



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2015-0652

Issued Date: 11/23/2015

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 16.090 (6) Employees Will Record Police Activity (Policy that was issued 02/01/15)
OPA Finding	Not Sustained (Management Action)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 16.090 (6) Employees Will Record Police Activity (Policy that was issued 02/01/15)
OPA Finding	Not Sustained (Management Action)
Final Discipline	N/A

Named Employee #3	
Allegation #1	<u>Seattle Police Department Manual</u> 16.090 (6) Employees Will Record Police Activity (Policy that was issued 02/01/15)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	N/A

INCIDENT SYNOPSIS

The named employees responded to an incident involving a Domestic Violence (DV) suspect who had a history of mental health issues. The suspect was armed with a knife, had access to a handgun, and was refusing to come out of his residence. The suspect made statements about stabbing and shooting officers on the scene.

COMPLAINT

The complainant, the Force Review Board, alleged that the named employees had officer-based In-Car Video (ICV) issues as described below:

Named employee #1 turned off his ICV early.

Named employee #2, who was the Hostage Negotiation Team (HNT) officer on the scene, did not have any identifiable ICV from this incident.

Named employee #3 stopped and started the video for a statement, and the officer did not turn off his AM/FM radio during this recording.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint memo
2. Search for and review of all relevant records and other evidence
3. Interviews of SPD employees

ANALYSIS AND CONCLUSION

The evidence showed that the named employees did not use their ICV systems as they believed that there was a long-standing practice of not requiring SWAT and HNT to record with their ICV systems while they were deployed tactically. However, under the current ICV policy, such exemptions must be sought and granted. Paragraph 7 of SPD Policy 16.090 anticipates the probability that some activities of certain specialty units may be such that using their ICV system would be impractical. Named employee #3 started using his ICV system but then stopped using it to create a reference point. However, the policy states that once a recording has begun, employees shall not stop recording until the event has concluded. The technique of "stop and start" was innovative but not consistent with policy.

FINDINGS

Named Employee #1 and #2

Allegation #1

The evidence showed that SPD policy in effect at the time of the incident does not specifically address the situation where on-duty Patrol Officers are called to an incident functioning in the specialized role of Hostage Negotiations Team (HNT) operators. Therefore a finding of **Not Sustained** (Management Action) was issued for *Employees Will Record Police Activity*.

Named Employee #3

Allegation #1

There was no evidence to show that named employee #3 intended to violate the policy. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Employees Will Record Police Activity*. This will ensure that the supervisor will review the policy with named employee #3.

The OPA Director's letter of Management Action recommendation to the Chief of Police is attached to this report.

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.



November 5, 2015

Chief Kathleen M. O'Toole
Seattle Police Department
PO Box 34986
Seattle, WA 98124-4986

RE: MANAGEMENT ACTION RECOMMENDATION (2015OPA-0652)

Dear Chief O'Toole:

As you are well aware, the public places an extremely high value on the transparency created by the presence of in-car video systems in marked Seattle Police Department (SPD) vehicles. Tremendous progress has been made by SPD in the last year to be certain that its officers are audio and video recording all police activity as required by SPD Policy 16.090 (6) that became effective on February 1, 2015.

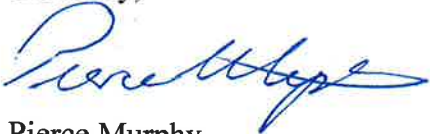
Arising out of an incident in which members of the SPD SWAT Team did not fully audio and video record all of their police activities, OPA became aware of the fact that SWAT and HNT both believed they were exempt from the requirement. Research on our part found that there had been a long-standing practice of not requiring SWAT and HNT to record while they were tactically deployed. However, under the current in-car video policy, such exemptions must be specifically sought and granted. Paragraph 7 of that same policy (16.090) anticipates the probability that some activities of certain specialty units may be such that using the in-car video system would be impractical. In such a case, the Chief of Police has the authority, upon request, to grant an exemption to the requirements of 16.090 (6). Such exemptions are to be limited to one year with the possibility of renewal by the Chief. The process by which the Chief would evaluate and consider requests for exemptions is not spelled out in policy, nor is there any requirement that the Chief consult with others, such as the OPA Director, OPA Auditor or community representatives (such as the Community Police Commission), all of whom provided extensive input to the existing in-car video system policy as it was being formulated and considered. Given the key role that in-car video plays in SPD's accountability systems (Force Review, OPA, etc.), it seems to me that the current reactive approach to considering exemptions to the requirement to record all police activities should be changed.

Recommendation: It is my recommendation that the in-car video system policy (16.090) be revised with respect to the exemptions contemplated in section 7. Those units for whom the nature of their activities makes it impractical to use their in-car video system, should be listed in the policy, along with the specific activities of any such units who are being exempted. Moving unit level exemptions into the policy will ensure that there is a full public discussion about the benefits and costs of granting any such exemptions. In addition, I recommend that the policy create a process by which the Chief or her designee could grant a one-time, limited duration and scope exemption for a specific operation or activity.

Pierce Murphy
November 5, 2015
Page 2

Thank you very much for your prompt attention to this matter of public trust and confidence in the professional conduct of the SPD and its employees. Please inform me of your response to this recommendation and, should you decide to take action as a result, the progress of this action.

Sincerely,



Pierce Murphy
Director, Office of Professional Accountability