



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0540

Issued Date: 01/26/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 15.180 (1) Primary Investigations: Officers Shall Conduct a Thorough and Complete Search for Evidence (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employee was assigned to the investigation into the theft of the complainant's vehicle.

COMPLAINT

The complainant alleged that Named Employee #1 recovered his stolen vehicle and after the recovery removed potentially stolen property from the vehicle. After return of his vehicle, the complainant reported that he discussed with Named Employee #1 that there was still some property in the vehicle that did not belong to him. However, the Named Employee did not collect or photograph the property and allegedly authorized the complainant to dispose of it.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

On the date in question, the complainant called 911 and reported that his residence had been burglarized and his vehicle stolen. The following day, the vehicle was located parked on the street with an individual sleeping inside. The individual was arrested and the vehicle was photographed and towed. On that date, an officer completed a Tow/Impound and Inventory Record. In that document, the officer listed the following items as being found in the vehicle: “misc bottles; misc cords; backpack; notebooks; misc clothing; unattached stereo; oil; emergency kit.” The photographs of the interior of the vehicle were included with the General Offense Report. The General Offense Report requested that the Major Crimes Unit initiate an investigatory hold.

The Major Crimes Unit did, in fact, initiate an investigatory hold over the vehicle. Two days after the incident, Named Employee #1 was assigned to the investigation into the theft. Named Employee #1 searched the vehicle and inventoried items found therein. Prior to doing so, Named Employee #1 contacted the complainant via telephone and obtained consent to search the vehicle. During the search, Named Employee #1 reported finding “a bag, two large keychains with shave keys, several jackets, and a Canon...camera.” Named Employee #1 completed two property reports for the items he placed into evidence. The forms described several other items that had been located and inventoried, including among other items: a camera scope; a spark plug; art items; and clothes. Named Employee #1 stated that he did not search the trunk of the vehicle, but reported that he was able to see into the trunk from the backseat. He stated that he could not see many items when he did so.

Named Employee #1 completed his examination of the vehicle that same day and notified the complainant, again by telephone, that the vehicle was being released to a tow lot where it could be picked up by the complainant. When the complainant contacted the tow lot, he was informed that the paperwork for the release of the vehicle had not yet gone through. The complainant contacted Named Employee #1 and conducted other follow-up but was informed that the paperwork would not be processed and the vehicle not released until after Memorial Day (several days later). The complainant stated that everyone he interacted with concerning this issue, presumably including Named Employee #1, was “very polite” and “very considerate,” but he was frustrated that he was unable to obtain the timely return of his vehicle. During his interview with OPA, the complainant noted that he did not necessarily want to file a complaint against anyone, but expressed to OPA that it “would be nice if it didn’t happen again.” The OPA Director noted that there was no policy governing the timely return of an impounded vehicle. As

such, while the complainant's frustration in this regard was certainly understandable, this allegation was not classified for investigation. However, the Department should make efforts to ensure that these types of situations are avoided in the future.

The complainant recounted that during a conversation with Named Employee #1, Named Employee #1 asked the complainant whether several items located in the vehicle belonged to him. Specifically, the complainant recalled being asked about a knife, a stereo and drug paraphernalia. The complainant told Named Employee #1 that those items were not his. The complainant asked what he should do with those items and Named Employee #1 indicated that he could throw the items away. While Named Employee #1 recalled asking the complainant whether the knife, stereo and sunglasses belonged to him, Named Employee #1 stated that he did not ask the complainant about the drug paraphernalia. If this was the case, it was unclear how the complainant knew of the existence of the drug paraphernalia in the vehicle.

When the complainant was ultimately able to pick up the vehicle, he observed that not only were the knife and the stereo still in the car (it was unclear from the record whether there was any drug paraphernalia left in the vehicle), but there were additional items inside the vehicle that did not belong to him. Specifically, Named Employee #1 recounted that the following items were still in the car when it was returned to him: a Taser or a part of a Taser; a drill; Oakley sunglasses; a pipe (it was unclear whether this referred to a metal pipe or a pipe used to consume drugs); a refillable water bottle; and a lot of garbage. Ultimately, the complainant stated that there were enough items left in the vehicle to fill a garbage bag.

SPD Policy 15.180-POL-1 states that "officers shall conduct a thorough and complete search for evidence." The policy further indicates that "only evidence that is impractical to collect or submit to the Evidence Unit shall be retained by the owner." (SPD Policy 15.180-POL-1.) Lastly, the policy states that "officers shall photograph all evidence retained by the owner." (Id.)

When asked at his OPA interview, Named Employee #1 indicated that he did not collect and inventory the items left in the vehicle because he believed that they had no monetary or evidentiary value. While Named Employee #1 reported seeing the sunglasses, he asserted that he believed that they could possibly be the property of the complainant or a family member. Named Employee #1 stated that he did not see a drill or a piece of a Taser in the vehicle, and, if he had, he would have collected those items. The drill was ultimately retained by the complainant and was later provided to the Department, so it was undisputed that it was in the vehicle when it was returned to the complainant.

Named Employee #1 reported that during his search of the vehicle he took photographs. However, when he later tried to view the photographs, he could not find them and realized that he did not have a memory card in the camera at the time. Named Employee #1 made no further attempts to re-photograph the vehicle and the items therein. While it appeared that the vehicle may have already been moved to the tow lot at that point, Named Employee #1 certainly could have gone there to re-take the photographs.

Here, the policy states that only evidence that is impractical to collect or submit to the evidence unit should be retained by the owner. It was unclear how or why it would have been impractical to collect the items itemized by Named Employee #1, as well as those items that the complainant reported finding in the car. It was further unclear to the OPA Director why Named Employee #1 did not search the trunk of the car. He had already obtained the complainant's consent to search and that consent would have extended to the trunk. Had Named Employee #1 done a more thorough search, he might have located the drill and/ or the Taser piece, which were certainly items that had evidentiary value and of which the ownership could potentially have been determined. In addition, the OPA Director thought it was in error for Named Employee #1 to not attempt to re-photograph the items. Lastly, to the extent that Named Employee #1 believed that the items in the car were of no evidentiary value, Named Employee #1, himself, should have thrown them away instead of simply leaving them for the complainant to deal with. This was especially the case with the folding knife, which Named Employee #1 left in the car even though he knew it did not belong to the complainant. That being said, and while Named Employee #1 certainly could have taken further steps to collect and document the evidence in this case, the OPA Director believed that a training referral was the appropriate result. Also playing into that determination was the fact that Named Employee #1 did his best to try to help the complainant recover his vehicle, including working past his shift. The Director hoped that Named Employee #1 would be more conscientious in the future.

FINDINGS

Named Employee #1

Allegation #1

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Primary Investigations: Officers Shall Conduct a Thorough and Complete Search for Evidence*.

Training Referral: Named Employee #1 should receive additional training on the requirements of SPD Policy 15.180-POL-1. Named Employee #1 should also receive counseling from his supervisor regarding his failure to conduct a thorough search for evidence, as well as the fact that he did not properly document and collect what was recovered and returned potentially dangerous objects to a civilian. Named Employee #1 should be informed that these actions were outside of the Department's expectations of its employees.

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.