

PROFESSIONAL STANDARDS BUREAU

NOTICE
13.5

May 14, 2018

TO: All Commanding Officers

FROM: Commanding Officer, Professional Standards Bureau

SUBJECT: GUIDELINES FOR REVIEWS OF MPV WITH ENABLED GPS DATA

The Department is in the process of implementing a Mobile Phone Validator (MPV) with enabled Global Positioning System (GPS) for use in Transit Services Division (TSD). Procedures for the use of MPV with enabled GPS are outlined in an upcoming Order: *Mobile Phone Validator with enabled Global Positioning System – Established*. The GPS-enabled MPVs reduce the potential for harm to our employees and increase safety and accountability by providing officers' locations to the watch commander. Additionally, MPVs are a requirement of the Department's contract with the Los Angeles County Metropolitan Transit Authority (LACMTA).

This Notice provides guidelines to assist commanding officers with determining appropriate and reasonable responses to possible misconduct and other deviations from established procedures discovered during the review of data from GPS-enabled MPVs.

False and/or Misleading Statement Allegations

If the Department intentionally withholds an officer's GPS-enabled MPV from the officer before he or she is required to submit to an interview or complete an official report, the withheld data shall not be used as the sole basis for an allegation of making a false and/or misleading statement, unless the Department can establish that the officer made an intentionally false material statement.

When considering whether allegations of false and/or misleading statements are appropriate in any case involving data from the GPS-enabled MPV, the Department will consider the materiality of the discrepancy and factors that are reasonably likely to affect the officer's memory, including the stress caused by the incident, the time elapsed between the incident and the interview, and fatigue.

NOTE: It is not the intent of the Department to initiate complaints or frame additional allegations of false and/or misleading statements for discrepancies between an officer's memory of an incident and what is on the GPS-enabled MPV unless there is an intentional material discrepancy.

Conduct that May Constitute Minor Misconduct

Audits, Inspections, and Compliance Reviews

When the Department conducts audits, inspections, or compliance reviews of GPS-enabled MPV data and discovers activity that may constitute minor misconduct, the officer's actions in the data alone should not result in the initiation of a personnel complaint. Rather, the officer should receive training, counseling, an Employee Comment Sheet, or a Notice to Correct Deficiencies to alert him or her and correct the behavior.

NOTE: Intentional acts to circumvent Department policy and procedure, such as intentionally disabling or tampering with GPS-enabled MPV, is considered serious misconduct and will not be considered as a training issue.

The Department will also consider that GPS-enabled MPV data may not include the full incident or the context of the incident known or understood by the officer at the time. The Department shall not rely solely on GPS-enabled MPV but must investigate and evaluate the facts and circumstances surrounding the incident, before taking any corrective action consistent with this Notice.

Personnel Complaint, Use of Force, and Pursuit Investigations

Conduct discovered during the review of a GPS-enabled MPV in connection with a personnel complaint, use of force, or pursuit investigation should focus on the object of the review, and not broaden into minor misconduct allegations that were not part of the main inquiry. Consistent with the previous section, commanding officers must evaluate the facts and circumstances surrounding the incident and exercise appropriate judgment to determine if the officer should receive training, counseling, an Employee Comment Sheet or a Notice to Correct Deficiencies to alert the officer to correct the behavior.

Point of Emphasis: Other conduct discovered in GPS-enabled MPV data connected with an audit, inspection, compliance review, personnel complaint, use of force investigation or pursuit investigation should not become the sole basis for framing additional allegations of minor misconduct. Framing additional allegations is appropriate when the actions of the employee would be considered serious misconduct.

90-Day Transition Period

During 90-Day Transition Period

The Department will provide a transition period of 90 calendar days from the date after an officer is trained and deploys the GPS-enabled MPV at Transit Services Bureau (TSB).

During this transition period, unintentional deviations in policy and procedure from the GPS-enabled MPV directives will be considered training issues. Additionally, during the transition period, Department employees should only receive non-documented counseling and training to modify behavior. A Training Evaluation and Management System II (TEAMS II) action item should not be generated.

The Department will provide training to each officer assigned to TSB, both full time and those assigned to Cash Overtime Allotment Scheduling and Timekeeping (COAST) details, to ensure they are knowledgeable of the capabilities of the GPS-enabled MPV and how to request and review their relevant GPS-enabled MPV data. The transition period will last 90 days from the day the officer received the training and first activated the device in the field.

After 90-Day Transition Period

Upon completion of the transition period, officers will be expected to be knowledgeable in the capabilities of the GPS-enabled MPV. Once the transition period has passed, action taken by commanding officers because of audits, inspections, or compliance reviews of the GPS-enabled MPV data should include positive reinforcement when behavior is consistent with Department policy and procedure, and training, counseling, Employee Comment Sheets, or Notices to Correct Deficiencies for deviations prior to initiating personnel complaints.

NOTE: Multiple unintentional deviations discussed during a single counseling or training session should be considered one incident, and commanding officers should consider training, counseling, an Employee Comment Sheet or a Notice to Correct Deficiencies in such cases. However, commanding officers are not prohibited from initiating a personnel complaint if the totality of the circumstances or a pattern of documented prior incidents of similar behavior dictate that it is the appropriate corrective action.

Inspections and Reviews of Personnel Accessing GPS-Enabled MPV Data

Transit Services Bureau and other authorized Department entities may conduct periodic inspections and reviews to determine whether Department personnel are accessing GPS-enabled MPV data without authorization or in a manner otherwise inconsistent with these guidelines. Personnel found to be accessing GPS-enabled MPV data without authorization or in violation of Department policies and procedures are subject to disciplinary action.

Demonstrably False Allegations

Consistent with Department policy, all allegations of misconduct initiated by a member of the public must be recorded on a Complaint Form, Form 1.28.00. However, when GPS-enabled MPV data clearly proves that an allegation of misconduct is Demonstrably False, as defined in the Department Manual, the allegation should be classified as Non-Disciplinary – Demonstrably False. Under those circumstances, accused and witness officers need not be interviewed regarding the Demonstrably False allegation(s).

All Department Personnel

Page 4

13.5

Commanding officers should seek guidance from the Commanding Officer, Internal Affairs Group, (213) 996-2986, with any questions regarding the provisions of this Notice.

APPROVED:



DEBRA J. McCARTHY, Deputy Chief
Commanding Officer
Professional Standards Bureau



SEAN W. MALINOWSKI, Deputy Chief
Chief of Staff
Office of the Chief of Police

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