



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-1246

Issued Date: 04/19/2017

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 February 1, 2015)
OPA Finding	Not Sustained (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 16.090 (11) In Car Video System: Employees Document the Existence of Video or Reason for Lack of Video (Policy that was issued February 1, 2015)
OPA Finding	Allegation Removed
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employee logged himself to two on views involving a warrant check during his patrol shift.

COMPLAINT

The complainant, OPA, alleged that the Named Employee may have violated SPD policy by not activating his In-Car Video (ICV) at the beginning of an incident / investigation.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

The evidence clearly showed that the Named Employee did not record any of his police activity during one of two visits he made to the house of a person he knew had an active arrest warrant. SPD Policy 16.090(6) issued February 1, 2015 (which was in force at the time of this incident), required officers to record “on view infractions and criminal activity” and “arrests and seizures.” The Named Employee told OPA he did not consider driving to the subject’s house, parking the police car nearby and going up to the door to knock and see if the subject was home to be police activity as defined by policy. His interpretation of the policy was that his activities would only become on-view police activity if he found the subject at home, either by seeing her or by some other means. While the Named Employee did not specifically say this, it appeared he believed that his decision to go to the subject’s house and knock on her door was routine patrol, not unlike patrolling an area known to be frequented by a person with an outstanding arrest warrant in hopes of seeing the person and executing the warrant. In reviewing this completed investigation, the OPA Director checked with the SPD Audit, Policy and Research Section (APRS) of the Professional Standards Bureau to see how they would apply the policy to a situation like this. It should be noted that the wording of the particular section of SPD Policy 16.090(6) that applied to this situation was not changed when 16.090 was updated and re-issued on March 1, 2016. The OPA Director presented APRS with a hypothetical question and did not provide them with any specific details from this investigation. Their response was as follows:

The term “on-view”, as you said, is indicative of events that were not initiated through 911 and a radio dispatch, but initiated by the officer. This may include actual infractions, or potential or actual criminal activity that occurs within their sight. But it also includes being notified (e.g., being flagged down) by a citizen of something occurring now, or that occurred sometime before, that they simply need to report. Or, it can be an officer following up on something, such as in your warrant example, during routine patrol. My analysis of your question focuses on when the officer transitions from routine patrol to the actual on-view event.

I’ll start with the officer checking an area where the person hangs out. Good “routine patrol” should include spending time in areas where certain activity of interest has been occurring, or where wanted persons are known to hang out and may be found. In this case the transition from routine patrol to the on-view event likely starts when the warrant suspect is spotted and the officer begins any actions like a Terry Stop, attempted arrest or other police action. At that point

the officer should be logging out to the on-view event with radio and starting their ICV, since this type of activity – Terry Stops and arrests – is required to be recorded by the policy.

I base the above on the premise that routine patrol shouldn't be completely random and without thought. We should expect the information officers have, to include information on wanted persons who could be in their area, to influence where they will patrol when not on a call. So, if we were to say that they have to start their ICV every time they decide to patrol in a particular area where a wanted person may be found, or in an area where criminal activity has been routinely taking place – say an area that has been frequently hit by car prowls - a good proactive officer would have to have their ICV on all of the time during routine patrol. The current policy does not require that.

In the example of checking a house for a warrant suspect, an officer may decide to check a residence for the suspect sometime during their shift. But this may mean being on routine patrol – also meaning clear to be dispatched to a 911 call – until they go to the house to actually make the check. At that point they are no longer patrolling and are approaching to attempt to make contact to make an arrest during an on-view event. ICV should be active once they have log out and begin approaching the home. Prior to that they are still in a routine patrol status and ICV is not required.

Based on this interpretation, the Named Employee in this case should be judged to have not met the requirements of the policy in effect at the time. However, it was the OPA Director's judgment that the Named Employee's interpretation was not an altogether unreasonable one. Given that OPA was itself uncertain how the policy should be applied to the facts of this incident, it seemed unfair to expect the Named Employee to have a clearer insight than OPA.

It should be noted that the Named Employee went to the subject's home earlier that same day in an effort to locate her and serve the warrant. In that instance, the Named Employee did record his arrival at the subject's house and his attempt at locating her. However, the Named Employee did not activate the ICV at the beginning of his drive to the subject's house, but only when he was a short distance away. The policy in effect at the time of the incident required officers to start recording when dispatched to a call. Based on the interpretation provided by APRS, this instance of self-initiated "on view" activity did not begin until the Named Employee arrived at the subject's house and began his attempt to make contact with her. For this reason, the OPA Director believed the earlier instance of ICV activation by the Named Employee on the way to the subject's house was done in a manner consistent with the policy in effect at the time.

Given the Named Employee's apparent belief that SPD policy did not require him to record his second attempt to locate the subject at her house, it seems unreasonable to expect him to document his lack of video. For this reason, the OPA Director directed that this allegation be removed.

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: Employees Will Record Police Activity*.

Required Training: The Named Employee's supervisor should clearly communicate to him that SPD Policy 16.090(6) requires him to record all self-initiated police activity from the beginning of that activity until its completion.

Allegation #2

This Allegation was removed.

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.