



CLOSED CASE SUMMARY

ISSUED DATE: JULY 30, 2018

CASE NUMBER: 2018OPA-0129

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	16.090 - In-Car and Body-Worn Video b. When Employees Record Activity	Not Sustained (Management Action)
# 2	16.090 - In-Car and Body-Worn Video i. Determining the Conclusion of an Event	Allegation Removed

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 when he was following an ambulance to the hospital.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

16.090 - In-Car and Body-Worn Video b. When Employees Record Activity

While reviewing a Type II use of force, the Department's Force Review Board (FRB) determined that Named Employee #1 (NE#1) did not activate his In-Car Video (ICV) system during the incident. Specifically, the FRB identified that NE#1 failed to record ICV when he was following an ambulance that was transporting a subject to Harborview Medical Center. This matter was referred to OPA given that it was a technical violation of policy.

This case is nearly identical to two others previously reviewed by OPA – 2017OPA-0751 and 2017OPA-1131. In those cases, OPA noted that the policy was unclear as to whether it expected officers to record ICV when following an ambulance. While the policy requires recording transports of subjects, the officers were not actually transporting the subjects and were merely following the ambulances. Moreover, once the subjects were put inside of the ambulances, they would then be taken directly to the hospital, an area that the officers were not permitted to record in without a direct law enforcement purpose to do so. However, on the other hand, mandating recording in such circumstances protects against unexpected occurrences that would need to be captured; for example, if the subjects attempted to escape from the ambulances. As such, in those prior cases, OPA issued Management Action Recommendations that requested clarification of this section of the policy by the Department.

For the same reasons as articulated in those prior cases, OPA recommends that this case be Not Sustained – Management Action. OPA refers to the pending Management Action Recommendations, issued on April 5, 2018, which the Department has not yet addressed.



Even though I recommend a Management Action here, I note that NE#1 failed to comply with SPD Policy 16.090-POL-7 when he did not note the lack of video in an update to the call and document that no video existed and provide an explanation in an appropriate report. Indeed, he provided no reason for his conduct until his OPA interview. Had he done so, this case may never have been referred to OPA by the FRB in the first place and classified for investigation. I counsel him more closely comply with this section of the policy moving forward.

Recommended Finding: **Not Sustained (Management Action)**

Named Employee #1 - Allegation #2

16.090 - In-Car and Body-Worn Video i. Determining the Conclusion of an Event

Given that the issues in this case are addressed by the above Management Action Recommendation, I deem this allegation to be unnecessary and duplicative. As such, I recommend that it be removed.

Recommended Finding: **Allegation Removed**



Seattle Office of Police Accountability

November 15, 2018

Chief Carmen Best
Seattle Police Department
PO Box 34986
Seattle, WA 98124-4986

RE: MANAGEMENT ACTION RECOMMENDATION

Dear Chief Best:

Please see the below Management Action Recommendation.

Case Number(s)

- 2018OPA-0129

Topic

- In-Car Video

Summary

- It was alleged that the Named Employee failed to activate his In-Car Video when he was following an ambulance to the hospital.

Analysis

- SPD Policy *16.090* is unclear as to whether officers are expected to record ICV when following an ambulance. While the policy requires recording transports of subjects, the officers were not actually transporting the subjects and were merely following the ambulances. Moreover, once the subjects were put inside of the ambulances, they would then be taken directly to the hospital, an area officers are not permitted to record in without a direct law enforcement purpose.
- However, a mandate to record in such circumstances may protect against unexpected occurrences that would need to be recorded; for example, if the subjects attempted to escape from the ambulance.

Recommendation(s)

- Consider if the intent of the ICV policy is to require officers who are not themselves transporting a subject, but are following another vehicle that is transporting the subject, to record that activity.
- Evaluate the current list of law enforcement activities that are required to be recorded and determine whether that list needs to be amplified or clarified.

Thank you for your consideration of this matter. I look forward to your response.

Sincerely,

AM

Andrew Myerberg
Director, Office of Police Accountability