

Champaign Police Department
82 E. University Avenue
Champaign IL 61820
(217) 351-4545
police@champaignil.gov
champaignpolice.com



MEMORANDUM

To: Chief Anthony Cobb
From: Lt. Tod Myers
Date: August 31, 2018
Subject: Citizen Complaint 18-04

BACKGROUND

On Tuesday April 10, 2018, Officer Bill Killin was dispatched to [REDACTED] for a disorderly subject call (Incident #181000364). The suspect in this call lived at [REDACTED] and had reportedly returned to her house. Officer Killin spoke to all involved finding this was a parking problem and ultimately cleared after giving advice. Neither person involved in this incident was KLOSE, the complainant in this investigation.

KLOSE, who owns the property at [REDACTED] but doesn't reside there, called and spoke to Lieutenant Ramseyer inquiring about the original incident. After speaking multiple times, Lieutenant Ramseyer either asked Officer Killin to contact KLOSE or asked KLOSE to contact Officer Killin (he couldn't remember which) so Officer Killin could explain what had occurred since he wasn't present.

On April 18th, KLOSE called the police department and spoke to Officer Killin. During this conversation, Officer Killin had activated his body worn camera (BWC) to record the conversation. It wasn't until the end of the conversation that Officer Killin told KLOSE the conversation was recorded.

In May, I received a voice mail from KLOSE on my office phone. I recall in the message she referenced a recorded conversation by Officer Killin and she had questions regarding the body camera law. I did not interpret her message to mean she wished to file any type of complaint. After receiving this message, I contact Lieutenant Petrilli and asked him to call KLOSE. I did this because he had just completed the research and subsequent Body Camera Policy and would be in the best position to answer her questions. A few days later I spoke to Lieutenant Petrilli to see if he had made contact. He said he tried to call a couple times but after receiving a voice mail each time, the last name on the voice mail was not KLOSE so he didn't leave a message thinking he possibly had the wrong number. I knew KLOSE went by a previous last name of Washburn, so I asked Lieutenant Petrilli if that was the name on the voicemail. He thought it was. He said he would call again and leave a message. I confirmed with him that he did leave a message and had not received a return call.

Near the end of May or the beginning of June, Deputy Chief Gallo had contact with KLOSE. He later informed me that KLOSE had supplied a letter to him titled "Champaign Police Department

Citizens Complaint." This letter is attached. When I read the letter, it appeared that KLOSE was still looking for a legal interpretation of the law as it pertained to her incident. The question I had was does a person have an expectation of privacy while they are in their home during a phone conversation? My question was taken from the letter KLOSE supplied where she cited language from our policy. I decided to send the letter to the City Legal Department to review her concerns while obtaining a legal opinion on the body worn camera recording. I emailed KLOSE to inform her of this and she replied with thank you.

On August 8th I received a response from the legal department which I summarized and sent to KLOSE. KLOSE responded that she disagreed but thanked me for responding to her question. At this point I was under the impression that the questions she had asked had been answered even though she disagreed, and this matter was closed.

It wasn't until a couple weeks later that I was directed to open and complete a complaint investigation.

OFFICER KILLIN'S BODY WORN CAMERA:

I was able to get a copy of the body worn camera video from Matt Iverson. He had kept a copy after the initial Freedom of Information Act (FOIA) request was completed. Below is a timeline of the conversation.

<u>TIME</u>	<u>ACTION</u>
12:34:21 PM	Officer Killin BWC video begins. He is in the report writing room at the police department.
12:34:52	Officer Killin answers a phone call. The phone is on speaker however it appears the caller can't hear him, so he picks the handset up.
12:34 – 12:43	Officer Killin is speaking to KLOSE with the speaker off. He appears to be explaining the incident which she called about. She cannot be heard.
12:43:11	Officer Killin places the phone call on speaker phone.
13:01:10	Officer Killin tells KLOSE that he is recording the conversation.
13:03:44	KLOSE says she is hanging up and the phone conversation ends.

Between the time Officer Killin turned the speaker on until KLOSE ended the phone call, the conversation did not appear to be a productive conversation in my opinion. When Officer Killin is choosing words like "condescending" to describe KLOSE's responses and "nitpicking", the purpose of the original conversation is lost. KLOSE did nothing either to put this conversation back into focus. Although I believe Officer Killin was patient in his explanations, each of them seemed to feed off the other which rendered the second half of the conversation useless.

INTERVIEW WITH OFFICER KILLIN

I met with Officer Killin on August 24, 2018 in the patrol commons area. Below is a summary of our conversation:

- To his knowledge, he has never met KLOSE. He has heard from other officers of the neighborhood disputes which KLOSE is/was part of.
- Lieutenant Ramseyer asked him to contact KLOSE to answer some questions she has regarding the parking complaint.
- Lieutenant Ramseyer told him to activate his body worn camera to record the conversation.
- He said he activated his body worn camera to have an accurate record of the conversation.

- He did not feel he was rude when speaking to KLOSE.
- He admitted he was direct in some of his conversations when KLOSE took his comments out of context.
- He said he had no reason not to tell KLOSE the conversation was being recorded in the beginning. It never crossed his mind at the time.
- He only mentioned it near the end when she misunderstood what he was telling her.

INTERVIEW WITH LIEUTENANT RAMSEYER

I spoke to Lieutenant Ramseyer in his office on August 27th. I asked him to tell me about his interaction with KLOSE. He provided the following:

- He spoke to KLOSE several times over the phone about a parking issue.
- She initially wanted to review the body worn camera video from the parking complaint call which she was not part of.
- He did review the recording and assured her there was no improper conduct.
- She asked several questions and seemed "upset" by some of his responses.
- KLOSE had questions that he didn't have answers for.
- He asked Officer Killin to have a conversation with KLOSE in hopes of answering some of her questions.
- He told Officer Killin if he was uncomfortable having the conversation to activate his body worn camera.
- He is not sure if he told Officer Killin to advise KLOSE of the recording.
- When asked why he directed Officer Killin to use the body worn camera, he said he wanted to have the conversation on record. He would not have been surprised if KLOSE filed a complaint based on his own interaction with KLOSE, so he wanted Officer Killin to have the conversation on record.

DEPARTMENT POLICY

Champaign Police Department policy 41.11 titled Body camera and Mobile Video Recording is the policy which governs, in part, the use of the body camera by officers. Section 41.11.4 outlines the body camera requirements for use for uniformed officers. There are a few subsections of 41.11.4 which I believe are relevant to this investigation.

Subsection H: Body cameras must be turned off when:

1. Victim of a crime request that the camera be turned off.
2. A witness of a crime or a citizen who wishes to report a crime request that the camera be turned off.
3. The officer is interacting with a confidential informant used by the law enforcement agency.

Subsection N: Officers are encouraged to provide notice to the subject being recorded unless it is unsafe to do so or exigent circumstances exist.

Subsection O: Officers must provide notice of recording to any person if the person has a reasonable expectation of privacy, such as a person's place of residence, bathrooms, locker rooms, and hospital rooms. Proof of notice must be evident in the recording.

Subsection P: An officer may initiate a body camera recording any time the officer believes it would be appropriate or valuable to document an incident.

Subsection Q: Officers are not required to record consensual contacts or incidental contact with citizens unless that contact becomes confrontational or changes to an investigative or law enforcement contact, or they believe doing so would be otherwise be beneficial.

FINDINGS

The question before me is did Officer Killin violate Champaign Police Policy by recording the telephone conversation with KLOSE without obtaining her consent prior. In making my findings, I examined the subsections of the Body Camera policy mentioned above.

Subsection H: This subsection defines when the body camera must be turned off. KLOSE was not present or involved at all with the disorderly subject call Officer Killin responded to. KLOSE noted in her letter that she was in a class that evening therefore did not witness any of the events that evening, and KLOSE is not a confidential informant with the Champaign Police Department. I see no violations within this subsection.

Subsection N: This subsection encourages officer to provide notice to subjects being recorded unless it is unsafe to do so, or exigent circumstances exists. Clearly there were no safety issues or exigency involved in the phone call. The wording of the policy states "encourages" but does not require officers to provide notice. During my interview with Officer Killin, he said he had no reason not to tell KLOSE he was recording however it never crossed his mind at the time. I see no violations with this subsection.

Subsection O: This subsection says an officer must provide notice of recording to any person if the person has a reasonable expectation of privacy, such as a person's place of residence, bathrooms, lockers rooms, and hospital rooms. I do not interpret the policy to mean just because a person is calling the police from inside their residence that the reasonable expectation of privacy applies. However, if an officer is in a citizen's residence and recording with their body worn camera where the interior can be recorded, then this subsection would be applicable. I see no violations with this subsection.

Subsection P: This subsection says an officer may initiate a body camera recording any time the officer believes it would be appropriate or valuable to document the incident. In this case, Lieutenant Ramseyer had several conversations with KLOSE prior to Officer Killin. Based on those conversations and her reaction to some of his answers, he told Officer Killin to document the conversation via his body camera to preserve the interaction in case anything was brought up in the future. Officer Killin followed the suggestion of Lieutenant Ramseyer especially since he (Killin) had not met KLOSE prior and Lieutenant Ramseyer had interacted with her.

Subsection Q: This subsection indicated officers are not required to record consensual contacts or incidental contact with citizens unless that contact become confrontational or changes to an investigative or law enforcement contact, or they believe doing so would otherwise be beneficial. Officer Killin was not required to record the conversation however made the decision to because of information provided by Lieutenant Ramseyer. Officer Killin said he wanted an accurate record of the conversation which he believed would be beneficial to him in the future possibly.

Although I do not believe Officer Killin violated the policy as it is written, I do believe the right thing to do would have been to alert KLOSE in the beginning of the conversation that the recording was occurring. If, after being advised of the recording, KLOSE chose not to be recorded she could have simply ended the conversation. Based on the above information, this allegation is exonerated.

I would recommend command staff revisit the policy to determine if additional language needs to be included which addresses recording a telephone conversation or if existing language is sufficient.