

November 18, 2013



Office of Police Ombudsman
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October Public Safety Committee Report

Reporting Period: October 1, 2013 through October 30, 2013

2013 OVERVIEW

Complaints Received: Since January 1, 2013: 97 complaints have been received by the Office of Police Ombudsman and forwarded to Internal Affairs. The complaints were for:

- 1 Selective Enforcement
- 1 Unlawful Entry
- 1 Gratuity
- 1 Unlawful Search
- 1 Unlawful Detention
- 1 Bias Policing
- 3 Harassment
- 1 Driving
- 1 False Arrest
- 1 Conspiracy
- 1 Perjury
- 10 Procedural
- 15 Demeanor
- 10 Excessive Force
- 49 Inadequate Response

To view a four-year snapshot graph of OPO complaints received by month, see Attachment 1.

Complaints Referred: Since January 1, 2013, 22 complaints have been referred to the following agencies:

- 17 complaints have been referred to the Spokane County Sheriff's Office
- 1 complaint has been referred to the Stevens County Prosecutor's Office
- 1 complaint has been referred to the Washington State patrol for follow up
- 1 complaint has been referred to the Spokane Transit Authority
- 2 complaint has been referred to the Spokane Streets Department

CONTACTS

Between October 1, 2013 and October 30, 2013 the Office of Police Ombudsman was contacted 101 times.

Since January 1, 2013 there have been 1,131 contacts received by the Office of Police Ombudsman.

COMPLAINTS

To assist in identifying where complaints are occurring, the Office of Police Ombudsman has divided the City into four quadrants. The north-south borderline is Sprague Avenue and the east-west borderline is Division Street.

Complaint outcomes are updated regularly and can be viewed at the Office of Police Ombudsman website at www.spdombudsman.org under the headings "Documents and Reports" and "2013 Received Complaints."

Between October 1, 2013 and October 30, 2013, 7 complaints were received.

1. Monday, October 28, 2013: An **Inadequate Response** complaint was received by the Office of Police Ombudsman by e-mail. The complainant was in a traffic collision and alleged that they called 9-1-1 multiple times for police response and no officer responded. (OPO #13-97), (S/W)
2. Friday, October 25, 2013: A **Procedural** complaint was received by the Office of Police Ombudsman. The complainant attempted to get a copy of a police report from a previous incident they were involved in and were informed that a report was not completed. The complainant wants to know why a report was not generated. (OPO # 13-96), (N/A)
3. Wednesday, October 23, 2013: An **Excessive Force** complaint was received through the Office of Police Ombudsman website. The complaint is regarding the officer involved death of an individual on August 22, 2013 at the Salvation Army at 204 E Indiana (OPO # 13-95), (N/E)
4. Tuesday, October 22, 2013: An **Inadequate Response** complaint was received by the Office of Police Ombudsman. The complainant spoke about three separate incidents where they had difficulty getting Crime Check and 9-1-1 to dispatch officers to calls they made. The complainant also alleged that they contacted an officer regarding a death threat that was made against the complainant and the lack of response from that officer. (OPO # 13-94), (N/W)
5. Tuesday, October 22, 2013: A **Bias Policing** complaint was received by the Office of Police Ombudsman. The complainant believes that they received two parking citations and a notice of intent to tow their vehicle because of the gay pride stickers on the bumper of their vehicle. (OPO # 13-93), (N/W)
6. Friday, October 4, 2013: A **Procedural** complaint was received by the Office of Police Ombudsman. The complainant in OPO #13-92 and #13-91 is the same individual. The complainant advised that the Police Department failed to send documents to another Police Department as agreed to. (OPO # 13-92), (N/A)

7. Friday, October 4, 2013: An **Inadequate Response** complaint was received by the Office of Police Ombudsman. The complainant alleged that an officer failed to properly investigate a violation of a parenting agreement court order. (OPO # 13-91), (S/W)

Between October 1, 2013 and October 30, 2013 1 complaint were referred.

1. Tuesday, October 22, 2013: A parking enforcement complaint was forwarded to Spokane Streets Department for follow up.

INVESTIGATIONS CERTIFIED

Between October 1, 2013 and October 30, 2013 21 completed investigations were certified as timely, thorough and objective:

1. Friday, October 25, 2013: A **Theft of a Knife** complaint was received by the Internal Affairs Unit on July 23, 2013. The complainant alleged that an officer kept their knife after the complainant was arrested for driving under the influence. The Ombudsman confirms that the incident was investigated through a timely, thorough and objective process. (SPD IA # 13-077), (OPO # N/A)
2. Thursday, October 24, 2013: A **Theft of Prescriptive Medication** complaint was received by the Internal Affairs Unit on May 20, 2013. The complainant alleged that officers stole the complainant's "prescriptive medication" during the arrest of the complainant's significant other for domestic violence. The Ombudsman confirms that the incident was investigated through a timely, thorough and objective process. (SPD IA # 13-058), (OPO # N/A)
3. Wednesday, October 9, 2013: A **Use of Deadly Force** investigation was internally generated on February 5, 2013 after a deadly officer involved shooting occurred. The Ombudsman confirms that the incident was investigated through a timely, thorough and objective process. (SPD IA # 13-008), (OPO # N/A)
4. Tuesday, October 8, 2013: A **Demeanor and Inadequate Response** complaint was received by the Internal Affairs Unit on August 12, 2013. The complainant called 9-1-1 to report a domestic violence complaint. The complainant advised that they could tell the responding officer did not want to be there based on the officer's body language. The complainant indicated that the officer failed to adequately investigate the complaint or document the incident with a report. The Ombudsman confirms that the incident was investigated through a timely, thorough and objective process. (SPD IA # 13-083), (OPO # N/A)
5. Tuesday, October 8, 2013: A **Demeanor and Inadequate Response** complaint was received by the Internal Affairs Unit on June 27, 2013. The complainant alleged that an officer told them to "shut up" and the officer failed to thoroughly investigate a minor assault they had been the victim of. The Ombudsman confirms that the incident was investigated through a timely, thorough and objective process. (SPD IA # 13-063), (OPO # N/A)

6. Tuesday, October 8, 2013: A **Demeanor** complaint was received by the Office of Police Ombudsman on June 5, 2013. The complainant alleged that an officer told the complainant to “shut up” while in court. The Ombudsman confirms that the incident was investigated through a timely, thorough and objective process.
(SPD IA # 13-070), (OPO # 13-54)
7. Tuesday, October 8, 2013: An **Inadequate Response** complaint was internally generated on May 24, 2013. An officer allegedly wrote an incomplete report which resulted in an individual being falsely arrested. The Ombudsman confirms that the incident was investigated through a timely, thorough and objective process.
(SPD IA # 13-073), (OPO # N/A)
8. Tuesday, October 8, 2013: An **Inadequate Response and Demeanor** complaint was received by the Office of Police Ombudsman on June 14, 2013. The complainant advised that an officer was rude because the officer contacted the complainant by phone while parked in the patrol car in front of the complainant’s residence. The complainant advised that the officer did not resolve the parking problem the complainant had called about. The Ombudsman confirms that the incident was investigated through a timely, thorough and objective process. (SPD IA # 13-067), (OPO # 13-61)
9. Friday, October 4, 2013: A **Failure to Report for Duty and False Statements to a Supervisor** complaint was internally generated on August 4, 2013. An officer was alleged to have failed to report for special event duty. The Ombudsman confirms that the complaint was investigated through a timely, thorough and objective process.
(SPD IA # 13-080), (OPO # N/A)
10. Friday, October 4, 2013: A **Demeanor** complaint was received by the Office of Police Ombudsman on July 10, 2013. The complainant advised that an officer was rude to them and refused to allow the complainant to speak with the officer’s supervisor. The Ombudsman confirms that the complaint was investigated through a timely, thorough and objective process. (SPD IA # 13-074), (OPO # 13-69)
11. Friday, October 4, 2013: An **Accidental Discharge of Firearm** complaint was internally generated on June 22, 2013. An officer was alleged to have accidentally discharged their weapon while on duty while re-holstering the weapon. The Ombudsman confirms that the complaint was investigated through a timely, thorough and objective process.
(SPD IA # 13-069), (OPO # N/A)
12. Friday October 4, 2013: A **Limitation of Authority and Inadequate Response** complaint was internally generated on June 28, 2013. An officer was alleged to have incorrectly dealt with a landlord/tenant eviction process. The Ombudsman confirms that the complaint was investigated through a timely, thorough and objective process.
(SPD IA # 13-061), (OPO # N/A)

13. Thursday, October 3, 2013: A **Demeanor** complaint was received by the Internal Affairs Unit on June 11, 2013. The complainant alleged that an officer was rude and harassed the complainant because the officer told the complainant they would be arrested if they were observed driving again. The Ombudsman confirms that the complaint was investigated through a timely, thorough and objective process. (SPD IA # 13-055), (OPO # N/A)
14. Thursday, October 3, 2013: A **Demeanor and Inadequate Response** complaint was received by the Office of Police Ombudsman on June 6, 2013. The complainant advised that they were assaulted by a city employee as they attempted to serve a subpoena at a city building. The complainant advised that officers failed to adequately investigate the complaint and that the officers were using physical posturing to look intimidating. The Ombudsman confirms that the complaint was investigated through a timely, thorough and objective process. (SPD IA # 13-064), (OPO # 13-35)
15. Thursday, October 3, 2013: An **Excessive Force and Inadequate Response** complaint was received by the Office of Police Ombudsman on April 13, 2013. The complainant advised that an officer removed them from a public park and that the officer did not have the authority to require the complainant to leave the park. The Ombudsman confirms that the complaint was investigated through a timely, thorough and objective process. (SPD IA # 13-045), (OPO # 13-26)
16. Wednesday, October 2, 2013: An **Inadequate Response and Demeanor** complaint was received by the Office of Police Ombudsman on May 24, 2013. The complainant advised that an officer failed to take appropriate action in an incident where the complainant's child was assaulted by an adult. The complainant also advised that the officer was rude. The Ombudsman confirms that the complaint was investigated through a timely, thorough and objective process. (SPD IA # 13-048), (OPO # 13-49)
17. Wednesday, October 2, 2013: A **Demeanor and Inadequate Response** complaint was received by the Office of Police Ombudsman on May 17, 2013. The complainant advised that they were assaulted by a neighbor and officers failed to thoroughly investigate the incident and take action. The complainant also indicated that the officers were rude. The Ombudsman confirms that the complaint was investigated through a timely, thorough and objective process. (SPD IA # 13-050), (OPO # 13-46)
18. Tuesday, October 1, 2013: An **Inadequate Response and Demeanor** complaint was received by the Internal Affairs Unit on April 19, 2013. The complainant advised that officers failed to thoroughly investigate a hit and run collision and were laughing and drinking coffee in their vehicle while speaking to the complainant. The Ombudsman confirms that the complaint was investigated through a timely, thorough and objective process. (SPD IA # 13-054), (OPO # N/A)
19. Tuesday, October 1, 2013: A **Failure to Report for Duty** internal complaint was received by the Internal Affairs Unit on May 16, 2013 after an officer failed to report for a race they were assigned to police. The Ombudsman confirms that the complaint was

investigated through a timely, thorough and objective process.
(SPD IA # 13-044) , (OPO # N/A)

20. Tuesday, October 1, 2013: An **Unlawful Detention, Unlawful Search and Theft** complaint was received by the Internal Affairs Unit on May 7, 2013. The complainant advised that they were unlawfully detained and their vehicle was searched without consent or a warrant. The complainant also advised that their pocket knife and cash were taken by officers. The Ombudsman confirms that the complaint was investigated through a timely, thorough and objective process. (SPD IA # 13-040), (OPO # N/A)
21. Tuesday, October 1, 2013: A **Demeanor and Inadequate Response** complaint was received by the Internal Affairs Unit on May 13, 2013. The complainant advised that an officer was rude and did not do a thorough investigation on a malicious mischief complaint made by the complainant. The Ombudsman confirms that the complaint was investigated through a timely, thorough and objective process.
(SPD IA # 13-035), (OPO # N/A)

DECLINED CERTIFICATIONS and APPEALS

There were no declined or appealed certifications during the reporting period

INTERVIEWS

- Internal Affairs, Officer Interviews: 14
- Internal Affairs, Complainant Interviews: 1
- Internal Affairs, Witness Interviews: 2
- Office of Police Ombudsman Complainant Interviews 5
- Office of Police Ombudsman Witness Interviews: 1
- Closing (Complaint Closure) Interviews: 1

OTHER DUTIES

Critical Incident Response: There were no Critical Incidents during the reporting period.

Cases Resolved Through Mediation: There were no cases resolved through mediation during the reporting period.

Recommendations:

- Thursday, October 3, 2013: As the result of an **Excessive Force and Inadequate Response** complaint received by the Office of Police Ombudsman on April 13, 2013 it is recommended that a process be implemented through policy to address the trespassing of individuals from public or private property and from public or private events. Once formalized all commissioned officers should be provided with the training. All

trespassing enforced by Police Department personnel should be documented through a formal reporting process.

It is recommended that City Legal be consulted regarding the possibility of future legislation to address the projection of images onto public and private property.

It is further recommended that City Legal review the permitting process as related to trespassing with regard to the renting of City owned properties and public properties to individuals for public and private special events.

NEXT STEPS

- Recruitment of Student Interns
- Report on School Resource Officers Program

COMMUNITY OUTREACH

- Wednesday, October 30, 2013: Crosswalk Teen Shelter Outreach (OPO Assistant 12n-1230p)
- Monday, October 25, 2013: Spokane City Council Meeting (OPO Assistant 6p-645p)
- Friday, October 25, 2013: Priority Spokane Public Safety Community Indicators meeting , Spokane Regional Health District (3p-5p)
- Friday, October 25, 2013: The NATIVE Project (1p-230p)
- Friday, October 25, 2013: The House of Charity (9a-10a)
- Tuesday, October 22, 2013: Smart Justice Presentation (630p-830p)
- Monday, October 21, 2013 NAACP monthly meeting (645p-915p)
- Monday, October 21, 2013: Spokane City Council meeting, OPO Presentation (6p-630p)
- Wednesday, October 16, 2013: Hillyard Neighborhood Council meeting (OPO Assistant 630p-730p)
- Wednesday, October 16, 2013: Hire-ability luncheon (OPO Assistant noon-130p)
- Tuesday, October 15, 2013: East Central Neighborhood Council meeting (OPO Assistant 630p-7p)
- Monday, October 14, 2013: Spokane City Council meeting (OPO Assistant 6p-620p)
- Wednesday, October 9, 2013: SPARC meeting (OPO Assistant 530p-715p)
- Tuesday, October 8, 2013: N. Indian Trail Neighborhood Council meeting (7p-8p)
- Monday, October 7, 2013: Spokane City Council meeting (6p-830p)
- Friday, October 4, 2013: Community Assembly meeting (OPO Assistant 4p-430p)
- Wednesday, October 2, 2013: Browne's Addition Neighborhood Council meeting (630p-730p)
- Wednesday, October 2, 2013: Crosswalk Teen Shelter Outreach (OPO Assistant 12n-1245p)
- Tuesday, October 1, 2013: Chief Garry Neighborhood Council meeting (715p-815p)
- Tuesday, October 1, 2013: Rockwood Neighborhood Council meeting (OPO Assistant 7p-730p)
- Tuesday, October 1, 2013: OutSpokane Board meeting (630p-7p)

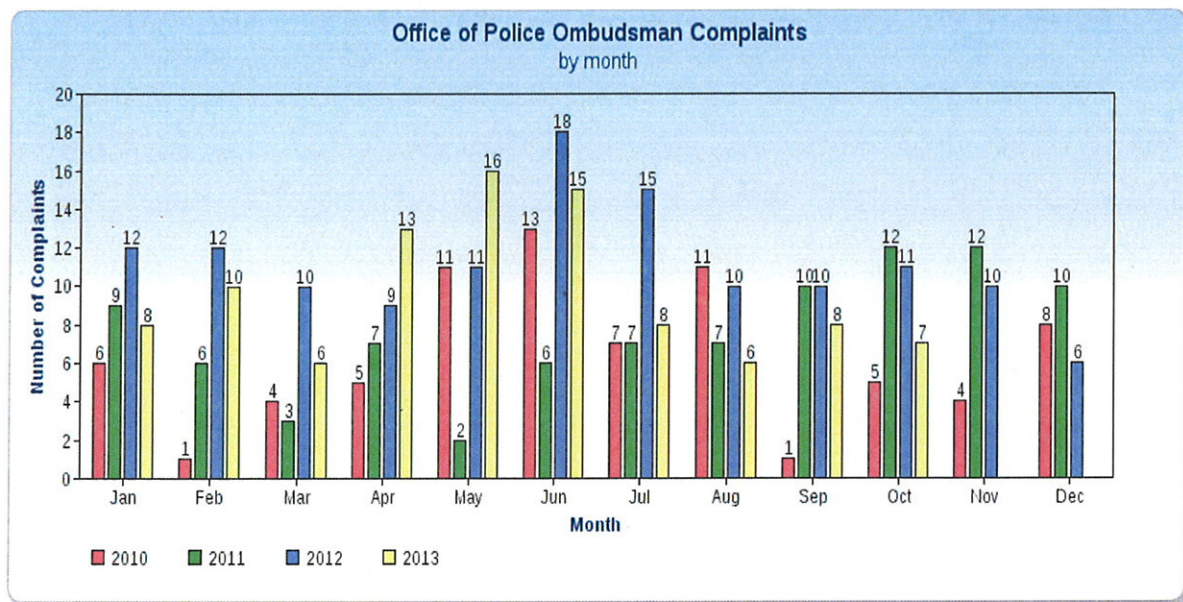
- Tuesday, October 1, 2013: Riverside Neighborhood Council meeting (5p-545p)

OTHER

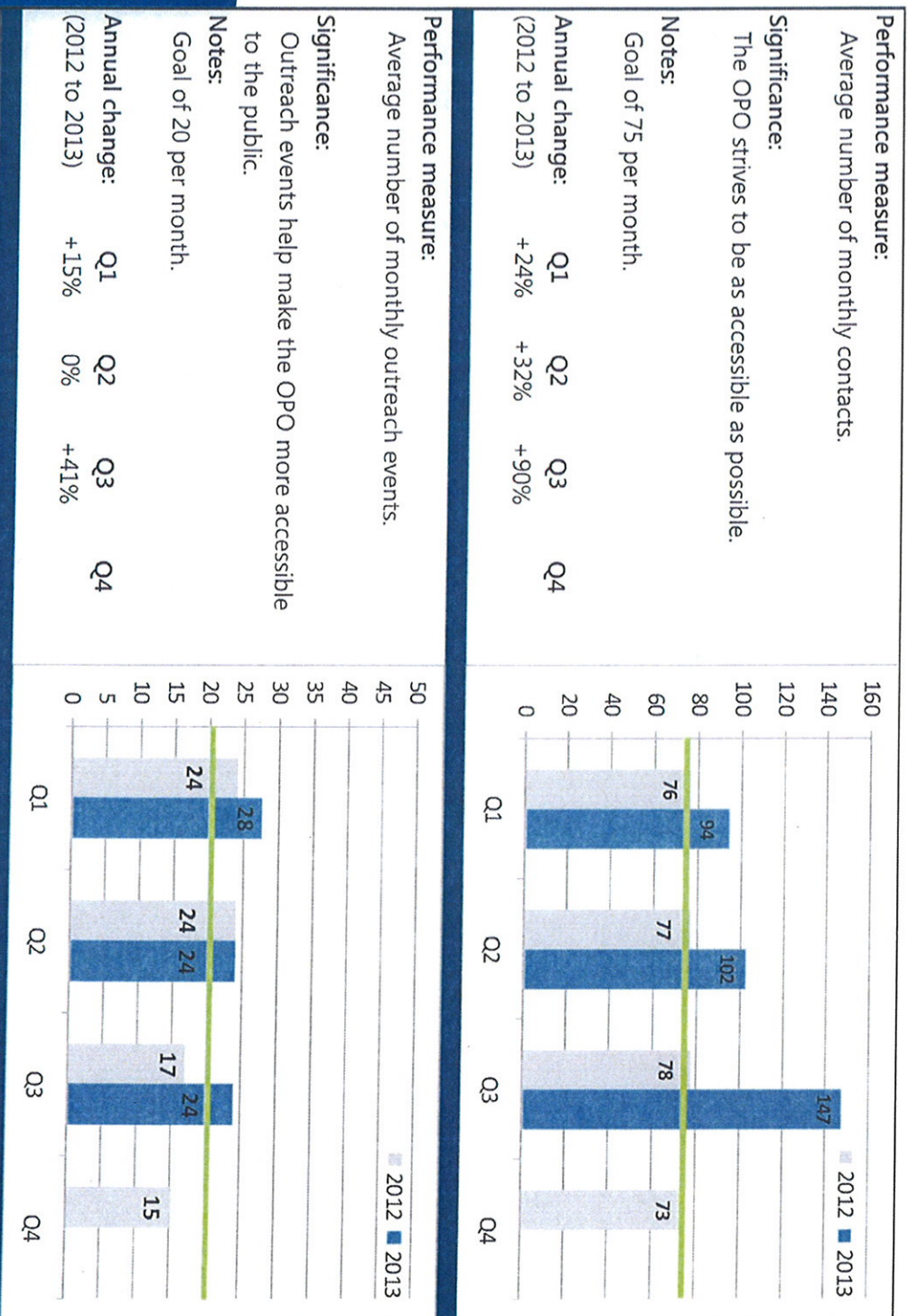
- Sunday, October 27, 2013 through Friday November 1, 2013: United States Ombudsman Association National Conference, Indianapolis, Indiana
- Monday, October 21, 2013: Public Safety Committee meeting (130p-3p)
- Tuesday, October 14, 2013: Anna Vamvakias, EWU Master's Student began work as a Graduate Student Intern with the OPO
- Wednesday, October 9, 2013: EWU Africana Studies, OPO Presentation (OPO Assistant 130p-230p)
- Saturday, October 5, 2013: Spokane CareFest 2013, Mission Park, information booth (1030a-4p)

ATTACHMENTS

- Four year snapshot graph of OPO complaints received by month
- OPO Third Quarter Performance Measures
- Recommendation Update: Police Department Training Bulletin #13-007



Office of Police Ombudsman





SPOKANE POLICE DEPARTMENT

CHIEF OF POLICE
FRANK STRAUB, Ph.D.

2013 TRAINING BULLETIN #7

OCTOBER 30, 2013

Seizing/Impounding of a Motor Vehicle while waiting to draft a Search Warrant

Background: It has been the practice of members of the Spokane Police Department to seize motor vehicles while waiting to draft or waiting for the issuance of a search warrant. While this is a practice that is perfectly legal, we must follow proper protocol.

1. When seizing a vehicle under the above described circumstances officers shall keep in mind State v Snapp, which states prior to the issuance of a search warrant, officers may not get into a vehicle. Officers are reminded in Washington's legal climate, even an inventory search is likely to result in the State losing evidence in a suppression hearing. **Vehicles are in a constitutionally protected zone.** Officers are best off waiting for a search warrant to be issued.
2. Officers are to complete the SPD Vehicle Impound form, listing the reason for the impound/seizure, damage to the vehicle, and property that may be visible without entering the vehicle. ***In a recent case, officers were accused of damaging a steering column during the search of the vehicle, however; there was no documentation of the vehicle's pre-seizure condition to counter the claim.**
3. Officers will provide the R.O., or party with interest to the vehicle a copy of the impound form.

Legal Opinion: Seizing a vehicle without a warrant while waiting to draft a search warrant has been approved by both the United States Supreme Court as well as the Washington Supreme Court. The United States Supreme Court has upheld the warrantless seizure of various kinds of property for the time reasonably necessary to obtain a warrant, provided that the police have probable cause to search. With specific regard to cars, it has held that when an officer develops probable cause to believe that a car which he or she has lawfully stopped contains contraband, it is reasonable under the Fourth Amendment to seize and hold the car for "whatever period is necessary" in order to obtain a search warrant.

Chamber v. Maroney, 399 U.S. at 52, 53, 90 S.Ct. at 1981, 26 L.Ed.2d at 419

Similarly, the Washington Supreme Court has held that when an officer has probable cause to believe that a car contains contraband or evidence of crime, he or she may seize and hold the car for the time reasonably needed to obtain a search warrant and conduct the subsequent search. It makes no constitutional difference whether this is done by placing a guard on the car at the scene or by towing it to the police station or an impound yard. Cf. State v. Terrovona, supra (officers stationed inside residence); State v. Ng, supra (same)

