



City of  
CHAMPAIGN

Office of the City Manager

March 15, 2019

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Via U.S. Mail and Email  
Ms. Emily Klose

Champaign, IL 6182

Dear Ms. Klose:

On May 31, 2018, you filed a complaint with the Champaign Police Department which stated, "I am filing a complaint against Officer William Killin for using his bodycam on Wednesday, April 18, 2018, to record a presumed private phone conversation with me, without first asking for my consent." On October 25, 2018, Chief Anthony Cobb rendered a decision regarding your complaint that the officer was exonerated in using his body camera to record his conversation with you. On November 20, 2018, you sent an email to me requesting an appeal of Chief Cobb's decision.

In response to your appeal, we agreed to meet on February 26, 2019, at 10:00 a.m. In addition to you and me, this meeting also included your legal counsel, Mr. David Wesner, and Assistant City Attorney Laura Hall.

During the meeting, both Mr. Wesner and you provided statements regarding your disagreement with the Chief's decision and I took notes on the statements you each made. I provided a copy of those notes to you at the end of the meeting and offered an opportunity for you to provide any corrections or additional information to clarify my notes. On February 28, 2019 Mr. Wesner notified Laura Hall that my notes were complete.

The scope of my review is to decide whether Officer Killin violated Police Department policy or law in recording his April 2018 conversation with you using his body camera. In addition to considering statements during the February 26 meeting, my review included an examination of your complaint, Professional Standards Lieutenant Tod Myers' (now Deputy Chief Myers) August 31, 2018 investigation report for your complaint, draft minutes and audio from the Human Relations Commission Citizen Review Subcommittee's review of the complaint investigation process, the Police Chief's decision, the Police Department Policy and Procedures for Body Camera and Mobile Video recording that was in effect as of the date of the alleged policy violation, and applicable State of Illinois statutes. I also reviewed the body camera video taken by Officer William Killin on April 18, 2018.

Based upon my review, I concur with Chief Cobb in determining that Officer Killin was not in violation of policy by using his body camera to record his phone conversation with you on April 18, 2018. I believe that Deputy Chief Myers prepared a comprehensive summary of the applicable provisions of policy in the findings section of his August 31 report, upon which Chief Cobb's decision is based. You have previously received a copy of DC Myers' report so I will not repeat the full findings here. However, I would like to emphasize a few points that cause me to concur with the Chief's decision:

- Section 41.11.3 C of the policy provides that officers must turn on their body cameras "when the officer is responding to calls for service or engaged in any law enforcement-related encounter or activity that occurs while the officer is on duty." The phone call between you and Officer Killin on April 18, 2018, clearly occurred while the officer was on duty and was related to a law enforcement activity, as the substance of the call was about a call for service that Officer Killin took on April 10, 2018, at [REDACTED]
- Section 41.11.3 H of the policy further provides specific requirements for when a body camera must be *turned off*, but the circumstances of the April 18 call do not meet those requirements.
- Section 41.11.3 N of the policy states, "Officers are encouraged to provide notice to the subject being recorded..." but the policy does not *require* such notice.
- Section 41.11.3 O states, "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" and Section 41.11.7 further prohibits the use of body cameras in locations where an individual has a reasonable expectation of privacy. This section applies to the use of a body camera in private locations. The circumstances of the April 18, 2018, phone call between you and Officer Killin do not resemble any of the circumstances listed as possible situations where an individual would have a reasonable expectation of privacy. It was a call with a law enforcement officer (public official) who was on official duty at the Police Department (public office building.)
- Eavesdropping Act 720 ILC5/14-1 *et seq.* states, "a person commits eavesdropping when he or she knowingly or intentionally uses an eavesdropping device, in a surreptitious manner, for the purpose of ...recording all or any part of a conversation to which he or she is a party unless he or she does so with the consent of all other parties to the private conversation." The disputed issue appears to be whether the phone conversation was a private conversation. With regard to the substance of the conversation, which was the April 10 incident at [REDACTED] you were neither a victim, witness or a confidential informant. The call concerned an incident which did not involve you personally; it involved your tenant. The incident occurred in public and any record of it is public record. It is the City's position that this was not a private conversation as defined by the eavesdropping statute.

Despite my concurrence with Chief Cobb's decision related to Officer Killin's actions, I am very concerned about other issues that you have raised regarding the process for consideration of your complaint. I do agree with your assertions that the manner in which City staff processed and responded to your complaint was not timely or consistent with the City's value of providing responsive service to the public. Although these issues are outside of the scope of my determination on your specific complaint about Officer Killin, I do intend to address these issues with the Chief of Police and City employees who are involved in the police complaint process. Our handling of your complaint has been unacceptable, and I thank you for bringing this situation to my attention so it can be corrected in the future. I apologize that the process was so prolonged and difficult to navigate. I assure you that these procedural concerns will be addressed.

In addition, Chief Cobb and the HRC Citizen Review Subcommittee have determined that changes to the Body Camera Policy are warranted to clarify the language regarding the use of body-worn cameras when recording telephone conversations. I am aware that draft language is currently under review and I anticipate that the policy soon will be revised.

Again, I thank you for taking the time to bring your concerns to my attention and for your patience as I reviewed your complaint and responded to your appeal.

Sincerely,



Dorothy Ann David  
City Manager

DAD/cb

cc. Anthony Cobb, Chief of Police  
Laura Hall, Assistant City Attorney  
Mr. David Wesner, Legal Counsel