

City of Davis

Independent Police Auditor Report:

Complaint Regarding Improper Handling of Vehicle
and Mistreatment of Third Party

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Factual Background

The complainant in this case was an adult male who contacted the Independent Police Auditor by email to express concerns about two aspects of a recent event. He also provided several relevant emails directly to an officer who had been at the scene.

The first issue concerned him personally: he alleged that the Davis Police Department had violated his 4th Amendment rights in the process of impounding his vehicle, and claimed that the handling of the car had resulted in damage. He also raised a concern on behalf of his friend, an adult male who had been at the scene of the impound (while the complainant was not) and who told the complainant that the officers had been unduly rough in the course of arresting him on various charges.

DPD Investigation

The DPD investigator reviewed the body-worn camera videos and police reports (including the tow report for the complainant's car) that were related to the different enforcement actions in the park. He also spoke with the complainant by phone to get clarification on the particular basis for his claims about 4th Amendment issues.¹

The body-worn camera showed that the different officers who had interacted with the complainant's friend had been polite, and professional. For his part, the man was cooperative and compliant, and the arrest was handled without any physical force. The investigator noted the cordial nature of the interactions with the man (including assurances that he was comfortable and getting enough air in the backseat of the police vehicle after the arrest.) Accordingly, allegations relating to the claim of mistreatment were "Unfounded."

As for the situation involving the handling of the car, the complainant himself acknowledged that the expired registration had left it legally susceptible to being impounded. However, he questioned whether officers were entitled to make entry (which they had done by removing a plastic zip-tie that was holding together parts of the

¹ Accomplishing this had required multiple efforts at outreach, as the complainant himself acknowledged. The other involved party never did reply to DPD efforts at contacting him.

locked vehicle). While familiar with the concept of an "inventory search"² that is a recognized basis for officer entry under these circumstances, the complainant noted (correctly) that no inventory of his property had actually been taken. In his view, this undermined the propriety of the officers' actions.

As it happened, there was significant amount of property inside the vehicle – which, by the man's own account, he had been using as lodging at the time of the incident. The officers made the decision not to do an itemized inventory, apparently in light of the volume of material, and the car was re-secured. The BWC showed the car appeared to be secured at the time it was turned over for towing.

The Department found that the officers' actions had been reasonable and that no policy violations had occurred. Reaching this decision included an analysis of DPD policy, which requires the conducting of inventory searches when a vehicle is towed. Although the fact that no search occurred in this instance was seemingly in literal contravention of this policy, DPD management found the decision to be a reasonable one.

This was based on the assumption that the officers, after making legal entry initially, were deterred by the volume of possessions, and chose to forego the search because of the impracticality and time demands associated with doing so. (The choice not to search in this specific situation is apparently common practice.) The Department considered this to be warranted by the circumstances.

Importantly, though, the Department used the complaint as a reason to revisit the discrepancy between stated policy and actual practice in the field. With an eye toward addressing this gap, and ensuring a reasonable level of protection for such items during towing and storage, the DPD leadership committed to a policy revision for similar situations in the future. It will balance practicality with accountability by requiring supervisor approval, photographic documentation, and other measures for any divergence from the presumption that, in most cases, an inventory search will be conducted.

IPA Analysis

We received access to the investigative memos and the body-worn camera recordings, as well as the recorded conversation with the complainant. The evidence was summarized accurately, and we concurred with the findings – especially with regard to the alleged mistreatment of the third party.

² When taking control of a vehicle in some sort of enforcement action, officers can and do go through the contents of the car for purposes making a record, helping to ensure the safekeeping of property, and insulating the agency from subsequent claims about missing possessions.

As for making entry into the complainant's vehicle, the officers clearly had legal standing to do so. The Department's memo also addresses the complicating factors: that the choice not to conduct an inventory search not only belied the rationale for entry but clashed with DPD policy, which states straightforwardly that officers "shall" conduct an inventory search when towing a vehicle.

With regard to the first issue, the DPD analysis took the position that because the officers were legally justified in making entry at all, the brief and limited incursion into the complainant's vehicle and the subsequent visual inspection that occurred did not constitute a violation of the complainant's rights. This was true even though the inventory itself did not ultimately happen.³

With regard to the deviation from express Department policy, it should be noted that the complainant was not focused on (or presumably aware of) that internal guideline. Accordingly, it was encouraging to see DPD address it on its own initiative. It made the affirmative determination that the officers' decision made sense – but also recognized that the need to align policy with practice merited attention here.

In our view, the high volume of items and the practical obstacles to sorting, identifying, and documenting all of them were indeed valid considerations for the officers in the field and the supervisors evaluating their actions. It seems apparent that the policy as originally written did not necessarily contemplate "outlier" situations in which the vehicles being towed were crammed with possessions in various stages of repair or disrepair.⁴

Adjusting to that reality and amending policy to account for it in a sensible way was a constructive, positive step. We have always encouraged law enforcement agencies to use complaints not only as a forum for accountability but also as opportunities to get better. DPD's handling of this case offered an example of that approach working well.

³ The complainant's friend, who was on-scene and arrested, had a separate vehicle. Its side door was already open, revealing a considerable amount of stored personal property. The officers also chose not to inventory those possessions before towing the van, though they did spend several minutes gathering other property belonging to the arrestee and placing it in the van for safekeeping. They kept as evidence several harvested marijuana plants that were nearby and were drying outside.

⁴ The contemporary rise in homelessness presumably and sadly makes this dynamic more likely than in the past.