



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0405

Issued Date: 02/01/2018

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 6.120 (9) Impounding Vehicles: Detectives Assigned to An Impounded Vehicle Case Shall Only Retain Vehicles As Long as Necessary to Complete Investigation or Prosecution (Policy that was issued December 1, 2015)
OPA Finding	Allegation Removed
Allegation #2	<u>Seattle Police Department Manual</u> 6.120 (13) Impounding Vehicles: Vehicles Will Only be Released to Owners from the Department Contracted Tow Lot (Policy that was issued December 1, 2015)
OPA Finding	Sustained
Final Discipline	Oral Reprimand

INCIDENT SYNOPSIS

During the initial investigation for a related complaint, OPA discovered a possible policy violation.

COMPLAINT

The complainant, the Office of Police Accountability, alleged that Named Employee #1 authorized a vehicle that had been seized and taken to the Precinct Processing Room to be released directly to the driver from the Processing Room, rather than having the vehicle released from the tow lot as required by policy.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the related OPA complaint
2. Search for and review of all relevant records and other evidence
3. Interview of SPD employee

ANALYSIS AND CONCLUSION

The conduct at issue in this case – releasing a vehicle from the Precinct processing room rather than the tow lot – is mentioned in SPD Policy 6.120-POL-9. However, the OPA Director believed the conduct was better captured under SPD Policy 6.120-POL-13, which is the section of the policy evaluated in Allegation #2.

Given that the OPA Director recommended below that Allegation #2 be Sustained, he did not feel it warranted to sustain Allegation #1 based on the same conduct.

On the date in question, officers from the Anti-Crime Team observed a subject engage in a narcotics transaction. (See NE#1 OPA Interview, at pp. 2-3; see also General Offense Report, at pp. 7-8.) The subject got into a blue BMW and drove from the scene and officers then performed a stop of that vehicle. (Id.) The subject was placed under arrest and the vehicle was impounded. (Id.) Once impounded, the vehicle was brought to a processing room at the Precinct. (Id.)

While the vehicle was at the precinct, the subject was questioned by ACT officers. (NE#1 OPA Interview, at p. 3.) The subject indicated that he had information concerning other crimes and was willing to speak with a Gangs detective. (Id.) A Gangs detective was contacted and Named Employee #1 made the decision that a search warrant would not be sought for the car. (Id.) Instead the vehicle would be searched based on the subject's consent and would be released back to the subject that day. (Id.)

The officers, including Named Employee #1, waited for the Gangs detective to arrive. (Id. at pp. 3-4.) When the detective arrived, the subject executed the consent form and the car was searched. (Id.) After the search, the vehicle was released to the subject from the processing room. (Id.) The vehicle was not towed to the tow lot. (Id. at p. 4.) Named Employee #1 confirmed that he authorized the release of the vehicle. (Id.)

SPD Policy 6.120-POL-13 states that "vehicles will only be released to owners from the Department contracted tow lot." At his OPA interview, Named Employee #1 stated that prior to this incident he was not familiar with the requirements of SPD Policy 6.120-POL-13. (See id. at p. 4.) He further indicated that while he was generally familiar with the SPD Manual, he had "not memorized it completely." (Id. at p. 5.) As a sworn SPD employee, Named Employee #1 was required to review and be familiar with the requirements of the Manual. This was

particularly the case given Named Employee #1's role as a Department supervisor. During his OPA interview, Named Employee #1 indicated that it was unusual for him to have a vehicle impounded and released the same day and that this incident was the first time that had happened in his experience. (Id. at p. 4.) Particularly given his unfamiliarity with the policies covering this area, this should have prompted Named Employee #1 to look at the Manual to determine whether what he was doing was appropriate. Ultimately, the lack of awareness of a policy or the lack of familiarity concerning the elements of that policy were not a defense.

Named Employee #1's decision to release the vehicle to the subject from the processing room was further compounded by the fact that the subject was neither the registered nor legal owner of the vehicle. (See General Offense Report, at pp. 18, 20.) The subject did not share the last name of the owner and resided at a separate address in a different city. As such, there was arguably no lawful authority for the subject to consent to the search, let alone to be given custody of the vehicle and allowed to drive it away. The ownership status of the vehicle was not mentioned by Named Employee #1 in his OPA interview (see generally NE#1 OPA Interview), and there was no explanation in the General Offense Report as to why the officers deemed the subject to be the owner of the vehicle for the purpose of the consent to search and release. (See General Offense Report, at pp. 7-8, 17.) This was the case even though, based on a review of the General Offense Report, it was indisputable that the officers knew that the subject was not the owner.

Here, it appeared that Named Employee #1's decisions were made to facilitate the subject being utilized as a cooperating witness. While securing such witnesses is a legitimate law enforcement function and strategy, it does not follow that officers are permitted to act contrary to policy in order to do so.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that Named Employee #1 authorized the release of the vehicle from the processing room. Therefore a **Sustained** finding was issued for *Impounding Vehicles: Vehicles Will Only be Released to Owners from the Department Contracted Tow Lot.*

Discipline Imposed: Oral Reprimand

NOTE: The Seattle Police Department Manual policies cited for the allegation(s) made for this OPA Investigation are policies that were in effect during the time of the incident. The issued date of the policy is listed.