



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number 2017OPA-0096

Issued Date: 08/07/2017

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	<b>Sustained</b>
Final Discipline	Written Reprimand

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	<b>Sustained</b>
Final Discipline	Oral Reprimand

#### **INCIDENT SYNOPSIS**

The Named Employees saw a subject who they knew had an outstanding warrant and was on US Probation.

## **COMPLAINT**

The complainant, a supervisor within the Department, alleged that the Named Employees did not activate their In-Car Video (ICV) prior to conducting police activity.

## **INVESTIGATION**

The OPA investigation included the following actions:

1. Review of the complaint memo
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 complainant alleged that Named Employee #1 failed to activate his ICV as soon as practical after the decision was made to search for the subject. SPD Policy 16.090-6 requires that employees record specified activity, including arrests and seizures. It was undisputed that the initial contact and eventual arrest of the subject should have been recorded on ICV. Named Employee #1 contended, however, that there was not sufficient time to activate his ICV given the quick approach of the subject by officers, the combative nature of the subject and prior incidents where the subject had been assaultive towards officers, the fear that the subject could be armed, and Named Employee #1's concern that the subject would attempt to evade arrest. Named Employee #1 did not activate his ICV until after the subject had been handcuffed and was being walked to the marked van.

Even presupposing that Named Employee #1 was correct that SPD policy did not require him to activate his ICV during the ten minutes between the first and second sightings of the subject, there was ample time for Named Employee #1 to activate his ICV prior to contacting the subject. This opinion was based on the following:

In Named Employee #2's statement in General Offense Report (GOR), he indicated that, upon viewing the suspect, Named Employee #1 took the time to radio two other officers to provide his and Named Employee #2's location. After that point, Named Employee #1 pulled his department vehicle six feet in front of the subject, who continued to walk in the officers' direction. Pursuant to Named Employee #2's statement, at that time the subject was not attempting to evade the officers or preparing to do so. Moreover, as indicated in Named Employee #2's statement, both he and Named Employee #1 exited the van and "walked just in front of" the subject. Notably, in both Named Employee #1 and Named Employee #2's statements, and unlike in the OPA interview of Named Employee #2, neither officer indicated any urgency in their approach of the subject. Moreover, the officers had sufficient time to engage the subject in conversation prior to the arrest. There was no indication as to why both Named Employee #1 and Named Employee #2 did not or could not have activated their ICV at

the same time as when Named Employee #1 radioed other officers for assistance, prior to pulling up in front of the subject, before walking out of the vehicle to approach the subject, or at some point prior to or during their conversation with the subject.

While Named Employee #1 complied with policy by reporting his failure to timely record to a supervisor, Named Employee #1 had sufficient time prior to contacting the subject to activate his ICV and failed to do so.

The complainant alleged that Named Employee #2 failed to activate his ICV as soon as practical after the decision was made to search for the subject. Like Named Employee #1, Named Employee #2 contended that there was not sufficient time to activate his ICV given the quick approach of the subject by officers, a concern the subject was a gang member, and the concern that the subject would attempt to evade arrest. Named Employee #2 did not activate his ICV until after the subject had been arrested.

For the same reasons as articulated above, there was ample time for Named Employee #2 to activate his ICV prior to contacting the subject.

While Named Employee #2 also complied with policy by reporting his failure to timely record to a supervisor, Named Employee #2 had sufficient time prior to contacting the subject to activate his ICV and failed to do so.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

A preponderance of the evidence showed that Named Employee #1 had sufficient time prior to contacting the subject to activate his ICV and failed to do so. Therefore a **Sustained** finding was issued for *In-Car Video System: Employees Will Record Police Activity*.

### **Named Employee #2**

#### Allegation #1

A preponderance of the evidence showed that Named Employee #2 had sufficient time prior to contacting the subject to activate his ICV and failed to do so. Therefore a **Sustained** finding was issued for *In-Car Video System: Employees Will Record Police Activity*.

*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.*