



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-1412

Issued Date: 05/31/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 16.090 (8) In-Car Video System: Once Recording Has Begun, Employees Shall Not Stop Recording Until the Event Has Concluded (Policy that was issued March 1, 2016)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 16.090 (8) In-Car Video System: Once Recording Has Begun, Employees Shall Not Stop Recording Until the Event Has Concluded (Policy that was issued March 1, 2016)
OPA Finding	Sustained
Final Discipline	Written Reprimand

INCIDENT SYNOPSIS

The Named Employees were back-up officers for a Domestic Violence call.

COMPLAINT

During an OPA Intake on a complaint regarding an arrest of a DV subject, it was discovered that the Named Employees stopped their In-Car Video (ICV) prior to the incident ending.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the related complaint
2. Review of In-Car Videos (ICV)
3. Search for and review of all relevant records and other evidence
4. Interviews of SPD employees

ANALYSIS AND CONCLUSION

The evidence clearly showed that Named Employee #1 stopped the recording of his ICV system prior to leaving the scene of police activity. Named Employee #1 turned off the ICV recording function at approximately 15:35:30 as indicated by the timestamp of the ICV system. However, Named Employee #1 did not depart from the scene. Approximately one minute and 50 seconds after turning off his ICV, Named Employee #1 turned the record function back on. Named Employee #1 admitted to turning off his ICV prior to actually leaving the scene of the incident in which he had been engaged in police activity. Named Employee #1 told OPA he turned off the ICV because he believed the "event was concluded" and his involvement ended. Named Employee #1 told OPA he saw Named Employee #2 walking toward their two police cars, which were side-by-side, and removing his protective gloves. Named Employee #1 took this to be a signal from Named Employee #2 that their involvement in the incident had concluded. Anticipating that he was going to drive away from the scene once Named Employee #2 got into his own police car, Named Employee #1 turned off his ICV. He told OPA that, before he was able to leave, the officer with the prisoner walked up to Named Employee #1 and Named Employee #2 and told them that the prisoner had made a bias allegation. Deciding that he now needed to remain on scene until a supervisor came, Named Employee #1 told OPA, Named Employee #1 then turned his ICV back on.

SPD Policy 16.090(8) specifically instructs officers not to turn off the recording function of their ICV until all three of the following conditions have been met, thus indicating that the "event has concluded":

- (1) the employee has completed his or her part of the active investigation;
- (2) there is little possibility that the employee will have further contact with any person involved in the event; and
- (3) the employee is leaving the area of the event.

Based on the preponderance of the evidence from this investigation, it was clear that the first two conditions listed above had been met with respect to Named Employee #1. Named

Employee #1 reasonably believed his active involvement was over and, since the prisoner was under the control of a different officer, it seemed likely to Named Employee #1 that he would not have further contact with anyone involved in the event. However, Named Employee #1 believed he was “in the process of leaving” the area of the event. He was inside his police car waiting for his partner to get in so they could drive away. This section of the policy was not as clear as it could be. If the Department wants officers to keep their ICV on until they have actually and physically left the scene of the event, the policy should say this clearly. There was potential for misunderstanding inherent in the wording of the policy.

The evidence clearly showed that Named Employee #2 stopped the recording of his ICV system prior to leaving the scene of police activity. Named Employee #2 turned off the ICV recording function at approximately 15:35:40 as indicated by the timestamp of the ICV system. However, Named Employee #2 did not depart from the scene. Approximately four minutes and 50 seconds after turning off his ICV, Named Employee #2 turned the record function back on. Named Employee #2 admitted to turning off his ICV prior to actually leaving the scene of the incident in which he had been engaged in police activity. Named Employee #2 told OPA he turned off the ICV because he “was getting ready to make sure everybody had completed their part of the investigation, including me, and I didn’t need to be involved anymore; and I was getting ready to leave the scene as long as it was safe.” Named Employee #2 told OPA that, before he was able to leave, he was informed there might be some sort of allegation against him so he turned his ICV back on while he waited for a supervisor and/or the Seattle Fire Department to show up at the scene.

SPD Policy 16.090(8) specifically instructs officers not to turn off the recording function of their ICV until all three of the following conditions have been met, thus indicating that the “event has concluded”:

- (1) the employee has completed his or her part of the active investigation;
- (2) there is little possibility that the employee will have further contact with any person involved in the event; and
- (3) the employee is leaving the area of the event.

Based on the preponderance of the evidence from this investigation, it was clear that the first of the three conditions listed above had been met. Named Employee #2 reasonably believed his active involvement was over. However, Named Employee #2’s own statements during his OPA interview clearly showed that the second condition was not met. Named Employee #2 told OPA he remained on scene after he turned off his ICV because he thought it possible that one of the subjects involved in the incident might cause some trouble. In essence, Named Employee #2 remained to provide security for the officer who had a prisoner. Finally, the evidence clearly showed that Named Employee #2 was not “leaving the area of the event” prior to or at the moment he stopped recording. Based on what Named Employee #2 told OPA, it appeared he was anticipating he was about to leave the area of the event and planned to do so once he considered the situation stable and safe enough to do so. Thinking about doing something is not the same as actually doing it. The policy was worded such that it was clear officers may only stop recording when they are actually leaving.

FINDINGS

Named Employee #1

Allegation #1

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *In-Car Video System: Once Recording Has Begun, Employees Shall Not Stop Recording Until the Event Has Concluded*.

Required Training: Named Employee #1 should be given clear direction from his supervisor regarding when it is permissible to turn off the ICV in his police car (see 16.090(8)). In particular, it should be made clear to Named Employee #1 that he should wait until he has actually left the scene of an event before turning off the ICV.

Named Employee #2

Allegation #1

A preponderance of the evidence showed that the Named Employee stopped the recording of his ICV system prior to leaving the scene of police activity. Therefore a **Sustained** finding was issued for *In-Car Video System: Once Recording Has Begun, Employees Shall Not Stop Recording Until the Event Has Concluded*.

Discipline Imposed: Written Reprimand

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.