



## CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 22, 2018

CASE NUMBER: 2018OPA-0377

### Allegations of Misconduct & Director’s Findings

#### Named Employee #1

Allegation(s):		Director’s Findings
# 1	9.010 - Employee Dress Standards II. Personal Appearance Regulations A. Male Hair Standards	Allegation Removed
# 2	16.090-POL 1 Recording with ICV and BWV 5. Employees Recording Police Activity	Not Sustained (Training Referral)

***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:

An Anonymous Complainant alleged that the Named Employee had facial hair that was inconsistent with policy. The Anonymous Complainant further alleged that the Named Employee fails to back his fellow officers on calls and that he sleeps in his patrol vehicle while on duty. Lastly, during its investigation into this matter, OPA determined that NE#1 failed to activate his Body Worn Video at any time during his shift on the date in question.

#### ANALYSIS AND CONCLUSIONS:

##### **Named Employee #1 - Allegations #1**

##### ***9.010 - Employee Dress Standards II. Personal Appearance Regulations A. Male Hair Standards***

SPD Policy 9.010(II) regulates the personal appearance of employees and, specifically, concerns the standards for how male officers can wear their hair and what facial hair they can grow.

An Anonymous Complainant, contended that Named Employee #1 (NE#1) had a moustache that was outside of policy. This is not the first time that OPA has received a complaint concerning an officer’s hair. An anonymous complaint was filed with OPA concerning the hair length of a male Lieutenant and a complaint was submitted by the chain of command concerning, among other things, a female officer who continuously wore her hair in a braid. OPA did not investigate those other allegations and, instead, sent them back to the Department for supervisory action. Simply stated, what type of hair officers have is a matter for SPD and its command staff, not OPA. This does not rise to the level of serious misconduct and should not have been referred to OPA, let alone classified for investigation.

As such, I decline to issue a finding as to this allegation and, instead, recommend that it be removed from this case. OPA intends send this allegation back to the chain of command for review.

Recommended Finding: Allegation Removed



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**Named Employee #1 - Allegation #2**

***16.090-POL 1 Recording with ICV and BWV 5. Employees Recording Police Activity***

While the complaint appeared to allege that NE#1's purported unprofessional behavior was a continued course of conduct, it provided April 22, 2018 as the date of incident. As such, OPA reviewed NE#1's activity for that date, including the Department video that he recorded. OPA discovered that, while NE#1 was equipped with Body Worn Video (BWV) on that date, he did not activate it once during his shift. OPA further determined that there were several occasions during which NE#1 should have activated his BWV per Department policy.

At his OPA interview, NE#1 stated that he was confused concerning his obligation to record. He explained that he interpreted the training as requiring him to activate his BWV only when he was taking law enforcement action and that, on this date, he did not take any such action. He did, however, properly activate his ICV. He stated that he now understands that he should have activated his BWV and has done so when appropriate since this incident.

The Department policy that governed recording BWV at the time of the incident is the same as the current policy. Moreover, the training is unchanged. Both are clear that BWV needs to be activated in a host of situations, which are more fully defined in SPD Policy 16.090-POL-1(5)(b). When NE#1 did not activate his BWV on the date in question, he violated policy. However, I recommend that he receive a Training Referral rather than a Sustained finding for two main reasons.

First, at the time he failed to record, NE#1 was operating within the one-year grace period OPA put in place for BWV. Under that grace period, OPA decided to not recommend any Sustained findings for violations of this policy. The purpose of the grace period is to allow officers to learn this new technology and make the mistakes that come with that without worrying about being disciplined. Second, NE#1 did appropriately record ICV, which convinces me that the failure to activate his BWV was a mistake rather than intentional misconduct.

- **Training Referral:** NE#1 should receive additional training concerning the requirements of SPD Policy 16.090-POL-1 and, specifically, the mandate that he record BWV when appropriate. NE#1 should be counseled concerning his failure to do so here and should be reminded of the importance of complying with this policy. Lastly, NE#1 chain of command should ensure that he abides by this policy moving forward. This retraining and associated counseling should be documented and this documentation should be maintained in an appropriate database.

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

**Named Employee #1 - Allegation #3**

***5.001 - Standards and Duties 10. Employees Shall Strive to be Professional***

The Anonymous Complainant contended that NE#1 regularly fails to back his fellow officers on calls and that he often sleeps in his car. Given that the Complainant was anonymous, OPA was unable to interview the Complainant to learn more about this allegation, including dates and times that this conduct purportedly occurred.

As part of its investigation, OPA interviewed NE#1. NE#1 stated that he always backs his fellow officers. He further denied sleeping in his patrol vehicle.



OPA looked at NE#1's call log for the date in question and found no evidence of him failing to back fellow officers when needed. OPA further found no evidence that NE#1 ever slept in his patrol vehicle, as alleged by the Anonymous Complainant.

As there is no evidence supporting the Anonymous Complainant's assertions, I recommend that this allegation be Not Sustained – Unfounded.

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