

## THEFT

### POLICY:

It is the policy of the Omaha Police Department (OPD) to document reported the theft of items and services and to provide victims with information concerning their rights. Victims may also self-report minor thefts and other non-emergency crimes via the OPD website or the OPD Telephone Report Squad (TRS). Reports and the information that is reported to OPD will be used for investigative and prosecution purposes. OPD Criminal Investigation Bureau (CIB) officers will be assigned to investigate thefts to the maximum extent possible, where leads exist.

### DEFINITIONS:

Skimmer Device: Nebraska Revised Statute (NRS) [§28-618](#) defines this as “an electronic or other device used to capture, record, store, or transmit data from a financial transaction device or to capture or record an account holder’s personal identification code.”

### PROCEDURE:

#### I. General

- A. In all cases of theft, officers shall attempt to identify suspects. Officers shall:
1. Attempt to collect any known suspect information such as the name of a suspect, a date of birth, names/identities used by the suspect(s) on social media, and suspect vehicle license number, etc.
  2. Review any available evidence to include videos, photos, online posts, etc. that could help identify the suspect(s), when available.
  3. If the officer collects sufficient information to identify the suspect, they shall attempt to locate and interview the suspect.
  4. Make an arrest or issue a citation when suspects admit to the theft(s) and/or the officer collects sufficient information to support an arrest or citation.
  5. If the suspect is identified but cannot be located, complete a Citation Request per the OPD [“Locate Persons and Citation Requests”](#) policy.
  6. Give victims an Omaha/Douglas County Victim/Witness Assistance Brochure ([OPD Form 51](#)).

#### II. Stolen Checks

- A. When a victim reports their checks have been stolen there is no evidence at the time of reporting to suggest that the checks have been forged officers shall:
1. Complete an Incident Report to document the theft offense.

**NOTE:** This shall be reported as “Theft – All Other” when no fraud/forgery has occurred.

2. Inform the victim to advise their financial institution of the theft.
- B. When stolen checks are altered the offense shall then be reported as Forgery. The victim is then the business or financial institution where the stolen check was presented for cash or merchandise.

### III. Stolen Credit, Debit, or Instant Cash Cards

- A. When a victim reports their credit, debit, or instant cash card stolen and there is no evidence or knowledge that the card(s) have been used fraudulently officers shall:
1. Complete an Incident Report to document the theft offense, listing the card as the property that was stolen.
  2. Inform the victim to advise their financial institution or issuing business of the theft, if known and/or applicable.
- B. When a victim reports their credit, debit, or instant cash card stolen and the card has been used fraudulently officers must distinguish in the Incident Report between the initial theft of the card(s) (Theft, Burglary, or Robbery) as well as its later, fraudulent use (Fraud). Officer shall:
1. List the offense as Theft, Burglary, or Robbery of the card(s), as appropriate to the incident.
- AND -
2. List the additional offense of Fraud for the fraudulent use of the card(s).
    - a. If the suspect obtained cash officers shall describe the property stolen as “Money US, not collectible” in their report(s).
    - b. If the suspect purchased items that are unknown, officers shall describe the property stolen as “Merchandise” in their report(s).
    - c. If the suspect purchased items known to officers, officers shall list the specific items (e.g. gas, clothing, gift cards, etc.) purchased in the property description.
- NOTE:** The card(s) shall NOT be listed as the “stolen property” under a Fraud offense.
- C. Many thefts related to credit, debit, and instant cash cards stem from the use of Skimmer Devices and/or the theft of victims’ account information rather than the theft of their actual/physical card(s).
- NOTE:** The victim may be the financial institution, not the account holder.
1. It is unlawful to install OR use a Skimmer Devices without authorization on an automated banking device or a point-of-sale terminal, including any fuel pump, for the purpose of obtaining money, credit, property, or anything of value, and with the intent to defraud (NRS [§28-627.01](#) and NRS [§28-627.02](#)).
- D. Financial Transaction device-related offenses that are part of a continuing criminal enterprise may be considered Organized Retail Crime under Nebraska state law, and offenses may be aggregated for the purpose of charging violations, sentencing, etc.
- NOTE:** See NRS [§28-627.03](#), [28-627.04](#), [28-525](#), [28-526](#), [28-527](#) for NRS definitions and provisions related to Organized Retail Crimes.
- E. When stolen credit cards have been left in the possession of a merchant, either because the suspect who attempted to use them has fled the scene and is not in custody, or because the merchant receives a reward for the recovered card, the credit card will be seized by the responding OPD officer.

1. The credit card will be booked into the OPD Evidence and Property Unit per OPD policies and procedures.
2. Upon request, the investigating Criminal Investigations Bureau (CIB) officer will be responsible for providing the merchant with a copy of the credit card and a copy of the original Incident Report so they may collect their reward.

#### IV. Cryptocurrency Kiosks/ATMS

A. Per the Nebraska Controllable Electronic Record Fraud Prevention Act (NRS §[8-3032](#) - [8-3042](#)) controllable electronic record kiosk operators (i.e., cryptocurrency kiosk and ATM owners, operators, and/or managers) shall:

1. Disclose to customers, in writing, the potential for criminals to exploit kiosks or ATMs and warn of risks of potential fraud.

**NOTE:** Omaha Municipal Code [3-13](#) similarly requires a posted written warning sign, with a provision for a \$500.00 fine for violations.

2. Issue refunds to new or existing customers who report fraudulent transactions to kiosk or ATM operators, law enforcement agencies, or government agencies within thirty (30) days.

B. The OPD Fraud Investigations Squad will investigate cases of alleged cryptocurrency fraud in coordination with other law enforcement agencies, when necessary.

#### V. Failure to Return Rented or Leased Property

A. Officers shall NOT prepare an Incident Report when rented and/or leased items are not returned. Omaha City Prosecutors and Douglas County Attorneys deem these incidents as contractual disputes and civil matters.

**EXCEPTION:** Officers shall refer to the "[Vehicles Reported Stolen](#)" policy for theft of leased or rented vehicles.

B. Officers shall advise rental and leasing businesses to contact the City Prosecutor and/or County Attorney for guidance.

C. Officers shall refer to the OPD Policy "[Property - Non-Criminal Property Disputes](#)" for replevin and repossession procedures.

**EXCEPTION:** If the facts indicate that the individual who rented the property appeared to do so with the intent of permanently defrauding the business of its merchandise (i.e., using fictitious or false information) the officer shall complete an Incident Report.

#### VI. Stolen Bicycles

A. Officers shall complete an Incident Report detailing the following information:

1. Estimated value of the bicycle.
2. Make and model name/number.
3. Serial number.

4. Speed (i.e., 3-speed, 10-speed, etc.).
  5. Color.
  6. Size (i.e., 24-inch, etc.).
  7. Boys or girls type.
  8. Any identifying marks or accessories.
- B. If the bicycle was stolen from a juvenile, officers shall list the victim on the report as an adult such as their parent or legal guardian.
- C. The Evidence and Property Unit shall assist CIB units with ownership identification of all recovered bicycles.

## **VII. Theft of Services**

- A. Officers responding to thefts of restaurant food, taxi rides, gasoline, and other services shall complete an Incident Report to document the offense as a "Theft of Services" when, for example:
1. An individual(s) obtains food and/or drinks in a restaurant and does not pay the bill.
  2. An individual(s) obtains a ride without paying the fare.
  3. An individual obtains a service and does not pay the fee.
- B. Officers shall use the "Theft – All Other" offense category in their report when an individual obtains gasoline for a vehicle and leaves without paying.
1. For the non-payment of a bill at gasoline service stations, officers should advise the business owner that the suspect must be identified as the driver (rather than the owner) of the suspect vehicle before the City Prosecutor's Office will prosecute the suspect.
  2. If the business owner or attendant has only a license plate number and the driver is unknown, a warrant cannot be obtained. However, the business owner may contact an attorney for possible civil action.
  3. Officers may refer the business owner who has a license plate number to the Nebraska Department of Motor Vehicles (DMV). Business owners can apply to the DMV for information about the vehicle's registered owner.
    - a. At the time of the initial report, officers will not provide any vehicle registration information obtained from the OPD Information Channel to the business owner.
    - b. The OPD Telephone Report Squad (TRS) will not provide vehicle registration information to callers. TRS operators may refer callers to the DMV.

## **VIII. Grading of Theft Offenses**

- A. Nebraska Revised Statute (NRS) [§28-518](#) details the penalties for theft offenses depending upon the value of the item(s) stolen.

1. The statute also details that a penalty may be enhanced if a person has prior convictions for theft. Prior convictions do not need to be of the exact same type of theft in order for a penalty to be enhanced.

**EXAMPLE:** A suspect may have a prior conviction for Theft by Shoplifting and is currently facing a charge of Theft by Unlawful Taking.

2. Theft convictions under state statutes can be enhanced, but theft convictions under city ordinances cannot be enhanced.

## IX. Handling of Stolen Property

- A. Officers shall thoroughly document in their reports as much identifying information as possible about the stolen property.
  1. This should include the make, model, serial number, identifying marks, and/or the approximate value of the property at the time it was stolen. The time, date, and location where the theft occurred shall also be documented (NRS [§28-511.01](#)).
  2. Officers shall document the name(s) and contact information of the victims and/or owners of the property they spoke to while on the scene (NRS [§28-511.01](#)). If officers spoke to witnesses, their names and contact information shall also be documented.
- B. When stolen property is recovered, officers shall document the recovered property via a marker on their Body Worn Camera (BWC) recording (NRS [§28-511.01](#)). Officers shall ensure they capture the totality of the recovered property when using their BWC.
  1. If a victim has taken photos and recordings of evidence, and wants to send this information to officers, officers may send an Axon Community Request link to the victim in order to collect the photographic evidence.
  2. Recovered property that has no evidentiary value shall be returned to the victim and not booked into the OPD Evidence and Property Unit (EPU).

**NOTE:** Evidentiary value means that property needs to be processed by the OPD Forensic Investigations Unit (FIU). In these instances, officers shall contact FIU to process the evidence.

- a. If an officer is not sure whether an item should be booked into EPU or returned to the victim, they shall consult with their supervisor for guidance.
  - b. Officers shall refer to OPD's "[Evidence and Property – Management](#)" and "[Evidence and Property Handling](#)" policies for procedures on booking stolen property into EPU.
- C. If a suspect possesses property that the victim does not recognize as their own, and the officer develops probable cause or reasonable suspicion (Nebraska State Constitution – NSC [§1-7](#)) that the property may have been stolen from a business and/or stolen from an individual, officers shall book the items into the OPD Evidence and Property Unit (EPU) per OPD policies and procedures. See the OPD "[Evidence and Property – Management](#)" and "[Evidence and Property Handling](#)" policies for details.
    1. When officers complete reports they shall thoroughly document the reasons they took the property from the suspect(s) and booked it into EPU (NRS [§28-511.01](#)).

**EXAMPLE:** If the suspect possesses property with a spider wrap anti-theft device or other anti-theft device, this could be evidence that the property was stolen from a business. Officers shall document this detail in their report(s).

2. Officers shall document the suspected stolen property via a marker on their BWC recording, when feasible, prior to booking the property into EPU (NRS §[28-511.01](#)).
3. If an officer cannot develop probable cause or reasonable suspicion, the officer shall document the property via a marker on the BWC recording, when feasible, and thoroughly document the property in their report(s). Officers shall NOT book the property into EPU under these circumstances.

D. Officers shall refer to the CIB Operations Manual for more details on handling stolen property.

## REFERENCES:

### I. Laws

- A. Nebraska State Constitution (NSC) §[1-7](#) (for definitions of probable cause and reasonable suspicion).

### II. Previous OPD Orders

- A. Previous General Orders: #81-71, 24-87, 25-87 Supplement #1, 127-88, 21-03, 38-14, 103-16, 23-24, 88-25, and 26-26.

### III. Other

- A. PPM Monthly Updates: #08-2021 and 05-2022.