



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 9, 2018

CASE NUMBER: 2016OPA-1331

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	16.090 - In-Car Video System 6. Employees Will Record Police Activity	Not Sustained (Lawful and Proper)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	16.090 - In-Car Video System 6. Employees Will Record Police Activity	Not Sustained (Lawful and Proper)

Named Employee #3

Allegation(s):		Director’s Findings
# 1	16.090 - In-Car Video System 6. Employees Will Record Police Activity	Not Sustained (Inconclusive)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

It was alleged that the Named Employees all failed to properly record In-Car Video. It was further alleged that Named Employee #1 and Named Employee #2 did not conduct the required In-Car Video system check prior to beginning their shift.

ADMINISTRATIVE NOTE:

Due to high caseloads and staffing shortages, as well as additional investigation that was requested by the OPA Auditor, the Director’s Certification Memo in this case was not completed within the 180-day timeline set forth in the Collective Bargaining Agreement between the City of Seattle and SPOG.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

16.090 - In-Car Video System 6. Employees Will Record Police Activity

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) logged to two premise calls in downtown Seattle. They did not activate their In-Car Video (ICV) for either call. Both Named Employees explained that they were working for



the Community Policing Team and were tasked with going to local business to check in with community members and to see if anyone needed assistance with any matters.

Both NE#1 and NE#2 stated that, given their duties on that day, they did not believe that they engaged in conduct that was required to be recorded. From OPA's review of the policy, they appear to be correct. Communications with community members absent actual law enforcement activity does not explicitly fall within the policy's requirement for recording. As such, I recommend that this allegation be Not Sustained – Lawful and Proper as against both NE#1 and NE#2.

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #1 - Allegation #2

16.090 - In-Car Video System 5. Employees Will Log in and Perform a System Check

It was alleged that NE#1 and NE#2 both failed to conduct a proper ICV system check prior to beginning their shift. SPD policy at the time of the incident required such a system check to be conducted. This policy has since been changed and there is no longer any such obligation on the part of officers.

While I find, based on the evidence, that NE#1 and NE#2 technically violated this policy, I do not believe that this is conduct for which a Sustained finding is warranted. This is minor misconduct for which training, not discipline, would be the appropriate result. However, training would be a waste of resources in this case given the change in policy.

For these reasons, I recommend that this allegation be removed as against both NE#1 and NE#2.

Recommended Finding: **Allegation Removed**

Named Employee #2 - Allegation #1

16.090 - In-Car Video System 6. Employees Will Record Police Activity

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #2 - Allegation #2

16.090 - In-Car Video System 5. Employees Will Log in and Perform a System Check

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be removed.

Recommended Finding: **Allegation Removed**



Named Employee #3 - Allegation #1

16.090 - In-Car Video System 6. Employees Will Record Police Activity

On the date in question, Named Employee #3 (NE#3) logged into two calls but did not activate ICV on either occasion. One call was characterized as “no report, oral warning given.” The other call was characterized as “nuisance, mischief – MIR (clearing).” When asked about these calls at his OPA interview, NE#3 stated that he had no recollection interacting with any community members and/or issuing a warning. He told OPA that he recalled observing tents that were erected in unlawful areas, clearing those tents, and waiting for SDOT to pick them up. He stated that he would usually attempt to determine whether the tent’s occupant was in the vicinity and ask them to move the tent prior to clearing it. He opined that both calls were related to clearing tents and stated that the reference to the “oral warning given,” which suggested community contact, was potentially an error.

During its investigation, OPA attempted to locate a witness to NE#3’s law enforcement activity, but was unable to do so. OPA was further unable to conclusively verify or disprove NE#3’s description for both calls.

If, in both instances, he did simply clear abandoned tents from a public street without any contact with the owner, he is likely correct that this was conduct that did not fall within any of the categories set forth in the policy of conduct that needed to be recorded. If he interacted with a community member and issued an oral warning, however, it cannot be disputed that he would have needed to record. As discussed above, the evidence is insufficient to determine whether NE#3’s conduct violated this policy. As such, I recommend that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**