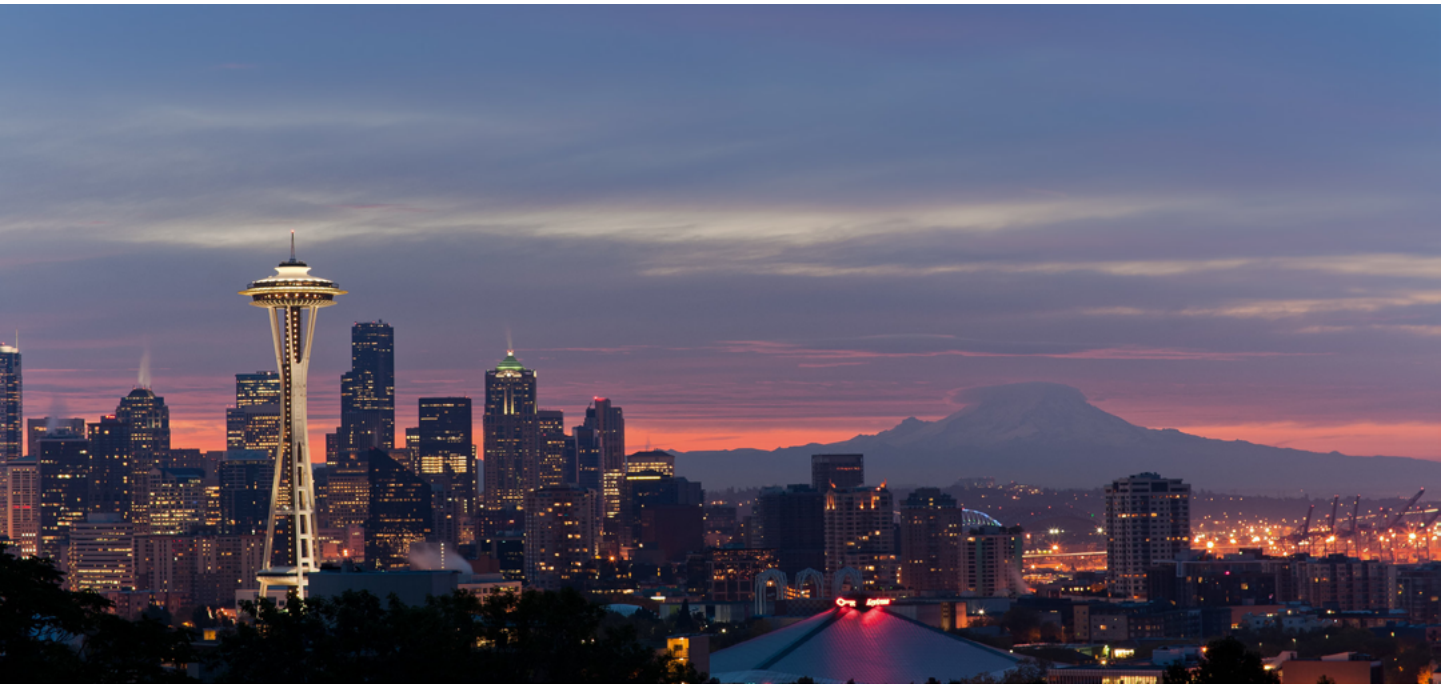




Seattle Office of Inspector General



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Audit of Destruction of Post-Conviction DNA Evidence

December 17, 2020

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SUMMARY

In 2018, the Seattle Police Department (SPD) mistakenly destroyed 107 DNA samples stored at the SPD Evidence Warehouse (Warehouse). This destruction of DNA evidence was the result of a series of events occurring over a five-year period (September 2014 – September 2019). The issue began when a conflict between state law and city municipal code resulted in post-conviction DNA samples collected under municipal code being ineligible for analysis by the State. The Washington State Patrol Crime Lab (WSP Crime Lab) also destroyed up to 33 DNA samples collected by the City of Seattle during this time, as the Crime Lab was not authorized to process them. The loss of DNA information and delay in analysis resulted in less information available in state and national databases used to identify perpetrators of crimes.

During the period of legal dispute, the City elected to store the ineligible samples in the Warehouse until either municipal or state law changed to allow testing of the samples. During this time, the Warehouse was overcrowded, resulting in failed fire inspections in 2016 and 2017. To alleviate capacity issues, the Evidence Unit created a “batch list” of items to discard from the Warehouse. This list bypassed the usual review mechanism of requiring detectives to approve of evidence disposition. However, bypassing the protocols resulted in the accidental destruction of DNA samples collected during the period described above.

Additionally, in the course of audit work, OIG observed that SPD does not have standardized practices for evidence storage at each precinct. One precinct does not provide appropriate safeguards for temporary evidence storage, creating risks relating to the security and integrity of evidence stored at that location.

AUDIT SELECTION AND OBJECTIVE

On September 19, 2019, SPD notified the Office of Inspector General (OIG) that 107 DNA samples had been mistakenly destroyed and requested OIG review the SPD policies and practices relevant to this incident.¹ At that time, SPD informed OIG that remaining samples had been turned over to the Seattle City Attorney’s Office (CAO) and indicated safeguards had been put in place to prevent further destruction. Shortly thereafter, OIG began an audit into the events, practices, and policies that led to the destruction of DNA samples. While conducting this audit, OIG identified additional systemic concerns related to the collection and storage of evidence which are included in this report.

This project was paused while OIG undertook work relating to the mass demonstrations beginning in May 2020, but work renewed in August 2020.

¹ This information was also reported on the SPD Blotter: <https://spdblotter.seattle.gov/2019/09/18/spd-asks-oig-to-review-after-misdemeanor-dna-swabs-mistakenly-destroyed/>

BACKGROUND

To understand the chain of events that led to the erroneous destruction of DNA samples, it is helpful to understand the recent history of post-conviction DNA collection, storage, and testing practices which led to the DNA samples being in SPD custody.

In 2008, the Washington State Legislature amended the Revised Code of Washington (RCW) to require DNA be collected from persons convicted of misdemeanor crimes specified in RCW 43.43.754, as well as all persons convicted of a felony offense.²

Also in 2008, the City of Seattle (City) enacted Ordinance 122789 which mandated that the City collect DNA samples for persons convicted of stalking, harassment, and patronizing a prostitute. These crimes were already listed in state law as requiring DNA collection, but the passing of the ordinance meant that the collection was now also codified in municipal law.

Exhibit 1: DNA Samples Required by RCW or SMC to be Collected Post-Conviction

Misdemeanors Requiring Collection of DNA Samples from those Convicted per RCW 43.43.754 in 2008:	Misdemeanors Requiring Collection of DNA Samples from those convicted per Ordinance 122789 in 2008:
<ul style="list-style-type: none"> • Harassment • Patronizing a prostitute • Stalking • Assault in the fourth degree with sexual motivation • Communication with a minor for immoral purposes • Custodial sexual misconduct in the second degree • Failure to register • Sexual misconduct with a minor in the second degree • Violation of a sexual assault protection order granted under RCW, chapter 7.90 	<ul style="list-style-type: none"> • Harassment • Patronizing a prostitute • Stalking
Crimes later added to RCW 43.43.754:	Crimes later added to require a DNA sample per Seattle Municipal Code with Ordinance 124684 in 2015:
<ul style="list-style-type: none"> • Assault in the fourth degree where domestic violence as defined in RCW 9.94A.030 was pleaded and proven (2017) • Indecent exposure (2019) 	<ul style="list-style-type: none"> • Assault with a special allegation • Violating a sexual assault protection order • Communicating with a minor for immoral purposes

Source: Summary of requirements in RCW and SMC.

² The State Legislature noted, "in an effort to solve cold cases and unsolved crimes, to provide closure to victims and their family members, and to support efforts to exonerate the wrongly accused or convicted, the legislature finds that procedural improvements and measured expansions to the collection and analysis of lawfully obtained DNA biological samples are both appropriate and necessary."

BACKGROUND

Samples were originally collected at the King County Jail, and more recently by the City Attorney's Office. Once the City collects a DNA sample from an individual convicted of an applicable crime, the samples are sent to the WSP Crime Lab. The Crime Lab provides forensic services for all criminal justice agencies in the State. WSP also maintains the State's Combined DNA Index System (CODIS) database. CODIS is run by the State, but feeds into the National DNA Index System. Together, these databases allow investigators to check DNA of an unknown perpetrator against known samples in the database. For example, if a crime was committed by an unidentified suspect and DNA evidence is recovered at the scene, the unknown DNA can be searched in CODIS in an attempt to find a match to DNA of someone previously convicted of a crime, potentially providing a suspect identity.

In September 2014, WSP stopped analyzing post-conviction DNA submissions from Seattle. According to a WSP official, WSP asserted they were only authorized to process DNA samples collected under RCW, which would preclude analysis of the Seattle samples that were collected pursuant to municipal ordinance.³ Based on this information, WSP ceased analyzing and entering post-conviction DNA samples collected by the City into CODIS, but continued to store samples provided by the City. Neither WSP nor the CAO was able to conclusively explain why the WSP stopped analysis in 2014 rather than 2008, when the samples began to be collected under municipal code. This issue was finally resolved in 2019.

In January 2015, City Ordinance 124684 was passed mandating that DNA samples be collected for the additional offenses of assault with a special allegation, violating a sexual assault protection order, and communicating with a minor for immoral purposes.⁴ The WSP Crime Lab continued to assert they were unable to analyze DNA evidence collected from those charged with violating SMC, so this ordinance increased the number of samples being collected without any known timeline for analysis.

In February 2015, the WSP Crime Lab confirmed that DNA samples collected pursuant to local laws should not have been entered into the CODIS DNA database because CODIS can only accept samples collected for crimes prosecuted under state law. However, due to lack of documentation, CAO and WSP could not verify whether all previous City samples were removed from the database.

On June 26, 2015, the Commander of the WSP Crime Lab informed the CAO that WSP would begin destroying samples they were unable to analyze, per department procedure. According to documentation from the CAO, WSP informed the City "unless there are recent developments surrounding the issue, the DNA submissions for SMC convictions...will also be logged and destroyed..."

The WSP Crime Lab subsequently destroyed 33 DNA and blood samples in August 2015.

In December 2015, the WSP Crime Lab stated they would stop destroying DNA samples collected via SMC and once again agreed to store the DNA samples in the hopes that RCW 43.43.754 would be amended and the Crime Lab could then be authorized to process the stored samples collected under SMC.

³ This has since been changed in RCW with Substitute House Bill 1326, made effective July 28, 2019.

⁴ The ordinance also updated Seattle Municipal Code changing the name of the crime "patronizing a prostitute" to "sexual exploitation"; a DNA sample remained a requirement of those convicted of this crime.

BACKGROUND

In April 2016, with no legislative fix yet in place, SPD agreed to take over responsibility of storing the DNA samples from the WSP Crime Lab, so all samples being held at the WSP crime lab were transferred to the Warehouse. On May 26, 2016, the CAO began turning over all new DNA samples to the Warehouse for storage instead of the WSP Crime Lab. According to SPD officials, storing the samples was unique in that SPD did not normally store post-conviction material and did not have established processes for storing such items.

Exhibit 6: Photos of DNA Envelopes Collected by CAO and Stored by SPD

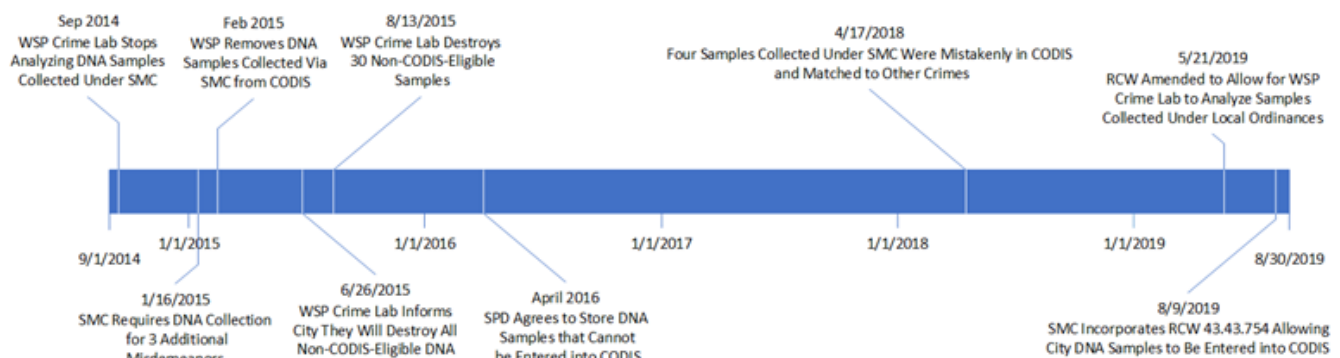


Source: Photos taken by SPD.

Roughly three years later, in July 2019, RCW was changed to allow for the analysis of DNA samples collected under local ordinance for equivalent crimes. On August 9, 2019, SMC was also amended to incorporate the necessary reference to state law.⁵ These changes allowed the previously-collected DNA, as well as prospective samples, to be submitted to the WSP Crime Lab for entry into the CODIS DNA database.

Following these legislative changes, on August 27, 2019, the SPD Liaison to the CAO sought to collect the stored DNA samples from SPD to transfer them to WSP, whereupon it was discovered that SPD had mistakenly destroyed 107 DNA samples.

Exhibit 2: Timeline of Post-Conviction DNA Samples



Source: OIG

Note: Specific dates are provided when known.

⁵ Ordinance 125881 incorporated the misdemeanors listed in RCW 43.43.754 which required the collection of a DNA sample.

DESCRIPTIVE FINDING

Descriptive Finding: DNA Samples Collected Pursuant to Seattle City Code Were Not Analyzed Between 2014 and 2019

The CAO was notified in September 2014 that the WSP Crime Lab would not process DNA samples collected under municipal code, based upon their interpretation of RCW. Resolution of the disputed interpretation of whether the law permitted WSP to analyze samples taken under local authority took a significant period of time, resulting in a five-year period wherein samples were not processed by the State.

Starting in March of 2015, the CAO was in discussions with WSP and others about what changes were needed to allow the WSP Crime Lab to once again analyze post-conviction DNA samples collected by the City. However, there was disagreement between the parties about how this could be remedied. The CAO felt the issue could only be resolved through modification of the RCW. Several attempts were made to amend RCW before it was finally successfully amended in 2019. According to notes provided by the CAO, WSP and two state representatives working on this issue felt that the City could incorporate RCW by reference in SMC and thereby resolve the issue. The CAO informed OIG that they disagreed with this interpretation and also believed that it might impact other cases or future processing of samples. According to the City Attorney, City Council was informed of ongoing attempts to resolve the testing issue and the resulting delay in processing samples.

The Washington State Attorney General's Office issued an opinion in March 2019, stating that WSP is not obligated or authorized to accept DNA samples from persons convicted of crimes other than those in RCW, unless a local jurisdiction has adopted the ordinance by reference in an ordinance authorizing collection. In July and August 2019, RCW and Seattle Municipal Code were respectively amended to allow past and future DNA samples collected by the City and stored by SPD to be submitted to the WSP Crime Lab for analysis and entry into the CODIS database.

Collected Samples were Destroyed by the WSP Crime Lab During the Five-Year Period, After Notification to the City that Samples Could Not be Processed

On June 26, 2015, eight months after WSP began setting aside DNA samples collected under SMC, and four months after DNA samples collected under SMC were removed from CODIS, the Commander of the WSP Crime Lab sent an email to the CAO stating that DNA samples collected under SMC would be treated like all other samples that are not authorized to be entered into CODIS—they would be destroyed. On August 13, 2015, 31 to 33 of those samples were destroyed.⁶

Of the 33 samples destroyed, WSP was able to provide associated crime information for 31. Of the 31, 23 were for harassment, 4 were for assault, 3 were for patronizing a prostitute, and 1 was for cyberstalking.

Exclusion of Samples from CODIS May Have Prevented Identification of Perpetrators

A total of 654 samples were collected but not processed while the CAO sought a resolution to its legal concerns. Because the samples were not promptly entered into CODIS, there may have been a delay in identifying criminal offenders potentially beyond Seattle, as CODIS connects to the national database system.

⁶ WSP was unable to confirm that two of the destroyed DNA samples were collected by Seattle due to a blank field in the data.

DESCRIPTIVE FINDING

It is impossible to determine how many cases could have been resolved if all DNA samples collected under SMC had been promptly entered into CODIS. However, OIG determined that a percentage of City DNA samples did lead to successful matches when ultimately entered into CODIS. Closure and justice for crime victims may have been impacted by the delay in processing collected samples by the State.

According to WSP officials and CAO records, four of the DNA samples collected under SMC had been mistakenly entered into CODIS and not removed. These samples were discovered when each of the four samples matched samples submitted for other, subsequent crimes. As these cases remained in CODIS due to an error in good faith, WSP notified the other agencies of the matches and the corresponding information, then removed the samples from the CODIS database.

In addition to the four cases that accidentally remained in CODIS and were found to have matched to other DNA samples, three samples matched to other entries when entered into CODIS in 2019 after the legislative issue had been resolved. The destruction of the 33 DNA samples and the 107 by SPD before they could be entered into CODIS may have hindered the identification of criminal perpetrators.

According to the CAO, there is no recourse to collect second samples if the loss of the first sample is the fault of the City or State. This is because the person convicted of the crime has fulfilled their obligation and cannot be made to resubmit DNA due to an error by another party.

No recommendation was issued as this is a descriptive finding. The events have already occurred and are unlikely to reoccur. OIG did not identify a systemic issue to be resolved, as the CAO acted within its discretionary authority.

FINDING ONE

FINDING 1: Overcrowding in the Evidence Warehouse and Resulting Measures Taken to Override Controls Affecting Evidence Disposal Led to Destruction of 107 DNA Samples

The Warehouse has had capacity issues since at least 2013

The SPD Evidence Warehouse stores physical evidence collected by SPD. According to Evidence Unit personnel, the warehouse can store roughly 250,000 items, but has experienced storage capacity issues since at least 2013. As of November 9, 2020, the Warehouse was storing 235,321 items, putting it at 94 percent capacity. As of that same date, the Warehouse had received 21,564 items and cleared or disposed of 23,376 items for the year. Vehicles stored as evidence are kept in an adjacent location under the purview of the Crime Scenes Investigation Unit and not the Evidence Unit, as are bicycles. These two units are under the command of the same lieutenant and captain. As of September 23, 2020, the Vehicle Storage Facility was at maximum capacity, with 69 cars.

FINDING ONE

Exhibit 3: Pictures of the Evidence Warehouse



Source: Pictures of the Evidence Warehouse. Left – taken approximately 1/30/2018 and Right – taken 5/18/2020.

According to Evidence Unit personnel, a number of issues contribute to overcrowding of the Warehouse, including unnecessary collection of items and holding items for too long. Personnel stated that officers are not given sufficient training on what to collect and there is no documentation outlining what items should be physically collected, rather than photographed or sampled. For example, OIG personnel were shown a shopping cart held at the Warehouse, but informed that a picture of the cart for evidence would have sufficed. Evidence staff added that once items are collected, detectives rarely have time to review older case files and determine what cases no longer require storage of the associated evidence, resulting in items being held longer than necessary at the Warehouse.

In 2013, SPD obtained a bid to expand the storage capacity of the Warehouse but did not follow through with the proposal. According to SPD officials, it was determined that “capacity issues could be more efficiently and cost effectively resolved by way of more consistent application of evidence retention and disposition schedules.” However, as will be discussed later, SPD does not have a formalized unit manual to assist with this process.

Storing Items Over Capacity Led to the SPD Evidence Warehouse Failing Fire Inspections In 2016 and 2017

For two consecutive years, first on November 21, 2016, and then again on November 26, 2017, the Seattle Fire Marshal found the condition of the Warehouse in violation of the Seattle Fire Code due to pallets of evidence blocking the aisles.⁷ SPD was given until February 5, 2018, to correct the violation.

⁷ Seattle Fire Code 3205.4. SPD personnel reported they believed they would be subjected to enforcement provisions, including fines and a possible shutdown of the Warehouse.

FINDING ONE

Evidence Unit Supervisor Attempted to Address Violations of the Fire Code by Overriding Controls to Allow for More Rapid Disposal of Evidence

Evidence Unit officials increased efforts to discard items that were no longer needed at the Evidence Warehouse to alleviate the overcrowding. A senior member of the Evidence Unit created a batch list of items to be disposed of, consisting of cases from 2013 to 2016.⁸

According to SPD policy, before property can be disposed of, it must be formally “released.” The SPD Manual requires that SPD detectives or officers must complete the *Property Release Supplement* form to release evidence from a case. The form lists each item to be disposed of and affirms it is no longer needed by the department. Consequently, the form serves as the notification to Evidence Unit personnel that the items listed can be disposed of and provides an additional control to avoid destruction or release of evidence still needed by the department.

Exhibit 4: Screenshot of SPD Record Management System

The screenshot displays the SPD Record Management System interface for Incident X46, categorized as 'PROP RECOVERED-OTHER AGENCY'. The interface is divided into three main sections: 'OTHER INVOLVED NAMES', 'PROPERTY', and 'VEHICLE(S)'. The 'PROPERTY' section lists 'Miscellaneous - SESC 6 MUNI COURT SWABS', 'Other Evidence - Jun 15, 2016 - S1'. Below this is the 'Relationships' section, which shows 'KING COUNTY JAIL 0-1' and 'SEATTLE CITY ATTORNEY 0-2' with a 'No relationships specified' message. The 'Narrative' section contains a document entry with the following details: Document No: G00017024870001, Subject: NARRATIVE, Author: [REDACTED], Date: 2016-06-15 08:31:00. The narrative text describes the receipt of an envelope from the King County Jail and the collection of DNA mouth swabs from defendants, with several lines of text redacted. The final line of the narrative states, 'I later placed the envelope into SPD Evidence.'

Source: Screenshot of the SPD Records Management System for one of the envelopes of destroyed DNA.

A senior member of the Evidence Unit emphasized to OIG that, in their opinion, detectives were not prioritizing the *Property Release Supplement* form and this was one of the major causes of overcrowding at the warehouse. They stated the Unit had previously contacted detectives to complete the form on roughly 2,000 cases and only saw about a 20 percent clearance rate as a result.

During an interview, a member of the unit stated items had not been purged in a batched list before, but the Warehouse was full and there were no written processes to respond to a critical situation. The Unit proceeded with destruction without requiring that the *Property Release Supplement* be completed by the case detective. By not requiring completion of that form, the SPD detective responsible for the DNA samples was not informed samples were slated for destruction until an unsuccessful attempt to retrieve them from the Warehouse for transport to the WSP Crime Lab.

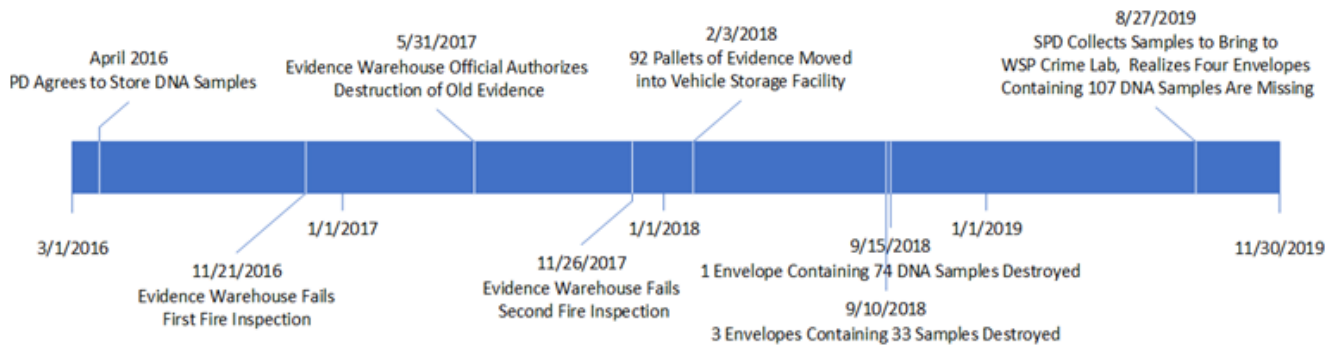
Bypassing the *Property Release Supplement* form process resulted in the Evidence Unit omitting the main control mechanism preventing accidental destruction of material still needed by the City. The Unit did not put any compensating controls into place to review items on the list prior to destruction. Evidence Unit staff were directed to destroy everything on the list based on the statutory requirements associated with each case number, but this did not account for the unique nature of items stored post-conviction.

⁸ Items on the list included evidence associated with misdemeanors that had passed the statute of limitations. Based on documentation provided by the Evidence Unit, the complete list of items was not destroyed.

FINDING ONE

It appears that evidence personnel relied on the list and did not conduct additional research to confirm whether destruction was appropriate. For example, when OIG examined the SPD database entries for the case numbers associated with the destroyed DNA files, it was clear from the description these files contained DNA samples.⁹ Had Evidence Unit staff checked the SPD database, they could have determined the samples were being held for the CAO rather than as evidence.

Exhibit 5: Timeline of DNA Samples at the Warehouse



Source: OIG

Note: Specific dates are provided when known.

In reviewing this report, Evidence Unit personnel believed the Unit had to take steps to dispose of evidence because the Warehouse was over capacity and normal processes were not sufficient to remedy the situation. OIG does not dispute the capacity issues in the Warehouse and recognizes the need for a prompt solution. However, items were improperly destroyed that may not have been if SPD was following routine procedures. When adopting a new procedure that bypasses existing controls, it is critical to establish proper safeguards to mitigate any resulting risk.

As a result of not fully verifying all items slated for destruction and overriding the requirement for case detective approval, the Evidence Unit disposed of four envelopes containing a total of 107 DNA samples, comprising 16 percent (107/654) of the total samples held by SPD for the CAO.

Three envelopes containing 33 samples were destroyed on September 10, 2018. One envelope containing 74 DNA samples was destroyed on September 15, 2018.¹⁰

Of the 107 DNA samples destroyed by SPD, 76 were from individuals convicted of harassment, 18 were convicted of sexual exploitation/patronizing a prostitute, 7 were convicted of assault, and 4 were convicted of stalking, according to information provided by the CAO.¹¹

⁹ It is also possible that at least one of the destroyed envelopes was labeled as containing DNA samples, as many of the remaining envelopes are labeled accordingly. However, Evidence Unit personnel theorized this would not necessarily have stopped the destruction.

¹⁰ It is believed that this envelope contained more samples than the others because this envelope was the first collection of samples that had been accumulated before the Warehouse began accepting DNA samples from the City Attorney's Office.

¹¹ Two additional samples were for other crimes and it is unclear why DNA samples were collected.

FINDING ONE

Other Evidence May Have Been Improperly Purged Due to Lack of Unit Criteria

In 2018, SPD's Audit Policy and Research Section (APRS) noted that homicide-related evidence from "reasonably recent" dates had been purged and that there was no department policy specifying the amount of time physical evidence should be retained.¹² Instead of its own retention policy, the department manual refers personnel to the statute of limitations in RCW. RCW 9A.04.080 states that criminal offenses for murder, homicide by abuse, vehicular homicide, rape, and certain other crimes can be prosecuted any time after their commission. As a result, most homicide evidence should remain in SPD custody until any time for appeal after a conviction for the underlying crime has passed. The City Records Manager also confirmed that while case files have retention policies, the City does not have retention policies for the associated evidence. The King County Prosecuting Attorney's Office provided OIG with written guidance for evidence they prefer be retained, which favored keeping more evidence than required by RCW.

In their 2018 audit report of the Evidence Warehouse, APRS noted the Evidence Unit only had a draft unit manual, and stated, "Developing and implementing a unit manual would provide clear guidance for evidence unit personnel, and would be consistent with [International Association of Property and Evidence Storage] guidelines."^{13,14} The draft unit manual reviewed by APRS has since become outdated as SPD has moved to the Mark43 record management system, changing many of the processes used by SPD to manage evidence.

RECOMMENDATION: SPD should finalize a manual for the Evidence Unit that addresses all aspects of evidence collection, security, storage, and disposition, in coordination with the City Attorney's Office and the King County Prosecuting Attorney's Office.

SPD concurred with this recommendation and anticipates a unit manual will be completed by Q2 2021. A complete list of recommendations and more details concerning SPD's response can be found at the end of this audit report.

RECOMMENDATION: SPD should take immediate steps to address capacity issues at the Evidence Warehouse, which is 94 percent full and the vehicle storage facility, which is at 100 percent capacity.

SPD concurred with this recommendation but stated it could not commit to taking additional steps absent budget and staffing capacity.

OIG COMMENT: While staffing and budget constraints are understandable, the high capacity of the Warehouse and the 100 percent capacity of the vehicle storage facility present risk. SPD should remedy the capacity issues at both storage facilities to ensure fire safety and proper evidence storage.

¹² APRS did not define "reasonably recent" in its report.

¹³ APRS, 2018-28A-07 Evidence Protocols, 4/26/2018.

¹⁴ The *Standards for Internal Control in the Federal Government*, which provide basic standards and controls for the management of public agencies, emphasizes that written policies are key to ensuring activities go as planned: "Management documents in policies for each unit its responsibility for an operational process's objectives and related risks, and control activity design, implementation, and operating effectiveness." 12.03, *Standards for Internal Control in the Federal Government*, Comptroller General of the United States, September 2014.

FINDING TWO

Finding 2: SPD Does Not Have Standardized Practices for Storing Evidence at Each Precinct

In its review of SPD evidence collection and storage practices, OIG observed that SPD does not have standardized practices for evidence storage at each precinct. SPD recently transitioned to a new records management system called Mark43. Due to this transition of record systems, Evidence Unit personnel reported that Mark43 has forced SPD to change some of their processes. Before implementation of the Mark43 system, officers used vans to transport evidence to the Warehouse. Because Mark43 limits the number of personnel authorized to enter items into the Mark43 evidence module, Evidence Unit personnel, rather than officers, must enter these items into the system. As a result, evidence is now stored at each precinct until it can be collected by a member of the Evidence Unit.

According to Evidence Unit personnel, evidence storage areas at each of the precincts are individually controlled by the precinct captains. The Evidence Unit has provided the precincts with a list of recommended standard equipment but there is no policy that mandates standard requirements for evidence storage areas at each facility. The list of equipment proposed by the Evidence Unit is in line with evidence storage standards prescribed as a best practice by the International Association of Property and Evidence Storage and cited by APRS in their audits of the Evidence Unit.

Based on site visits conducted by OIG, not all precincts follow the list of recommended equipment proposed by the Evidence Unit. For example, while many precincts have access controls to the room storing evidence, individual lockers for evidence, and security cameras recording the storage area, one precinct does not have any of these controls. Consequently, evidence held at this precinct may be at greater risk of improper disposition or challenges related to chain of custody.

RECOMMENDATION: SPD should take immediate steps to establish consistent and secure evidence storage requirements for all precincts. The requirements should be determined by the Evidence Unit and in alignment with industry standards. These requirements should be codified in the Evidence Unit manual and the SPD Manual to ensure all personnel are aware of the requirements. Given the importance of secure evidence storage, SPD should not await manual revisions before taking remedial action.

SPD concurred with the recommendation but noted that the ability of the Department to implement changes is budget-dependent.

OIG COMMENT: The precinct in question has no standard mechanisms to ensure chain of custody such as security cameras, individual lockers for items, or a secure room to process and store evidence. Given the significant risk to the security of the evidence at this single facility, SPD should strongly consider some means to ensure proper controls are put in place.

OTHER ISSUES

Capacity Issues at the Warehouse and Concerns About Violation of the Seattle Fire Code Resulted in the Movement of Evidence to a Less Secure Space

According to an SPD official in February 2018, the weekend before the Fire Marshal was to reinspect the Warehouse after the second failed inspection, SPD relocated 92 pallets and many bicycles that had blocked the aisles of the Warehouse into the adjacent vehicle storage facility to establish compliance with the fire code.¹⁵ In response to the movement of pallets in 2018, APRS conducted an audit that found the vehicle storage facility was less secure than the Evidence Warehouse in a variety of ways, including a lack of surveillance cameras, unsecured doors, no access log, and access controls that were more liberal than those for the Warehouse. In addition, APRS found that not all pallets were sealed with shrink wrap to ensure no evidence was lost or tampered with in the move.

Upon being notified in the APRS audit report that “several pallets of evidence were stored in a manner inconsistent with the best practices of evidence storage recommended by the International Association of Property Evidence,” the Deputy Chief at the time directed APRS to conduct a second inspection to verify the security of all affected homicide items, and requested that a sample of all other evidence included in the move be inspected to verify the integrity of the evidence. On October 30, 2018, APRS and Homicide Unit detectives verified 926 pieces of homicide evidence and 94 items of other evidence that were stored on pallets in the vehicle storage area, confirming the presence of all items.

In line with the recommendation in Finding 3, the new Evidence Unit manual should ensure all evidence is stored in alignment with SPD requirements regardless of location.

OIG Will Continue to Monitor Mark43 Implementation

While conducting this audit, the Evidence Unit reported the following difficulties in the transition to Mark43:

- All evidence in the Warehouse must be re-labeled: According to unit personnel, the transition to Mark43 will require each piece of evidence to be relabeled with a new barcode and number because Mark43 has not been able to run reports with the numbers from the old evidence tracking system. As a result, when Evidence Unit personnel look for an item using database information, they only have the new number assigned by Mark43, not the old number labeled on the box.
- The design of the Mark43 evidence system makes re-organizing and consolidating evidence far more time consuming than the previous system, because it does not allow for items to be easily moved or reorganized in the Warehouse.
- Default settings in Mark43 may increase the chance that detectives accidentally release evidence prematurely or to the wrong person and there are no additional controls in place to guard against this.

SPD was adjusting the Mark43 evidence module during the audit, so OIG was unable to evaluate the extent to which concerns raised by Evidence Unit personnel would be remediated or would affect efficiency and effectiveness of Mark43 going forward. OIG will continue to monitor these issues and may reexamine them in a future audit.

¹⁵ These pallets included evidence from multiple homicide investigations.

RECOMMENDATIONS

1. SPD should finalize a manual for the Evidence Unit that addresses all aspects of evidence collection, security, storage, and disposition, in coordination with the City Attorney's Office and the King County Prosecuting Attorney's Office.

Management Response

Concur

Do Not Concur

Estimated Date of Implementation: Q2 2021

Proposed Implementation Plan:

While the Evidence Unit has been operating consistent with best practices, Department policy, and applicable laws, the Unit agrees that compiling those practice into a manual will assist in training and consistent application. Development of this manual will also allow for greater coordination with the City Attorney and King County Prosecutor around recommended changes in areas such as digital evidence. Development of a Unit Manual is currently in progress with an anticipated completion date no later than Q2 2021.

2. SPD should take immediate steps to address capacity issues at the Evidence Warehouse, which is 94 percent full and the vehicle storage facility, which is at 100 percent capacity.

Management Response

Concur

Do Not Concur

Estimated Date of Implementation: Contingent

Proposed Implementation Plan:

Capacity of the Evidence Warehouse has long been a concern for the Evidence Unit and the Department. SPD has sought on numerous occasions to lease additional space, but has not had the budget to do so. Notwithstanding, with full staffing and extensive overtime, the Evidence Unit had been able to maintain a rough equilibrium between intake and disposition of evidence and property; however, due to staffing reductions, a moratorium on overtime expenditures, the necessary redeployment of some detectives to Patrol, and the resulting increased workload of other detectives responsible for releasing property for disposal, the ability to maintain this equilibrium has been compromised. In short, while SPD agrees with this recommendation, it cannot commit to taking additional steps absent budget and staffing to do so.

OIG COMMENT: While staffing and budget constraints are understandable, the high capacity of the Warehouse and the 100 percent capacity of the vehicle storage facility present risk. SPD should remedy the capacity issues at both storage facilities to ensure fire safety and proper evidence storage.

RECOMMENDATIONS

3. SPD should take immediate steps to establish consistent and secure evidence storage requirements for all precincts. The requirements should be determined by the Evidence Unit and in alignment with industry standards. These requirements should be codified in the Evidence Unit manual and the SPD Manual to ensure all personnel are aware of the requirements. Given the importance of secure evidence storage, SPD should not await manual revisions before taking remedial action.

Management Response

Concur Do Not Concur

Estimated Date of Implementation: Contingent

Proposed Implementation Plan:

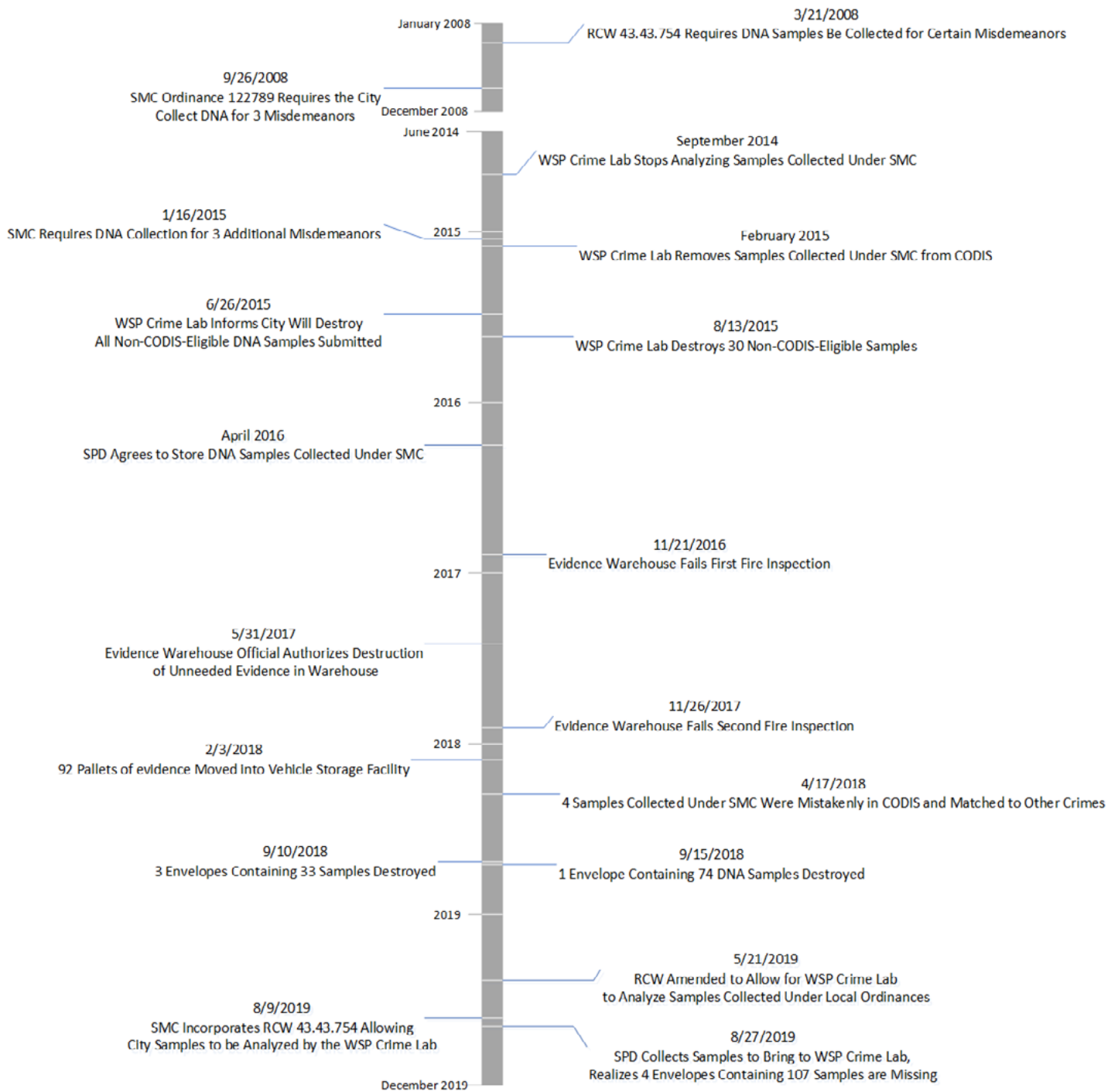
SPD concurs with this recommendation in principle; SPD notes that the Evidence Unit previously conducted its own review to ensure that best practices are being followed with respect to evidence handling at precinct storage facilities, and had made recommendations to ensure that uniformity of best practices applications is achieved. However, as with Recommendation No. 3, SPD's ability to implement recommended changes, particularly as may relate to physical changes in the precincts or other facilities, are budget-dependent. SPD remains ready to consider any operational changes the OIG may recommend that may achieve security objectives without budget impact.

OIG COMMENT: The precinct in question has no standard mechanisms to ensure chain of custody such as security cameras, individual lockers for items, or a secure room to process and store evidence. Given the significant risk to the security of the evidence at this single facility, SPD should strongly consider some means to ensure proper controls are put in place.

MANAGEMENT RESPONSE

SPD did not submit a written response other than the information reflected on the preceding recommendations pages.

Appendix: Complete Timeline of Post-Conviction DNA Samples



Source: OIG

Note: Specific dates are provided when known.

OBJECTIVE

The audit team sought to determine the events leading to the mistaken destruction of DNA samples, and examine the policies, practices, and procedures of the Evidence Unit.

SCOPE

The audit scope spanned from March 21, 2008, when RCW 43.43.754 required DNA samples be collected for persons convicted of certain misdemeanor crimes, to October 28, 2020.

METHODOLOGY

To answer the audit objective, the audit team:

- Analyzed RCW 43.43.754 DNA identification system—Biological samples—Collection, use, testing—Scope and application of section and RCW 9A.04.080 Limitations of Actions, documenting the statute of limitations in the State of Washington.
- Reviewed Seattle Ordinances 122789, 124684, and 125881 which guide how the City collects DNA samples from persons convicted of misdemeanor crimes in the City.
- Reviewed past reports and interviewed APRS personnel.
- Interviewed SPD personnel including multiple Evidence Unit personnel, a homicide detective, an official coordinating the implementation of Mark43, and other senior SPD officials.
- Interviewed personnel at the City Attorney's Office and the Washington State Patrol Crime Lab.
- Conducted a ride-along with SPD Evidence personnel to review evidence storage procedures at each precinct.
- Created a timeline for all state and local regulations regarding DNA collection in the State of Washington and City of Seattle.
- Tracked the chain of custody for all DNA samples stored at the SPD Evidence Warehouse to the extent possible.
- Requested documentation of all Fire Marshal violations for the Seattle Fire Department.

AUDIT STANDARDS

OIG conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.



Seattle Office of Inspector General

The Office of Inspector General for Public Safety (OIG) was established in 2017 via Ordinance 125315 to help ensure the fairness and integrity of the police system in its delivery of law enforcement services. OIG provides independent auditing of the management, practices, and policies of the Seattle Police Department and the Office of Police Accountability. Additionally, OIG oversees ongoing fidelity to organizational reforms implemented pursuant to the goals of the 2012 Consent Decree and Memorandum of Understanding.

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