

CITY OF ATLANTA
CIVIL SERVICE
BOARD

**FINDINGS OF FACT AND
ORDER**

APPEAL NO. 2022-011

Effective Date: October 7, 2022

APPELLANT - Aiyonna Parks
Atlanta Police Department

Hearing Date: July 20, 2023

ACTION:

HEARING OFFICER/BOARD

Fifteen (15) Day Suspension

Constance C. Russell, Chair
Suzanne Wynn Ockleberry
Herman L. Sloan, DWB

APPEARANCES

City of Atlanta Representative:

Appellant Representative:

Staci Miller, Esq.
City of Atlanta Law Department

Michael Pulliam, Union Representative
International Brotherhood of Police Officers

City Witnesses:

Major Hajredin Zinelaj, Executive Officer
City of Atlanta Police Department

Investigator Darrin Smith, Internal Affairs Division
Officer of Professional Standards
City of Atlanta Police Department

Major John Quigley (Retired) Accreditation Manager
City of Atlanta Police Department

Aiyonna Parks, Officer/Appellant
City of Atlanta Police Department

Appellant Witnesses:

None.

STATEMENT OF AUTHORITY

Under the authority and provisions of Chapter 114, Article VI, Division 3, Sections 114-546 through 556 of the Atlanta City Code (“the Code”), a hearing in the above-referenced case was held before the above-named hearing officers of the Atlanta Civil Service Board (“the Board”) on the date set forth above, via a Zoom Webinar, facilitated by the City, pursuant to Mayor Andre Dickens’ Executive Order regarding the Covid-19 Pandemic.

EXHIBITS*

City Exhibits

- C-1 OPS File 22-I-0203-VA
- C-2 Notice of Proposed Adverse Action (NPAA)
- C-3 Notice of Final Adverse Action (NFAA)
- C-4 APD SOP 3133 (Body Worn Camera)
- C-5 OPS File 20-C-0374-SOP
- C-6 Power Data Management System Audit of Officer Aiyonna Parks

Appellant’s Exhibits

None.

STIPULATIONS

None.

*The record as maintained by the court reporter is the official record of the exhibits admitted into evidence during the hearing.

VIOLATIONS

Work Rule 4.2.33 Conformance to Directives

Employees are required to familiarize themselves with, and conform to, the rules, regulations, directives and standard operating procedures of the department.

SPECIFIC CHARGES

On May 29, 2022, on Piedmont Cir., NE near Monroe Dr., NE, you did not conform to APD.SOP.3133 Body Worn Cameras by not placing your body worn camera in event recording mode when your assigned take home patrol vehicle was struck by another vehicle on the roadway. The investigation found you were not wearing your assigned body worn camera while in full duty uniform and driving a marked patrol vehicle.

FINDINGS OF FACT

On May 29, 2022, Aiyonna Parks was employed by the City of Atlanta Police Department (APD) as a uniformed patrol officer assigned to Zone 6 and was authorized to take home a fully marked City APD patrol vehicle.

While driving home after the completion of her shift on May 29, 2022, Officer Parks was involved in an automobile accident. The driver of the other vehicle admitted fault in the accident and was charged accordingly.

At the time of the automobile accident Officer Parks was not wearing her City issued body worn camera (BWC).

On September 26, 2022, a Notice of Proposed Adverse Action (NPAA) was issued to Officer Parks for violating Department Work Rule 4.2.33 Conformance to Directives for failure to adhere to APD SOP 3133 pertaining to BWC and proposing a fifteen (15) day suspension, without pay.

On September 27, 2022, a Notice of Final Adverse Action (NFAA) was issued to Officer Parks for violating Department Work Rule 4.2.33 Conformance to Directives for failure to adhere to SOP 3133 pertaining to BWC and imposing a fifteen (15) days suspension, without pay.

DISCUSSION

Pursuant to Mayor Andre Dickens' Executive Order and COVID-19 pandemic guidelines, the appeal by Aiyonna Parks was called virtually at 2:00p.m., on July 20, 2023, via the Zoom Internet platform.

In imposing a fifteen (15) day suspension, APD alleges that Officer Parks failed to comply with Department Work Rule 4.2.33, Conformance to Directives, which requires all employees of APD to familiarize themselves with and adhere to the rules, regulations, directives and standard operating procedures (SOP) of APD. Officer Parks is alleged to have violated SOP 3133 that governs the usage of body worn cameras. In both the NPAA and the NFAA, the Department asserts that Officer Parks violated SOP 3133, Section 4.4.4, which enumerates fifteen (15) specific circumstances in which an officer is to

place their BWC into event recording mode. The testimony at the hearing clearly indicates that Subsections 2,3,4,5,6,7,8,9,10,11,12,13,15 are inapplicable. If Officer Parks violated SOP 3133, Section 4.4.4, the only applicable subsections are Subsection (1) which requires officers to turn their BWC into event recording mode at the moment they are dispatched to a call or initiate a call for service or Subsection (14) which requires an officer to turn on the BWC while interacting with the public in a law enforcement capacity.

The City's first witness was Major Hajredin Zenelaj. Major Zenelaj testified that he is currently assigned to the Field Operations Division as the Executive Officer, and he directly assists the Deputy Chief of Field Operations. He testified that in that capacity, although he is not the disciplinary authority, he is directly involved in implementing departmental discipline over the six police zones. Major Zenelaj testified that he reviewed the internal affairs file from the May 29, 2022, car accident involving Officer Parks. Major Zenelaj testified that because Officer Parks was in full uniform and operating a marked police vehicle at the time of the accident, she was required under SOP 3133 to have worn her BWC. Major Zenelaj testified in great detail regarding the level of discipline that could have been imposed for the failure of Officer Parks to have her BWC on her person at the time of the accident. He testified that the 15-day suspension was indicative of some prior infraction of SOP 3133 or some similar SOP. On cross examination, Major Zenelaj acknowledged that at the end of their shifts, officers are required to dock their BWC. Moreover, he also testified that SOP 3133 does not address the issue of BWC and officers who take home APD vehicles.

The City's next witness was Investigator Darrin Smith. Investigator Smith testified that he has been an investigator with APD for thirteen (13) years and for the past three (3) years, he has been assigned as an investigator with the Internal Affairs Division of the Office of Professional Standards. Investigator Smith testified that he investigated a citizen's complaint involving Officer Parks and another policer officer. Investigator Smith testified that he determined that on July 24, 2020, while working an approved extra job, Officer Parks failed to turn on her BWC in compliance with the requirements of SOP 3133, which resulted in Officer Parks receiving a four (4) day suspension. Investigator Smith testified that SOP 3133 requires that at the start of duty, approved overtime or while working an extra job, an officer is required to turn on their BWC to ensure that it is working properly. Moreover, he testified that at all times, the officer is to have the BWC in buffering mode unless they have turned it to event recording mode. On cross-examination, Investigator Smith testified that SOP 3133 requires that an officer "dock" their BWC at the completion of their shift. He explained that docking entails the officer coming to the precinct and placing their BWC into a central docking system to upload the recordings of that day for preservation. He acknowledged that the length of time that is required for uploading the recordings from the BWC varies from a few minutes to several hours. Investigator Smith also testified that he is uncertain as to whether SOP 3133, which governs BWC's addresses the issue of an officer who is given a take home marked patrol vehicle.

Retired Major John P. Quigley, the Accreditation Manager for APD, testified on behalf of the City. Major Quigley indicated that as the accreditation manager he oversees the written directives, special orders, and command memoranda, as well as the accreditation team. As part of his duties, Major Quigley testified that he is responsible for maintaining APD's Power Document Management System (DMS). It was Major Quigley's testimony that a query of the DMS revealed that Officer Parks acknowledged receipt of the SOP's pertaining to BWC as well as the usage of take-home vehicles. According to Major Quigley, docking requires the officer to remove the camera, place it in a dock at the precinct and the video evidence is then off-loaded to a secure cloud location. That process may take upwards to two hours, depending upon what was recorded. Major Quigley testified that he was not aware of any requirement that the BWC be on and in buffering mode, when the officer is off duty, even if they are in a take home vehicle. He testified that section 4.3.4 of SOP 3133 applies while on duty. Further, he testified that he is unaware of any rule that requires an officer to have their BWC on and in buffering mode when they are driving home, even when in a marked patrol vehicle.

The last witness presented by the City was the Appellant Aiyonna Parks. Officer Parks testified that she

has been employed as a police officer for five (5) years. She acknowledged that she has been previously disciplined for violating SOP 3133. She further testified that she had read and signed documents indicating she was aware of the policy and received a copy of the SOP. Officer Parks testified that at roll call, officers had been admonished about failing to dock their cameras at the end of their shifts and notified about the consequences of failing to do so. She testified that she was aware of the BWC policy but that she was not aware of any policy that required her to wear her BWC while off-duty even in a marked patrol vehicle. Officer Parks testified that at the completion of her shift on May 29, 2022, she docked her BWC as required by SOP 3133 and as directed by her supervisor.

In this instance, the Board acknowledges its authority is constrained by City of Atlanta Code of Ordinances, Section 114-553(b), which provides in pertinent part, “[i]f the appellant is a non-probationary sworn officer of the department of police who holds the rank of lieutenant or below that of lieutenant..., the hearing officer/panel *may not modify* but must affirm or revoke a suspension... .”(Emphasis added.) The City did not present any testimony or documentary evidence which indicated that at the time of accident, the Appellant was dispatched on a call. To the contrary, all of the City’s evidence indicated that the Appellant was off duty, albeit in full uniform and in a marked patrol vehicle. There was no evidence that the Appellant made any call for service. At best, the City presented evidence that after the accident occurred, Appellant notified her supervisor. Since there is no evidence that the Appellant was dispatched on a call for service or made a call for service, the Board finds that SOP 3133, Section 4.4.4(1) cannot serve as the basis for the proposed discipline. Moreover, the City was unable to show that Subsection (14), provided a basis for sustaining the recommended discipline. In fact, the City’s evidence, as presented in the internal affairs complaint investigation file (City’s Exhibit # 1), clearly shows that the Appellant had no interaction with the other driver involved in the accident, other than merely being another driver involved in a traffic accident.

Despite the City’s efforts, the witnesses called by the City were all unanimous in testifying that there is nothing in SOP 3133 which directly addresses the facts presented in this appeal. The witnesses suggested that SOP 3151- which governs the use of marked take home vehicles, could possibly have required the Appellant to have worn her BWC while off duty and operating a marked patrol vehicle. However, the City’s representative rebuffed the Appellant’s request to introduce that SOP into evidence and this Board will not speculate as to its contents. Finally, each of the City’s witnesses testified that an officer is required to dock their camera at the end of the officer’s shift, which is what the Appellant testified she did in conformity with the SOP and the admonition given by her supervisor at the beginning of her shift.

After hearing all of the testimony and considering all of the exhibits, the Board concludes, that the City did not prove that the Appellant failed to conform to the requirements of SOP 3133, and that the City was justified in imposing discipline for violating Work Rule 4.2.33.

ORDER

Accordingly, the Board **REVERSES** the discipline imposed by the City against the Appellant and **SUSTAINS** the appeal.

This 3rd day of August 2023.

Constance Russell

Constance C. Russell, Chair

Suzanne W. Ockleberry

Suzanne Wynn Ockleberry

Herman Sloan

Herman L. Sloan, DWB