



CLOSED CASE SUMMARY

ISSUED DATE: MAY 16, 2018

CASE NUMBER: 2017OPA-1281

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 (Training Referral)

Named Employee #2

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 Employees failed to activate their In-Car Video systems as required by SPD policy.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

Named Employee #1 (NE#1) and another officer were conducting a foot patrol when they had an interaction with a civilian that resulted in a complaint of biased policing. The officers notified a supervisor, Named Employee #2 (NE#2), who came to the scene to investigate the bias allegation. When this matter was further reviewed by the Named Employees’ chain of command, In-Car Video (ICV) from the incident could not be located for either of the Named Employees. Accordingly, and consistent with policy, this matter was referred to OPA for investigation.

At the time of the incident, NE#1 was a probationary officer. He had only been with the Department for a little over seven months. NE#1 agreed that he had no ICV from this incident. While he believed, to the best of his recollection, that he activated his ICV, he could not conclusively explain why no video was recorded. He speculated that his system could have failed to activate due to his distance from his patrol vehicle at the time he believed he turned it on; however, OPA received information from SPD IT that disproved this. NE#1 did activate his Body Worn Video (BWV) and recorded the entirety of the incident on that device.

Under the circumstances of this case, SPD Policy 16.090-POL-5 required NE#1 to activate his ICV. As such, NE#1’s failure to do so was in violation of policy. That being said, there are two reasons for why I believe that a Training Referral rather than a Sustained finding is warranted in this case. First, on that date, NE#1 was a relatively new officer still in his probationary period. Second, NE#1 did properly activate his BWV, which independently recorded



the incident. This suggests to me that NE#1 did not purposefully fail to record and that this was the mistake of a new officer, not misconduct that warrants discipline.

For these reasons, I recommend that this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1 should receive additional training concerning his obligation to record ICV when appropriate. NE#1 should further receive counseling concerning the importance of recording ICV to the Department and the expectation that he will properly do so going forward. Lastly, NE#1 should be informed that a future unexcused failure to record ICV will likely result in a sustained finding.

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

Named Employee #2 - Allegation #1

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

During its initial investigation, OPA could not locate any ICV generated by NE#2. NE#2 had no explanation for why this occurred. NE#2 told OPA that he attempted to activate his ICV and contended that this was proven by the fact that his BWV captured him turning his ICV off after his response to the incident. NE#2 opined that the absence of ICV could have been caused by a “computer glitch.”

OPA contacted SPD IT to determine whether there was any technical explanation for the lack of video. As a result of its review, SPD IT was ultimately able to locate NE#2’s ICV recording under another sergeant’s serial number. It is unclear how or why this occurred.

Regardless, as NE#2 properly recorded ICV, he complied with this policy. As such, I recommend that this allegation be Not Sustained – Lawful and Proper.

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