



## **CLOSED CASE SUMMARY**

ISSUED DATE:     APRIL 30, 2019

CASE NUMBER:    2018OPA-1086

### **Allegations of Misconduct & Director’s Findings**

Named Employee #1

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity	Not Sustained (Training Referral)
# 2	16.090 - In-Car and Body-Worn Video 7. Employees Will Document the Existence of Video or Reason for Lack of Video	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:**

It was alleged that the Named Employee failed to record In-Car Video and also failed to document the lack of a recording as required by policy.

#### **ANALYSIS AND CONCLUSIONS:**

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

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

Named Employee #1 (NE#1) responded to a “fast back” call. He recorded the entirety of his law enforcement response on Body Worn Video (BWV). However, he did not record In-Car Video (ICV). NE#1’s BWV captured him commenting that his Mobile Data Terminal (MDT) in his vehicle crashed while he was driving to the incident location. When this occurred, his ICV system similarly shut down and did not record. His BWV further recorded him restarting the MDT.

While NE#1 was aware that his MDT and ICV system both potentially malfunctioned, which prevented him from recording, he did not initiate a HEAT ticket to determine the cause of the error. He further did not update the CAD Call Log to reflect the lack of a recording or document the reason why he did not record in an appropriate report.

The absence of ICV was identified during a later Force Investigation Team (FIT) investigation into the incident. Pursuant to policy, the FIT Lieutenant referred this matter to OPA.

SPD Policy 16.090-POL-1(5) requires that SPD employees record police activity in certain delineated circumstances using both (or either, in some cases) their ICV and BWV systems. SPD Policy 16.090-POL-1(7) requires that, where there is a failure to record, officers note the failure to record in an update to the CAD Call Report, as well as provide an explanation for the lack of a recording in an appropriate report.



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At his OPA interview, NE#1 stated that his failure to record ICV was inadvertent and was due to an error with his system. He acknowledged, however, that he failed to comply with SPD Policy 16.090-POL-1(7) when he did not update the CAD Call Log or document why he failed to record in a report. He stated that he was unaware of the requirements of this policy.

Had NE#1 complied with SPD Policy 16.090-POL-1(7), OPA would not have classified this case for investigation and, instead, would have sent it back to the chain of command as a Supervisor Action. However, where, as here, this is not done, OPA has no option other than to conduct a full investigation. The Department expects officers to self-report and document failures to record and not doing so constitutes a violation of policy for which a Sustained finding is appropriate. That being said and based on the specific facts of this case, OPA recommends that NE#1 receive a Training Referral rather than a Sustained finding. OPA believes that this is appropriate for three main reasons. First, NE#1 explained that he recently returned to patrol as a supervisor and that he has not had video refresher training since he came back. Second, his absence from patrol provides some explanation for why he did not know of the requirements of SPD Policy 16.090-POL-1(7). Third, NE#1 accepted responsibility for his error and committed to knowing and complying with this policy moving forward. OPA's believes that this will be the case. However, to the extent he fails to comply in the future, OPA will likely recommend a Sustained finding.

- **Training Referral:** NE#1 should be retrained concerning the requirement that, when he fails to record Department video, he documents the absence of video and the reason for the lack of a recording. NE#1 should be counseled concerning his failure to do so here. He should also be reminded that, where his system malfunctions and prevents a recording, SPD Policy 16.090-POL-1(4) requires him to update the CAD Call Log, report the issue to a supervisor, and to contact Seattle IT. He should further be informed that future non-compliance with SPD Policy 16.090-POL-1(7) will result in a recommended Sustained finding. 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 #2**

***16.090 - In-Car and Body-Worn Video 7. Employees Will Document the Existence of Video or Reason for Lack of Video***

I recommend that this allegation be Not Sustained and refer to the Training Referral detailed in the context of Allegation #1.

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