



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 13, 2017

CASE NUMBER: 2017OPA-0632

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	16.090 - In Car Video System 6. Employees Will Record Police Activity	Sustained
# 2	16.090 - In-Car Video System 5. Employees Will Log in and Perform a System Check	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:

The Complainant, a Department Administrative Lieutenant, alleged that Named Employee #1 (NE#1) responded to a Type 2 Use of Force investigation and did not activate his In-Car Video (ICV) upon arrival. OPA additionally discovered during intake that NE#1 failed to perform a systems check at the start of his shift.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

NE#1 stated that he responded to the scene of the incident in order to observe a Type 2 force investigation that was being conducted by a Sergeant. NE#1 reported did not conduct the investigation and simply stood in the vicinity and watched the proceedings. NE#1 was asked if he had any other involvement other than observing and whether he was asked to perform any tasks by the Sergeant. NE#1 responded in the negative. In his use of force review, however, the Sergeant noted that he asked NE#1 to canvas several businesses in the near vicinity for video. According to the use of force review, NE#1 did so but learned that the cameras were facing in the wrong direction and would not have captured the incident.

NE#1 confirmed that he did not turn on his ICV to record his action on that day. NE#1 further indicated that he did not have an exception to not activate his ICV.

SPD Policy 16.090-POL-1(6) requires that “employees will record police activity,” and specifically itemizes the types of activity that need to be recorded.

Arguably, NE#1 was not obligated to activate his ICV when he went to the scene simply to observe the use of force investigation. Observing a force investigation, without more, is not explicitly listed in the policy as one of the activities that must be recorded. That being said, it certainly would have been best practice to do so. However, once



NE#1 searched for video at the Sergeant's behest, he did engage in an activity that needed to be recorded and he should have activated his ICV at that point. His failure to do so was inconsistent with policy.

For some reason unbeknownst to OPA, the Sergeant was designated as the union representative at NE#1's OPA interview. As the Sergeant was involved in this case, and was the impetus behind NE#1's actions that ultimately resulted in this sustained finding, this should not have been the case. Moreover, when NE#1 told OPA that he only watched the force investigation and did not perform any tasks at the Sergeant's behest, the Sergeant knew, or should have known, that NE#1's statement was inaccurate. However, the Sergeant took no steps to correct NE#1's statement, perhaps due to the inherent conflict of him serving as the union representative. I request that the Seattle Police Officers' Guild take steps to ensure that in the future union representatives were uninvolved in the underlying cases.

Given that NE#1 engaged in law enforcement activity that was required to be recorded and given that NE#1 failed to record the activity and had no exception from recording, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #2

16.090 - In-Car Video System 5. Employees Will Log in and Perform a System Check

SPD Policy 16.090-POL-1(5) requires that "at the start of a shift, employees will log into COBAN and check to ensure that the ICV system is working properly." Here, it is undisputed that NE#1 did not do a system check. NE#1 explained that he logged into COBAN right after roll call in order to be available for calls, but he then went to his desk and performed administrative duties instead of performing a system check. NE#1 affirmed that he had been trained on the operation of his ICV system and he thus knew how to perform a system check. When asked by OPA, NE#1 stated that he now makes sure to do so.

While I find that NE#1 violated policy by failing to perform a system check, I recommend that this allegation not be sustained and that NE#1, instead, receive a training referral.

- **Training Referral:** NE#1 should receive re-training concerning the requirement that he perform a system check after logging into his COBAN system, as well as further instruction concerning how to do so. NE#1 should also receive counseling from his chain of command concerning his failure to do so and his chain of command should inform him that future non-compliance with this policy will result in a sustained finding. This re-training and related counseling should be memorialized in a PAS entry.

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