



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 22, 2018

CASE NUMBER: 2018OPA-0458

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 (Training Referral)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity	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 Employees failed to activate In-Car Video as required by policy.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

When reviewing a Type I use of force, a Department Lieutenant determined that the Named Employees appeared to have failed to record In-Car Video (ICV).

The Named Employees were both in the West Precinct completing paperwork when they heard a call concerning an ongoing “foot pursuit” outside of the precinct. The Named Employees left the precinct to assist in apprehending the subject. The Named Employees activated their Body Worn Video (BWV) and recorded the entirety of their law enforcement activity. The Named Employees admittedly did not activate their ICV.

During their OPA interviews, both Named Employees asserted that they did not activate their ICV because they were leaving the precinct on foot and because their patrol vehicle was parked in the precinct’s underground garage. As such, they contended that, even had they activated their ICV, it would not have recorded video.

Neither of the Named Employees documented their failure to activate ICV. Consequently, the Named Employees further did not provide any explanation for why they failed to do so in an appropriate report. The Named Employees



stated that, given the unique circumstances of this case, they simply did not think to notify a supervisor and document the reason why they failed to record video.

SPD Policy 16.090-POL-1(5) concerns when Department employees are required to record police activity. SPD Policy 16.090-POL-1(5)(b) sets forth the categories of activity that must be recorded, which include: responses to dispatched calls starting before the employee arrives on the scene; traffic and Terry stops; on-view infractions and criminal activity; arrests and seizures; searches and inventories of vehicles, persons, or premises; and questioning victims, suspects, or witnesses.

I note that SPD policy does not provide for an exception from activating ICV during foot pursuits away from an officer's vehicle. As such, the Named Employees were required to activate and record ICV during this incident. That being said, and even though their failure to do so represents a technical violation of policy, I do not believe that Sustained findings are appropriate for two main reasons. First, the officers were responding to an emergent call that was within walking distance of the precinct. Thus, they did not take their patrol vehicle and, as such, it was not unreasonable for them to have believed that they did not need to activate their ICV when their vehicle was parked in an underground garage. Second, they fully recorded the incident on BWV. Accordingly, I instead recommend that the Named Employees receive the following Training Referrals.

- **Training Referral:** The Named Employees should be retrained as to the requirements of SPD Policy 16.090. Specifically, they should be reminded of the obligation to record both ICV and BWV when required under SPD Policy 16.090-POL-1(5)(b). The Named Employees should be counseled concerning their failure to do so here. The Named Employees should also be counseled concerning their failure to document the non-activation in an appropriate report, as mandated by SPD Policy 16.090-POL-1(7). The Named Employees should be instructed to do so moving forward. 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 #2 - Allegation #1

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

For the same reasons as stated above, I recommend that this allegation be Not Sustained and refer to the above Training Referral. (See Named Employee #1, Allegation #1.)

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