



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 26, 2024

FROM: DEPUTY DIRECTOR BONNIE GLENN, ON BEHALF OF DIRECTOR GINO BETTS, JR.
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0037

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):	Director's Findings	Chief's Findings
# 1 16.090 - In-Car and Body-Worn Video, 16.090-POL-1 Recording with ICV and BWV, 6. Sworn Employees will Document the Existence of Video or Reason for Lack of Video (eff. 07/01/2023)	Not Sustained - Training Referral	Not Sustained - Training Referral
# 2 16.090 - In-Car and Body-Worn Video, 16.090-POL-2 Sworn Employees Recording Police Activity, 2. When Sworn Employees Record Activity (eff. 07/01/2023)	Sustained	Not Sustained - Training Referral

Named Employee #2

Allegation(s):	Director's Findings	Chief's Findings
# 1 16.090 - In-Car and Body-Worn Video, 16.090-POL-1 Recording with ICV and BWV, 6. Sworn Employees will Document the Existence of Video or Reason for Lack of Video (eff. 07/01/2023)	Not Sustained - Training Referral	Not Sustained - Training Referral
# 2 16.090 - In-Car and Body-Worn Video, 16.090-POL-2 Sworn Employees Recording Police Activity, 2. When Sworn Employees Record Activity (eff. 07/01/2023)	Sustained	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:

The Complainant alleged Named Employee #1 (NE#1) and Named Employee #2 (NE#2) failed to activate their in-car video (ICV) or document the reason for lack of video, both of which were required by policy.

ADMINISTRATIVE NOTE:

On June 5, 2024, the Office of Inspector General certified this investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

NE#1 and NE#2 stopped a Subject for trespassing in an alley. Shortly after NE#1 contacted the Subject, the Subject attempted to walk away. NE#1 attempted to stop the Subject, but the Subject punched NE#1. NE#1 and NE#2 used



force to arrest the Subject. King County Jail declined to take the Subject until he was medically cleared. At the hospital, it was determined the Subject had a broken nose, which triggered an SPD Force Investigation Team (FIT) investigation (2023FIT-0012).

The Complainant is a supervisor in FIT. The Complainant filed a Blue Team complaint with OPA noting that both named employees activated their body-worn video (BWV) during the incident but failed to activate their in-car video (ICV). FIT attempted to recover any ICV but was not successful. FIT was unable to determine the reason the named employees failed to activate their ICV and noted there did not appear to be any technical issues that would have prevented them from activating their ICV.

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, incident report and supplements, BWV, and photographs. OPA interviewed both named employees.

OPA was unable to locate any ICV from either named employee for this incident. OPA also did not observe any documentation from either named employee concerning the reason their ICV was not activated.

BWV showed NE#1 driving an SPD vehicle as NE#2 sat in the passenger seat. The ICV was blinking a green light, indicating it was neither activated nor recording. NE#1 put the vehicle in park and exited on the driver side without activating the ICV. NE#2 exited on the passenger side without activating the ICV. As NE#1 exited the police vehicle, the Subject was walking by the vehicle's driver side. NE#1 contacted the Subject, and a struggle began along the driver side of the vehicle. BWV did not fully depict the struggle due to the proximity of NE#1 to the Subject. NE#2 assisted NE#1 as he struggled with the Subject. Shortly after engaging with the Subject, NE#2's BWV camera stopped recording, was reactivated about one second later, and then knocked off NE#2 before it fell to the ground. After the named employees placed the Subject in custody, neither officer appeared to activate their vehicle's ICV.

In his OPA interview, NE#1 explained he and NE#2 were patrolling an alleyway that is a known high-crime and narcotics use area with "no trespassing" signs posted. NE#1 stated he observed the Subject in the alleyway and recognized him from an encounter in the same location the previous day. NE#1 said his initial plan was to detain and identify the Subject, then "trespass" the Subject from the location. NE#1 said he exited his vehicle to contact the Subject and was surprised at how quickly the incident developed, noting this was a contributing factor to not activating the ICV. NE#1 stated he activated his BWV when contacting the Subject but not his ICV. NE#1 stated there was a "50/50" responsibility between himself and NE#2 to activate the ICV. NE#1 explained that, after the use of force, he began investigative duties on scene and did not realize he failed to activate the ICV.

NE#2's explanation of events to OPA was similar to NE#1's. NE#2 stated that, after NE#1 exited, a physical altercation between the Subject and NE#1 began. NE#2 described immediately going over to assist, forgetting to activate the ICV. NE#2 stated, after the use of force, he was not aware he forgot to activate the ICV and also did not notify a supervisor or document this fact. NE#2 stated he and NE#1 did not have an assigned role between them for activating ICV. NE#2 noted his knee was injured during the use of force, that the incident occurred out of view of the ICV in any event, and that he simply forgot to activate the ICV on scene.

During NE#1's interview, the SPOG representative noted that the ICV and BWV systems work independently and activate in different ways. The SPOG representative noted that policy states employees are only required to activate ICV "when safe and practical," and that this wording is to allow officers to be human in a rapidly evolving situation.



Finally, the SPOG representative noted that there is no way to activate the ICV from an officer's person, and that an officer would need to reenter the vehicle to activate ICV.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

16.090 - In-Car and Body-Worn Video, 16.090-POL-1 Recording with ICV and BWV, 6. Sworn Employees will Document the Existence of Video or Reason for Lack of Video (eff. 07/01/2023)

The Complainant alleged the named employees failed to document the lack of ICV and provide a reason for the failure.

SPD Policy requires sworn employees to document when they are aware of either a lack of recording or delay in recording required BWV or ICV. *See SPD Policy 16.09-POL-1(6), revised effective date 07/01/2023.*

Both named employees admitted they did not document their failure to activate the ICV. Both named employees stated they were not aware of their failure. Although these explanations are credible, SPD Policy required the named employees to "document the existence of video or reason for lack of video." SPD Policy 16.090-POL-1(6). To do so, the named employees were required to either confirm the existence of the ICV or explain the reason for its absence. Here, both named employees only remained unaware of the lack of ICV because neither tried to confirm its existence. OPA finds this administrative failure constituted a potential, but not willful, violation of policy that did not rise to the level of serious misconduct. Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- **Training Referral:** The named employees' chain of command should discuss OPA's findings with them, review SPD Policy 16.090-POL-1(6) with them, and provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**

Named Employee #1 - Allegation #2

16.090 - In-Car and Body-Worn Video, 16.090-POL-2 Sworn Employees Recording Police Activity, 2. When Sworn Employees Record Activity (eff. 07/01/2023)

The Complainant alleged the named employees failed to activate their ICV when required.

SPD Policy requires sworn employees equipped with BWV or ICV to record certain events whenever "safe and practical," even if the event is out of view of the camera. SPD Policy 16.090-POL-2(2), *revised effective date 07/01/2023*. Such events include *Terry* stops, on-view infractions and criminal activity, and any arrests or seizures. *See id.* Where circumstances prevent recording at the beginning of an incident, the employee is required to record as soon as practical. *See id.*

Here, the named employees drove towards the Subject because they observed him trespassing in an alley. Having on-viewed this low-level criminal activity, NE#1 explained his plan was to detain and trespass the Subject. Under these circumstances, the named employees were required to record this enforcement activity as soon as practical. It was safe and practical for either employee to have done while driving towards the Subject or before getting out of the vehicle. Neither did so, violating SPD policy.



Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #2 - Allegation #1

16.090 - In-Car and Body-Worn Video, 16.090-POL-1 Recording with ICV and BWV, 6. Sworn Employees will Document the Existence of Video or Reason for Lack of Video (eff. 07/01/2023)

For the same reasons set forth above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Training Referral.

- **Training Referral:** The named employees' chain of command should discuss OPA's findings with them, review SPD Policy 16.090-POL-1(6) with them, and provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**

Named Employee #2 - Allegation #2

16.090 - In-Car and Body-Worn Video, 16.090-POL-2 Sworn Employees Recording Police Activity, 2. When Sworn Employees Record Activity (eff. 07/01/2023)

For the same reasons set forth above at Named Employee #1, Allegation #2, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**