, duties, procedures, instructions, or orders, and the provisions of the Operations Manual.

As it pertains to

OMS 106.02 Personal and Found Property

Any officer coming into possession of personal and/or found property shall bring such property to the Property Bureau at the earliest possible time before the end of the officer's shift. Officers shall not use the Inter-Departmental Mail system for this purpose.

Not Sustained



R.T. "Pete" Conner, Jr., Lieutenant, 89046

2-10-05

Date

Commander's Finding and Recommendation:

I have reviewed Lieutenant R.T. Conner's summary of the complaint against Officer Michael Nuanes and CONCUR/~~DISAGREE~~ with the findings for RR-115, Law violation.

EXONERATED

UNFOUNDED

NOT SUSTAINED

SUSTAINED

Penalty:

Comparative discipline for this violation is

I recommend *No Penalty*

I have reviewed Lieutenant R.T. Conner's summary of the complaint against Officer Michael Nuanes and CONCUR/~~DISAGREE~~ with the findings for RR-102, Improper Procedure as it pertains to OMS 106.02, Personal and Found Property.

EXONERATED

UNFOUNDED

NOT SUSTAINED

SUSTAINED

Penalty:

Comparative discipline for this violation is

I recommend *No Penalty*

Cmdr. Rhonda Jones 79025
Rhonda Jones, Commander, 79025

2/27/05
Date

Subject Officer Notification:

I have been apprised of the findings and recommendations in this investigation.

M. N. [Signature] 00109
Officer

02/28/05
Date

Division Chief's Findings and Recommendations:

I have reviewed Commander Jones' findings and ~~CONCUR~~/DISAGREE.

Not Sustained as to Law Violation - DBA

I have reviewed Commander Jones' penalty recommendation and CONCUR/DISAGREE.

Comments:

Capt. Don Salp

Steven Cooper, Division Chief, 74033

3-14-05

Date