

INCIDENT REPORT SUPPLEMENTAL

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Case Number: 06- [REDACTED]

Officer: 1035 DOWLING, JOSHUA Date Entered/Changed: 06/14/2023 Reviewer: Review Date:

DETAILED STATEMENT OF INVESTIGATION: Supplement by Inv. DOWLING

Within this report, there will be references to recordings. There are excerpts of these recordings transcribed in my supplement; however, for the most accurate depiction, please reference the audio recording. I am not a professional transcriber, and the summary is subject to errors and omissions and should not be relied upon.

Investigator's assignment to the case on February 28, 2023:

Lt. [REDACTED] assigned me this case for follow-up.

Lt. [REDACTED] explained that there had been a CODIS hit notification regarding an allegation of rape; however, the evidence was unaccounted for. Lt. [REDACTED] requested that I follow-up on the case and attempt to determine what transpired with the missing evidence.

Investigator's e-mail sent to Investigator (Evidence Custodian) RE on March 1, 2023, at approximately 3:46pm:

Please reference e-mail for all content.

E-mail sent to Inv. RE that I had been assigned 06-03177 regarding the CODIS hit. I requested from Inv. RE an itemized list of evidence retained for the case, unaccounted evidence, and any other pertinent information regarding the whereabouts of the evidence relevant to this case.

Investigator's e-mail from Inv. RE on March 1, 2023, at approximately 3:48pm:

Please reference e-mail for all content.

Inv. RE sent an e-mail with a word document titled, "Evidence 06-03177 Memo".

Review of memo from Inv. RE:

Please reference the memo for the most accurate depiction of content. Furthermore, let this below summary serve as an excerpt to the memo.

The memo has a date affixed of 02-28-2023.

Per the memo, Inv. RE indicated that on February 17, 2023, it was requested that he obtain evidence for case 06-03177 for a hit confirmation (referencing CODIS).

Inv. RE advised that nothing showed within Spillman regarding evidence (present law enforcement database). Inv. RE then referenced LawTrak (law enforcement database used during the time of this reported case) and Inv. RE identified within this case evidence form submissions (see below for details).

Per the evidence forms, Inv. RE identified that the evidence was once associated with this case as followed:

- 1) Property and evidence report dated 06-13-2008 by Sgt. Vortisch and identified as a SLED item.
- 2) The second property is identified as an Atlantic Inn room receipt and used/opened "Kool" cigarettes submitted by Officer MIDDAUGH on 10-14-2006.
- 3) The third property is identified as a Sexual Assault Collection Kit, white bag containing a brown shirt, dark

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brown seater, white underwear, white bra, and black tennis shoes collected by Sgt. OTT on 10-15-2006.

4) The fourth property is identified as a SLED laboratory forensic service request submitted on 11-6-2006 by Inv. VORTISCH.

5) The last form is a SLED laboratory form dated 05-27-2008 and was picked up by Sgt. VORTISCH.

Inv. RE indicated he reviewed the "Change of Custody Inventory" conducted between 11-21-2017 and 12-06-2017 by former Evidence Custodian GARNES and Inv. RE. Inv. RE indicated in his memo that there are 4-items identified with case number 06-03177 as being present.

Inv. RE attached within a memo a portion of a form titled, "Report Generated for Beaufort Police Department" that had the following date/time: 11/22/2017 8:01:24 AM. The report indicated the following items as being present for this case (06-03177)

- 1) 06-03177 (2) PACK OF KOOL CIGARETTES
- 2) 06-03177 (4) ATLANTIC INN ROOM RECEIPT
- 3) 06-03177 (5) WHITE BAG W/MISC CLOTHING
- 4) 06-03177 (6) SLED ITEMS 1, 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.9, 1.10, 1.11, 1.12.

This, "Report Generated for Beaufort Police Department" was signed by both Inv. RE and former Evidence Custodian GARNES on November 29, 2017.

Investigator's phone call to Former Evidence Custodian GARNES on March 1, 2023, at approximately 4:12pm:

The call was audio recorded.

I called phone number: [REDACTED] (Investigator Lt. RALEY had GARNES contact phone number).

GARNES answered and I advised her it was JOSH DOWLING from the Beaufort Police Department.

I explained being assigned an older case, dating back to 2006, and I asked if GARNES was available to talk and she advised she was.

I explained that Inv. RE was having difficulty locating evidence. I explained it was a LawTrak era case involving a 2006 rape case. I explained that we had received a CODIS hit regarding DNA, and that Inv. RE had communicated such was no longer in evidence.

I informed GARNES that Inv. RE had communicated that when he did an audit with her that it had been reflected the item was in evidence. I explained thereafter when Inv. RE took custody, he was unable to locate it.

I asked GARNES if I provided her with the case number if she had any documents or anything. GARNES explained that she did not take anything when she left such as relevant Beaufort Police paperwork.

GARNES advised that every item she disposed of in Spillman would have a note regarding who gave her permission to destroy such.

GARNES explained older items, she would create a document and it usually went to the Master Sergeant over investigations or MJ LEMPESIS (Solicitor's Office) if charges were made. GARNES questioned if charges were brought on this case, and I advised GARNES no. I explained it was an unsolved rape and was lingering in LawTrak and that the CODIS hit came back recently.

GARNES advised that she would send out an Excel document with a case number and synopsis, and you could go through to sign off to hold, destroy, and process.

I explained to GARNES that this was a 2006 case and that HOPE ABLE was the Officer and DAVID OTT who has since retired, was the follow-up investigator. GARNES explained if it was not an officer still there, she would have sent it to the Master Sergeant. GARNES cited that she had sent a bunch to both ERDEL and [REDACTED]. GARNES added that she would have scanned all of them in and she had a folder of all those documents of who would have signed off on what items regarding "what should happen to them". I questioned if the disposition would be scanned in at a digital location. GARNES advised replied with, "yea" and that it was placed on the Eboard. GARNES directed me to an evidence drive where I located a folder identified as Evidence Destruction. GARNES informed me that she had it organized by officer pertaining to who she went to. When I was on the phone with GARNES, I identified observing Evidence Reviews folder and she thought that sounded "good". I explained that I observed folders

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and with officers' names and PDF's. I then stated, "somewhere within the evidence reviews, that evidence destruction would be reviewed by someone?" GARNES replied with, "yes". GARNES advised me based upon what I had communicated it would most likely have been ERDEL or [REDACTED] (regarding evidence review). I then asked if I would have to open each case file to find that specific case number and GARNES replied with, "yea probably".

GARNES advised that at some point in time someone gave her permission to destroy it.

I thanked GARNES for her time and she advised me to let her know if I needed anything further.

Review of all items titled, "Evidence Reviews" on March 1, 2023:

I reviewed every file therein and did not immediately observe any officer/investigator receive an evidence review form that asked them what can be done with evidence regarding case, 06-[REDACTED]. I am not finding any documents to support that an officer/investigator authorized said destruction.

I would also meet and discuss this folder with Inv. RE who said he had previously reviewed this folder and could not find the evidence item in question.

Investigator's phone call to GARNES on March 1, 2023, at approximately 4:42pm:

The call was audio recorded.

I called phone number [REDACTED]

I re-established phone communication with GARNES.

I informed GARNES that I spoke to Inv. RE reviewed where she had directed me to. I added that I reviewed such and was not immediately locating that case number.

GARNES asked me if there was anything labeled evidence Tracker (regarding on the network drive). GARNES explained that there was an older program used before Spillman.

GARNES advised there was a bulk document that saved logs directly off their website prior to Spillman. GARNES believed it was named Tracker. GARNES explained a document being downloaded regarding previous evidence destruction to have a record of such since they did not have access to the website anymore. GARNES explained there was no access to the website due to the license no longer being in existence. I established the physical files were downloaded and GARNES thought they may be in the evidence drive.

I would read off the folder names to GARNES and was able to locate the Tracker evidence files by following this pathway: Evidence drive, Evidence Room Items, Tracker Products Info 6-27-19, and there is a PDF titled, "Tracker Products Disposed of Items". I reviewed each page of the PDF, and it ended in 2003. There was no 2006 cases listed in that file. GARNES advised there should be more to that file.

I asked GARNES if she had suggestions of anywhere else to look. GARNES advised she scanned in everything that she could. GARNES advised she took a handful of boxes to the other storage location by public works. I asked if she brought files regarding Tracker and GARNES advised, "not necessarily"; however, she had taken old file boxes over there and it was, "possible". GARNES explained it to be last resort and that she had brought old stuff over there.

I explained that Inv. RE cannot locate the evidence in the room and GARNES stated that she was audited by SLED and if it was not on that audit, it was disposed of. GARNES advised it was just a matter of finding the documentation of who approved it.

August 2018 100% audit as provided by Inv. RE on March 2, 2023, at approximately 2:05pm:

Inv. RE scanned a file totaling 102-pages.

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Inv. RE would explain that when he took custody of the evidence room, there was an audit done and within the audit paperwork, presumably around the time of August 2018. This conclusion is based upon a marked writing of, "August 2018 100% audit" on the paper and on the bottom right of the first page a date of, "08/16/18" affixed.

Inv. RE advised that he had no custody of the evidence room on that date and GARNES would have been the evidence custodian. Inv. RE advised reviewing the document and not finding any evidence listed pertaining to case 06-03177 on this audit. On page 97 of the PDF file, there is no signature under inventory supervisor nor a date. However, Inv. RE reviewed the document and various writings throughout are consistent to what he knows to be GARNES handwriting.

Per Investigator RE memo, he did a full audit of the evidence room with GARNES between the dates of 11-21-2017 and 12-06-2017. In that full audit, evidence of 06-03177 was being stored in the evidence room. Therefore, based upon the audit trail, the evidence for case 06-03177 left the evidence room between the dates of December 7, 2017, until an audit done by GARNES sometime in August of 2018 (Investigator note: when relying solely upon what is written for the date).

E-mail sent to [REDACTED] on March 3, 2023, at approximately 10:13am:

Within TLO I located an e-mail associated with [REDACTED] identified as: [REDACTED] I e-mailed (see attachment) an e-mail requesting [REDACTED] to call me regarding a case she had filed with our agency in 2006.

Investigator's phone conversation with [REDACTED] on March 3, 2023, at approximately 10:16am:

I was unable to get a hold of [REDACTED] via phone number [REDACTED] or [REDACTED] that were listed within TLO. However, TLO had an [REDACTED] as a possible relative.

The call was audio recorded.

I called phone number [REDACTED] [REDACTED] was listed in Spillman as a possible relative as [REDACTED]

I introduced myself as JOSH DOWLING and that I was with the Beaufort Police Department.

I explained I was attempting to get a hold of [REDACTED] who may possibly be her relative. [REDACTED] identified that as her sister.

I explained that [REDACTED] is not in trouble, and I just needed to talk to her regarding a matter. I provided my office number of [REDACTED]

Voicemail received from [REDACTED] on March 3, 2023, at approximately 12:04pm:

The voicemail was audio recorded.

[REDACTED] advised she was contacting me back and could be reached at [REDACTED]

Investigator's voicemail left with [REDACTED] on March 3, 2023, at approximately 12:16pm:

The voicemail was audio recorded.

I called phone number [REDACTED]

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I advised on the message that it was JOSH DOWLING from the Beaufort Police Department and that I was back at my desk: [REDACTED]

Investigator's voicemail from [REDACTED] on March 3, 2023, at approximately 1:37pm:

The voicemail received was audio recorded.

[REDACTED] advised that I could contact her back at [REDACTED]

Investigator's phone call to [REDACTED] on March 3, 2023, at approximately 2:22pm:

The call was audio recorded.

[REDACTED] was called at phone number: [REDACTED]

I established phone communication and I advised that it was JOSH DOWLING with the Beaufort Police Department calling.

I explained that I was calling regarding the report she filed back in 2006 with the City of Beaufort Police Department regarding a rape allegation.

I explained that we recent received a CODIS DNA notification regarding the case. I explained that it was extracted from the DNA rape kit analysis that she had submitted to back then. I advised that the DNA came back to a [REDACTED]

I explained I looked at the report and that [REDACTED] had been a named suspect at the time. [REDACTED] acknowledged in agreement by humming.

I asked [REDACTED] if she is still interested in pursuing charges against the accused. [REDACTED] advised that she was at the time and stated, "yea" if it would help with whatever situation is going on she would.

I explained there was no situation that was going on presently. I explained that we had just received a CODIS notification. I explained to [REDACTED] how unknown DNA will remain in an unsolved database until a suspect is entered into the database. After explaining the database, I established [REDACTED] understood how it functions.

[REDACTED] explained if it is not a re-occurring incident, she did not care to pursue the case.

[REDACTED] advised that her conversations with the police department, it was obvious that it was not a concern at the time.

[REDACTED] I explained to [REDACTED] she was welcome to think about it this weekend and that I did not need an answer right away. I informed [REDACTED] she was welcome to pursue or not pursue the case. [REDACTED] advised that she would think about it and reach back out to me. I explained to [REDACTED] there was no rush on her decision.

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Investigator's voicemail with [REDACTED] on March 17, 2023, at approximately 4:56pm:

The voicemail was audio recorded.

I called the phone number of [REDACTED].

I advised on the voicemail that it was JOSH DOWLING from the Beaufort Police Department calling to follow up with her regarding the 2006 case. I explained I was following up to determine if it is something she wanted us to pursue or close out. I requested a callback at [REDACTED].

Investigator's e-mail sent to A/S SWANSON on March 27, 2023, at approximately 12:04pm:

I requested legal insight from A/S SWANSON if a criminal case could even be made without the physical evidence, particularly the sexual assault kit.

E-mail received from Assistant Solicitor SWANSON on March 28, 2023, at approximately 2:24pm:

A/S SWANSON advised she did not see any way to get around the missing rape kit.

Investigator's closing of the case

After an initial call and follow-up voicemail, the victim in the case has not reached back to me about any interest in pursuing a case. Therefore, this case shall be closed as EXCEPTIONAL CLEARANCE, victim uncooperative. If contact is ever initiated by the victim in the case, the case shall be re-opened.

Correspondence sent via City of Beaufort letter on June 14, 2023:

The below correspondence was sent to the address listed on [REDACTED] South Carolina Department of Motor Vehicle records. It was signed by me.

June 14, 2023

[REDACTED]

Dear [REDACTED]

I am writing this letter to follow-up regarding our phone call that we had on March 3, 2023, regarding City of Beaufort case 06-[REDACTED]. I had also left you a voicemail on March 17, 2023, regarding this case. As of June 14, 2023, I have not heard back from you if you have decided to move forward or not with the case. Therefore, in circumstances such as this, we will move forward with closing the case as, EXCEPTIONAL CLEARANCE, VICTIM UNCOOPERATIVE. What this means is that although a suspect has been identified, we will not be moving forward with the case since you have not reached back to me on your intentions to pursue this case or not. If you have any questions regarding this matter, please do not hesitate to contact me directly at [REDACTED] or via

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e-mail at jddowling@cityofbeaufort.org.

Thank you,

Joshua Dowling
Investigator