



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0056

Issued Date: 07/28/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 16.090 (4) In-Car Video System: Employees Will Record Enforcement-Related Activity Which Occurs Within Camera Range (Policy that was issued 11/21/2012)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #2	<u>Seattle Police Department Manual</u> 15.180 (I.A.1.a) Primary Investigations: Officers must ensure that all facts related to the situation are recorded completely and accurately (Policy that was issued 03/26/2010)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #3	<u>Seattle Police Department Manual</u> 5.001 (VII.A.1) Standards & Duties: Professionalism – Exercise of Discretion (Policy that was issued 03/09/2012)
OPA Finding	Not Sustained (Lawful and Proper)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 16.090 (4) In-Car Video System: Employees Will Record Enforcement-Related Activity Which Occurs Within Camera Range (Policy that was issued 11/21/2012)
OPA Finding	Not Sustained (Inconclusive)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employees responded to a report of child abuse.

COMPLAINT

The complainant alleged that Named Employee #1 did not start In-Car Video (ICV) recording when required, allowed testimony to become tainted, failed to completely document reported abuse, and removed children from their home without probable cause.

OPA added an allegation that Named Employee #2 did not activate ICV during a Terry stop.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint
2. Interview of the complainant
3. Review of In-Car Video (ICV)
4. Search for and review of all relevant records and other evidence
5. Interview of SPD employees

ANALYSIS AND CONCLUSION

The preponderance of the evidence shows that Named Employee #1 activated his In-Car Video (ICV) and began recording once he recognized that the situation was likely to result in enforcement action and that ICV recording was required. Under the policy in effect at the time of this incident, Named Employee #1 was not required to record his activities prior to that moment. The complainant alleged that Named Employee #1 failed to include in the General Offense (GO) Report information provided by a witness. Specifically, the witness mentioned that similar abuse by a different person had previously been reported to the authorities in a different jurisdiction. The audio portion of the ICV recorded by Named Employee #1 does contain a statement by the witness on this subject. Named Employee #1 told OPA he did not recall hearing the witness say this. While it would have been appropriate for Named Employee

#1 to include this statement in the report, it was not material information concerning the crime he was investigating. In addition, training materials and direction given to patrol officers regarding their primary investigation of reports of child abuse encourage officers to keep their report brief and containing only the information necessary to report the criminal elements observed and/or reported. The complainant alleged that Named Employee #1 lacked probable cause to take the children into protective custody. The preponderance of the evidence shows Named Employee #1 had received a statement from one of the children that an adult living in the home had abused that child. Based on this statement and all the facts and circumstances known at the time by Named Employee #1, he had probable cause to believe the children had been abused or neglected and potentially may be injured if not taken into protective custody. Taking the children into protective custody at that time was a reasonable exercise of discretion by Named Employee #1.

The preponderance of the evidence shows that Named Employee #2 activated his ICV and began recording once he placed the arrested subject into the back of his police vehicle. When Named Employee #2 first arrived at the scene, Named Employee #1 assigned him to stay in an interior hallway with the subject who was later arrested. The subject was not being detained at first and was only placed under arrest by Named Employee #1 immediately before Named Employee #2 took him outside and placed him inside the police car. The policy in effect at the time of this incident did not require Named Employee #2 to activate his ICV and record before the subject was placed under arrest. It is unclear why Named Employee #2 did not activate the ICV immediately after the subject was arrested. It is possible that he attempted to and was unable to do so because of being inside the building. It is also possible Named Employee #2 simply forgot to or chose not to. Given the amount of time between when the incident took place and when the complainant came forward, the OPA Director found there is insufficient evidence to either prove or disprove that Named Employee #1 did not attempt to begin the recording earlier.

FINDINGS

Named Employee #1

Allegation #1

The evidence supports that Named Employee #1 activated his In-Car Video as required by the policy in effect at the time of the incident. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *In-Car Video System: Employees Will Record Enforcement-Related Activity Which Occurs Within Camera Range*.

Allegation #2

The evidence supports that Named Employee #1 collected the material information concerning the crime he was investigating. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Primary Investigations: Officers must ensure that all facts related to the situation are recorded completely and accurately*.

Allegation #3

The evidence supports that Named Employee #1 used reasonable exercise of discretion. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Standards & Duties: Professionalism – Exercise of Discretion*.

Named Employee #2

Allegation #1

The evidence could not prove or disprove the allegation against Named Employee #2. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *In-Car Video System: Employees Will Record Enforcement-Related Activity Which Occurs Within Camera Range*.

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.