



CLOSED CASE SUMMARY

ISSUED DATE: JULY 6, 2020

CASE NUMBER: 2019OPA-0846

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 (Unfounded)
# 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 (Unfounded)

Named Employee #2

Allegation(s):		Director's Findings
# 1	6.180 - Searches-General 2. There are Specific Exceptions to the Search Warrant Requirement	Not Sustained (Unfounded)

EXECUTIVE SUMMARY:

The Complainant alleged that unidentified SPD officers improperly made entry into his tent on two occasions and that, on one of those occasions, cut a hole in it. OPA further alleged that the Named Employee may have failed to record Department video, as well as failed to document the lack of a recording.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

The Complainant alleged that, on November 16, 2019 and on another prior date, unidentified SPD officers made entry into his tent. He stated that, on the prior occasion, officers cut a hole in his tent with a knife. He indicated that, on November 16, officers entered his tent without a warrant. This OPA investigation ensued.

As part of its investigation, OPA attempted to interview the Complainant. However, he did not respond to OPA and he was not interviewed. As such, OPA was unable to narrow down the specifics of these two incidents or to undercover any evidence in the possession of the Complainant.

OPA did locate a CAD Call Log and Incident Report indicating that, on November 16, Named Employee #1 (NE#1) responded to the vicinity of the Complainant's tent to assist the City Parks Field Coordinator and to provide security for a clean-up crew. NE#1 wrote in his report that, while doing so, he identified a tent with two males inside of it. NE#1 noted that he offered the males shelter information and they declined citing concerns with the health and safety conditions within the shelters. NE#1 documented that the males packed up and left the scene. NE#1 did not detail making entry into the tent or specifically reference the Complainant. OPA further determined that NE#1 did not record his actions on Body Worn Video or In-Car Video.

OPA interviewed NE#1. He denied making entry into the Complainant's tent or seeing any other officer make entry. With regard to the recording of video, NE#1 stated that, at the beginning of his shift, he was informed that he was to go assist the City Parks Field Coordinator. He was not dispatched to that incident. NE#1 explained that his role at the



scene was to be on stand-by to assist if needed. He indicated that he was not engaging in law enforcement action as contemplated by SPD Policy 16.090-POL-5. As such, he opined that he was not required to record his actions.

Based on OPA's review of the plain language of this policy, OPA agrees with NE#1's interpretation of the policy and application to this incident. OPA notes that NE#1 did not conduct any of the activities set forth under SPD Policy 16.090-POL-5(b) that must be recorded. OPA further concludes that acting as stand-by during a non-distracted call, without more, is not law enforcement action that must be recorded. For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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

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

As OPA finds that NE#1 was not required to record Department video during this incident, OPA logically concludes that he did not violate policy when he failed to document the lack of a recording. Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #1

6.180 - Searches-General 2. There are Specific Exceptions to the Search Warrant Requirement

As discussed above, OPA could not locate any evidence supporting the Complainant's allegation that unknown SPD officers twice entered his tent improperly, including cutting it with a knife. This was based, in large part, by the Complainant's lack of responsiveness to OPA's request for his interview.

Accordingly, and when applying a preponderance of the evidence standard, OPA recommends that this allegation be Not Sustained – Unfounded.

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