



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 24, 2018

CASE NUMBER: 2018OPA-0282

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Training Referral)
# 2	5.001 - Standards and Duties 6. Employees May Use Discretion	Allegation Removed

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, who was supervising a Vice operation, errantly directed the officers under his command to not record In-Car Video (ICV).

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

Named Employee #1 (NE#1) is the supervisor in the Vice/Human Trafficking Unit. On the date in question, Vice was conducting a law enforcement operation. NE#1 ordered two officers, who were assigned as transport officers, to not record In-Car Video (ICV) as part of that operation. As a result of this order, the two officers, who were riding in the same vehicle, did not activate their ICV.

Both of the officers were interviewed by OPA. They stated that they received a direct order to not record any on-scene activity, as well as any transports. As such, the officers did not log into the COBAN system prior to beginning the operation. They further did not log to any of the transports over the air. The officers explained that NE#1 provided two justifications for not recording. First, as they were dealing with undercover officers, the recording could compromise those officers’ identities and assignments. Second, they were treating the sex workers implicated by the operation as victims of crimes and focused on limiting recordings of them.

SPD Policy 5.001-POL-2 requires employees to adhere to laws, City policy, and Department policy. It was alleged that NE#1 violated this policy when he ordered two officers involved in law enforcement operations to not record using Department video.

At his OPA interview, NE#1 recounted that, in 2006, he wrote a memorandum to his chain of command requesting that Vice operations be exempt from Department rules concerning ICV activation. The memorandum was reviewed



by his Lieutenant, Captain, and the then Assistant Chief for the Investigations Bureau. NE#1 stated that he did not hear whether it had been approved and he then emailed the Assistant Chief to check on the status of the request. The Assistant Chief responded that it had been approved and that the unit would receive confirmation in writing. NE#1 stated that he never saw that written confirmation. He further stated that, when he received notice of this OPA complaint, he searched for the memorandum he had written but could not find it.

NE#1 stated that, as he was operating under the belief that his unit had an exemption, he ordered the two officers not to use ICV during the Vice operation. He stated that he did not inform the officers that they should not record during transports and believed that this was a miscommunication between him and the officers.

During its investigation, OPA searched for any documentation memorializing an exemption specifically for the Vice Unit. OPA could not find any such exemption. OPA did locate an exemption for Special Investigations, which is attached to OPA's case file. However, by its terms, this exemption would not have covered the two officers from recording given their assignment during the operation.

Ultimately, as the supervisor in charge of the operation and as he gave the order not to record, NE#1 was responsible for the officers' failure to do so. Under the circumstances of this case and given the language of the Special Investigations ICV exemption, this order was not justified and constituted a technical violation of policy. That being said, I find that NE#1 believed, in good faith, that his order was appropriate and that his unit had an exemption. For these reasons, I issue the below Training Referral rather than a Sustained finding.

- **Training Referral:** NE#1 and his chain of command should review the ICV exemption for Special Investigations and determine whether it applies to the Vice/Human Trafficking Unit. If it does not and NE#1 feels that an exemption for his unit is warranted, NE#1 should seek another exemption from the Department. Until that exemption is provided, NE#1 should refrain from ordering officers under his command to not record. NE#1 and his chain of command should document the steps they take in this regard.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 6. Employees May Use Discretion

I find that this allegation is subsumed in my finding above. As such, I recommend that this allegation be removed.

Recommended Finding: **Allegation Removed**