



## ***CLOSED CASE SUMMARY***

ISSUED DATE: APRIL 9, 2020

CASE NUMBER: 2018OPA-0152

### **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 activate his In-Car Video and did not document the failure to record.

### **ADMINISTRATIVE NOTE:**

This case was submitted after the 180-day deadline had expired as the result of an internal OPA administrative error. As such, the Director's Certification Memo in this case was not completed within the 180-day timeline set forth in the Collective Bargaining Agreement between the City of Seattle and SPOG.

### **ANALYSIS AND CONCLUSIONS:**

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

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

While reviewing a use of force, a Lieutenant identified that there was no In-Car Video (ICV) recorded by Named Employee #1 (NE#1). The Lieutenant subsequently requested that NE#1 either upload the ICV or to provide a memorandum explaining why no ICV was recorded. NE#1 completed the memorandum, in which he indicated that he did not recall activating his ICV when responding to the incident in question. He explained that the failure to activate was based on "operator error" due to the "exigent nature" of the call. At the time this incident occurred, the failure to activate ICV required a mandatory OPA referral. As such, a complaint was initiated with OPA and this investigation ensued.

As part of its investigation, OPA verified that there were no technical issues with NE#1's ICV that would have prevented it from recording. OPA also determined that NE#1 did activate Body Worn Video (BWV) and recorded the entirety of his law enforcement action.

OPA interviewed NE#1 who acknowledged failing to record ICV. He stated that, at the time of this incident, he was newly in patrol after being assigned to the Narcotics Section for approximately 16 years. He told OPA that, while he



was shown the basics of how to use the ICV system by another officer, he had yet to receive formal training on this technology from the Department. He told OPA that he believed his ICV would activate automatically when he turned his patrol vehicle's emergency equipment on to clear several intersections; however, he stated that he was not aware at the time that his emergency equipment needed to be on for at least seven seconds for this to occur. With regard to his failure to document the lack of ICV, he stated that he was not aware of the absence of video until he was notified by the Lieutenant. He told OPA that, at that time, he documented the failure and the reason for it in the memorandum he submitted.

SPD Policy 16.090-POL-5 governs the recording of law enforcement activity on Department video. Pursuant to this policy and relevant to this case, NE#1 was required to activate his ICV during his response to this incident. When he did not do so, NE#1 acted contrary to policy. However, OPA finds that a Training Referral is appropriate for several reasons. First, NE#1 acknowledged that he made a mistake and accepted responsibility. Second, NE#1 was newly in patrol at that time and had not been formally trained on the use of ICV. Notably, OPA determined that NE#1 did not receive such training until 44 days after this incident. Third, NE#1 believed, in good faith, that he had activated his ICV when he turned on his patrol vehicle's emergency equipment, which evidences an intent to have complied with the policy. For these reasons, OPA recommends that this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1 should be reminded of the requirement to activate his ICV when required. It appears that NE#1 has learned this lesson as he has not had any recent failures to record ICV or BWV. This counseling and any training that the chain of command deems necessary 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***

SPD Policy 16.090-POL-7 requires that, where an officer does not record ICV, the lack of video and the reason for the non-activation is documented. Here, NE#1 did not provide documentation until it was requested by a supervisor. NE#1 explained that this was due to the fact that he was unaware at the time that he had failed to record video.

OPA concludes that, as NE#1 did not know about the absence of video, he did not violate policy when he failed to submit a memorandum. As such, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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