

potentially contaminate the scene. There is no specific citation for the violation in this instance, and I found conflicting witness testimony with respect to a number of items of contention. Upon considering the evidence at hand, as well as Corporal Ayers' position as a result of his pre-disciplinary conference, I approve the reclassification of this finding from Sustained to Not Sustained.

11. **Additional Finding No. 8 – Policy Violation – SOP 532.00 – Evidence and Property.** This allegation finds that Corporal Ayers improperly disposed of items⁴ seized from a vehicle operator on a traffic stop that occurred at approximately 8:30 p.m. on May 28th. Corporal Ayers explains that the vehicle operator was in possession of synthetic cannabis and a smoking pipe, and that the driver was stopped for traveling with no headlights. Corporal Ayers states that he verified that the substance and pipe in question were not illegal, and that he was concerned that the driver would smoke the substance while driving should he retain possession of it after the traffic stop was cleared. He further contends that the substance and pipe do not meet the definition of *evidence* or *property* pursuant to Punta Gorda Police Department Standard Operating Procedures. Finally, he contends that he made a decision to “...offer the driver an opportunity to destroy the substance and pipe, which he agreed.” Corporal Ayers dumped the substance out, and then had the driver attempt to break the pipe on the ground. When he did not succeed, Corporal Ayers attempted to break the pipe himself.

In this case, the items in question are clearly the personal property of the driver. They were not illegal. As a veteran supervisor, Corporal Ayers knows that if he was legitimately concerned about the product being consumed upon departure, the proper procedure would have been to take the substance and pipe into safekeeping and issue the driver a property receipt for pick-up at a later time. During Corporal Ayers' pre-disciplinary conference on August 2nd, he stated that the driver discarded the items voluntarily. Yet upon viewing the in-vehicle video recording, it is clear that Corporal Ayers intimidated the driver into yielding the property. Prior to destroying the property, Corporal Ayers clearly states to the driver on video:

“Let me ask you this question – do you want me to send this to the lab and arrest you later possibly, or do you just want to get rid of it.”

Common sense dictates what a reasonable person's response would be to this rhetorical question. The property is either that of the citizen, illegal, or detainable for an articulable reason. The items disposed of do meet the definition of *property* pursuant to Standard Operating Procedure. I concur with the finding of **Sustained**.

12. **Additional Finding No. 9 – Policy Violation - SOP 248.00 – Observer Ride-Along Program.** See item 7. Additional Finding No. 4. This allegation will be reclassified from Sustained to **Not Sustained** and **Policy Review Required**.
13. **Additional Finding No. 10 – Policy Violation/Traffic Violation.** This violation pertains to the finding that Corporal Ayers ran a stop sign located at Bal Harbor Boulevard and Aqui Esta Drive while attempting to stop a bicyclist. Corporal Ayers did slow considerably

⁴ The items were synthetic cannabis and a smoking pipe.