



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 29, 2018

CASE NUMBER: 2018OPA-0252

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity	Not Sustained (Lawful and Proper)

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 Employee may have failed to activate Department video, in potential violation of policy.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity

This case is similar to several others in which officers have not activated Department video when responding to hospitals. Here, Named Employee #1 (NE#1) indicated in a statement written pursuant to SPD Policy 16.090-POL-7 that, while he activated his Body Worn Video (BWV), he did not activate his In-Car Video (ICV) when he responded to Harborview Medical Center. With regard to the non-activation of his ICV, NE#1 provided the following explanation: “I did not want to inadvertently record something I was not allowed to record. I did record with my body camera because I was able to control exactly at what point I could begin my recording and stop my recording within the sensitive recording area.” (NE#1’s Statement Pursuant to SPD Policy 16.090-POL-7.)

SPD Policy 16.090-POL-5(d) states that: “Employees will not record in restrooms, jails and the interiors of medical, mental health, counseling, or therapeutic facilities unless for a direct law enforcement purpose, such as a crime in progress.” The policy does not fully define what incidents, other than a crime in progress, would serve as direct law enforcement purposes supporting recording. This was a subject of a prior Management Action Recommendation by OPA, wherein OPA advised the Department to amplify its training on this policy to provide additional guidance on when officers may record in “sensitive areas.” OPA further recommended that the Department consider including more examples of what else could constitute a “direct law enforcement purpose” in the policy or language indicating that “a crime in progress” was just one of numerous possible direct law enforcement purposes.

As discussed above, NE#1 recorded with his BWV but not with his ICV while in the hospital. He did so in order to specifically target what he was and was not recording. NE#1 was concerned that, had he activated his ICV, he would have recorded everything with less ability to deactivate when necessary and appropriate. In reviewing the record, NE#1’s statement, and the policy, I do not feel that NE#1’s explanations of his conduct are unreasonable. Moreover,



I note that SPD Policy 16.090-POL-5(c) specifically states that: “Employees reasonably exercising discretion under policy subsections 5c – 5g [which includes the policy section at issue here] will not be subject to discipline for the decision to record or not record those portions of an event.” As I find that NE#1 reasonably exercised his discretion here when he decided to not record ICV, I conclude that he acted consistent with policy. I accordingly recommend that this allegation be Not Sustained – Lawful and Proper.

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