



## CLOSED CASE SUMMARY

**ISSUED DATE:** MARCH 15, 2018

**CASE NUMBER:** 2017OPA-0713

**NAMED EMPLOYEE (S) & ALLEGATIONS:**

**Named Employee #1**

Allegation(s):		Director's Findings
# 1	16.090 - In Car Video System 6. Employees Will Record Police Activity	Not Sustained (Training Referral)

**Named Employee #2**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)

**EXECUTIVE SUMMARY:**

The subject alleged that an unknown SPD employee absconded with her marijuana after she was placed under arrest for an open warrant. Upon review of the case, OPA discovered that the Named Employee failed to activate his In-Car Video system in potential violation of Department policy.

**ANALYSIS AND CONCLUSIONS:**

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

**16.090 - In Car Video System 6. Employees Will Record Police Activity**

SPD Policy 16.090-POL-1(6) requires that Department personnel record delineated activity, including responses to dispatched calls.

During its intake investigation, OPA determined that Named Employee #1 had failed to activate his In-Car Video (ICV) prior to his response to a call for service by the subject. As a threshold matter, under SPD policy, this was law enforcement activity that was required to be recorded.

Named Employee #1 arrived on the scene at approximately 03:31 hours and cleared the call at approximately 03:51 hours. However, Named Employee #1's ICV began recording at 03:46 hours and was de-activated at 03:47 hours, creating only a one-minute video. As such, the first 15 minutes that Named Employee #1 was at the scene were not recorded. At approximately 03:48 hours, Named Employee #1 provided the following update to the Call Log: "ICV did not activate at beginning of call."

At his OPA interview, Named Employee #1 stated that he "tried to" activate his ICV but indicated that there was a technical issue that prevented him from doing so. He explained that when he was dispatched he turned on his overhead lights and pressed the button on his portable microphone, and he believed that his system was recording. When he returned to his patrol vehicle at the conclusion of the incident, however, he reported that his MDT was greyed out and had an error message that said "system not responding." He stated that he clicked a button that re-activated his system. While he waited for his system to respond, Named Employee #1 reported that he informed



another officer that his system was not functioning correctly. Once his system was working again, Named Employee #1 stated that he activated his ICV as he drove away from the scene and de-activated it once he had left.

Named Employee #1 claimed that he had previous issues with his COBAN system and that this was a known problem with SPD Information Technology. He indicated that he had generated several HEAT tickets on the vehicle in May and June of 2017 trying to work out various issues. OPA obtained the HEAT ticket log for Named Employee #1's vehicle and found only one ticket that was generated in May for an unsuccessful video recovery. No tickets were found for service in June.

OPA also obtained the log from that date for Named Employee #1's ICV system. From a review of that log, there is no indication of any malfunctioning of Named Employee #1's system or of any error message. Moreover, from a review of that log, there is no indication that Named Employee #1 ever attempted to activate his ICV at the time that he was dispatched to the call.

While there is significant evidence in this case establishing that there was no malfunction with Named Employee #1's ICV system, his statement, if credited, indicated that there was. For these reasons, I cannot conclusively determine whether Named Employee #1 violated policy by failing to record.

That being said, I do conclude that Named Employee #1 neglected to take any of the other steps that the policy requires when there is a failure to record video. Named Employee #1 did not notify a supervisor of the malfunction as required by SPD Policy 16.090-POL-1(5). He further did not make an entry into the MDC log of the malfunction and the steps taken to resolve it as required by SPD Policy 16.090-TSK-1. Lastly, as this was law enforcement activity that was required to be recorded and as there was a delay in recording, SPD Policy 16.090-POL-1(11) required him to "explain in writing why it was not recorded or why the start of the recording was delayed"; however, it is undisputed that he did not do so.

As such, even if there was a malfunction of his system, he failed to comply with the entirety of the requirements of the policy. For this reason, I recommend that this allegation be Not Sustained – Training Referral.

- **Training Referral:** Named Employee #1 should receive additional training concerning the requirements of SPD's ICV policy. He should specifically receive additional training as to the steps he is required to take when his ICV system fails to record or where there is a delay in recording. Named Employee #1's chain of command should remind him of their expectations that he will comply with all aspects of the ICV policy. This re-training and counseling should be memorialized in a PAS entry.

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

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

##### **5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy**

When officers responded to the call for service on the date in question, they observed what they believed to be a domestic disturbance. Officers conducted a records check on the two individuals involved in the dispute, and this resulted in the discovery of an open warrant. The subject was placed under arrest and was booked into the King County Jail.



Five days later, the subject called the North Precinct and alleged that an unknown officer had stolen her marijuana. She opined that this happened after she was booked into the King County Jail. The subject was contacted concerning her complaint by a Department Sergeant. The subject told the Sergeant that she had asked one of her family members to take her marijuana from her car after her arrest but that, when she retrieved her car later, a small amount of marijuana was missing. The subject stated that she spoke with her family who denied taking the marijuana. The subject accordingly assumed that an officer must have done so.

During its investigation, OPA contacted the subject to discuss this allegation. At that time, the subject stated her belief that her brother might have taken the marijuana and told the assigned OPA investigator that she would contact OPA later when she was prepared to make a statement. She never did so.

OPA further reviewed ICV of the incident, which yielded no indication that any officer took the subject's marijuana.

Based on the review of the video and on the subject's own statements, I find no evidence suggesting that any employee of the Department took the subject's marijuana. As such, I recommend that this allegation be Not Sustained – Unfounded.

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