



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0649

Issued Date: 01/03/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 16.090 (6) In Car Video System: Employees Will Record Police Activity (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 (6) In Car Video System: Employees Will Record Police Activity (Policy that was issued March 1, 2016)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employees were on a joint operation.

COMPLAINT

Via a use of force investigation, the complainant, a supervisor within the Department, alleged that the Named Employees did not activate their In-Car Video (ICV) during an arrest.

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

While conducting a use of force investigation the complainant discovered that the Named Employees did not activate their ICV during transport as required by policy. During their OPA interview the Named Employees stated that they were assisting in an operation that utilized undercover officers. There was a possibility that the subject was going to work as a cooperating witness or an informant. Both Named Employees had concerns that recording undercover officers or the subject would expose their identities and endanger their safety. The Named Employees intentionally did not activate their ICV to prevent the disclosure of the subject's identity. The Named Employees did not screen this with a supervisor prior to making the decision to not activate the ICV system, nor did they self-report the failure to record. The Named Employees may have thought they had valid excuses for not activating the ICV system, but no such exemption has been granted regarding the requirement to record the transport of a subject.

A Discipline Meeting for this case was held. After listening to an explanation regarding the operating instructions both Named Employees had received over a lengthy period of time that operations involving undercover SPD officers and/ or Federal Agents were not able to be video or audio recorded, the OPA Director decided to change his findings recommendation from Sustained to Not Sustained (Training Referral). The primary reason for this change in recommendation is the belief that it would be unjust to sustain allegations for policy violations against officers who were following the advice of their supervisor and generally understood operating norms, even if they were violating the ICV policy in the process. In the OPA Director's view, the fault in this case lies with the Department, not the individual officers. It was also noted that the Named Employees' lieutenant had subsequently issued a reminder to all officers in this unit that they were to follow the requirements of the ICV policy and, under current policy, may not be exempted without the approval of the Chief of Police. At this same Discipline meeting, a need was identified for revision of the ICV policy to allow for waiver of the mandatory recording requirement in certain limited operations where undercover officers or Confidential Informants might be compromised. The Deputy Chief of Police agreed to take responsibility for raising this policy issue within the Department.

FINDINGS

Named Employee #1 and #2

Allegation #1

The preponderance of the evidence showed that the Named Employees were following the advice of their supervisor and generally understood operating norms, even if they were violating the ICV policy in the process, and the fault in this case lies with the Department. Therefore a finding of **Not Sustained** (Training Referral) was issued for *In Car Video System: Employees Will Record Police Activity*.

Required Training: Named Employee #1 and #2 should be reminded of their obligation to follow the ICV policy and that, under current ICV policy, they may not be relieved of their obligation to record as stated in the policy without the express written permission of the Chief of Police.

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.