



## CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 22, 2018

CASE NUMBER: 2017OPA-0932

### 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 b. When Employees Record Activity	Not Sustained (Training Referral)
# 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 (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 supervisor, alleged that the Named Employee self-reported not having his In-Car Video activated during a call. Additional intake performed by OPA showed that the General Offense Report did not mention the lack of a video or provide any justification for failure to record.

#### **ANALYSIS AND CONCLUSIONS:**

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

##### ***16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity b. When Employees Record Activity***

SPD Policy 16.090-POL-5(b) requires that employees record police activity and sets forth various law enforcement actions that must be recorded.

Here, Named Employee #1 (NE#1) engaged in law enforcement activity that needed to be recorded. However, he failed to record this activity on his In-Car Video (ICV). NE#1 self-reported his failure to record to his supervisor. As discussed below, while he did not note the failure in his General Offense Report as policy dictates, he did reference it in his use of force report.

There was no justification for the failure to record. NE#1 stated that he had not failed to record in the past and his failure in this incident was simply a mistake. I appreciate NE#1’s candor, both with his supervisor and with OPA. That NE#1 was accountable for his actions and recognized his error informs my conclusion that a sustained finding, even if supported by the facts, is not warranted. Instead, I recommend that this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1 should receive additional training concerning the requirement that he record his law enforcement activity as required by this policy. NE#1 should further receive counseling from his chain of



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command concerning the Department's expectations that he will so record in the future. This re-training and associated counseling should be memorialized in a PAS entry.

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

**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***

SPD Policy 16.090-POL-7 requires officers to document the reason for the lack of video. The policy specifically delineates that this information should be noted "in a call update and any related GO report, Street Check, Notice of Infraction, Criminal Citation, or Traffic Contact Report (TCR)." (SPD Policy 16.090-POL-7.)

Here, it is undisputed that video was not recorded. As discussed above, NE#1 self-reported the failure to record to a supervisor. He did not, however, note the lack of video in one of the reports contemplated by the policy. Most notably, he did not indicate in the General Offense Report that he failed to record video. Moreover, in the narrative template, NE#1 indicated that ICV was uploaded and did not expressly note the failure to record. At his OPA interview, NE#1 stated that he had never failed to record before and had never had to document this information, so it was not something he was accustomed to. He further stated that he wrote that ICV had been uploaded because he knew that other officers had uploaded their ICV related to this case.

NE#1's failure to write this information in the General Offense Report violated policy. However, in my opinion, two factors mitigate against a sustained finding. First, NE#1 self-reported his failure to record to a supervisor. He similarly accepted responsibility for his actions during his OPA interview, which I find commendable. Second, NE#1 did memorialize his failure to record in his use of force report. As such, even though a use of force report is not within the category of itemized documents in SPD Policy 16.090-POL-7, I find that he complied with the spirit of the policy.

For these reasons, I recommend that this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1 should receive additional training concerning the elements of this section of the policy. Specifically, while NE#1 should be commended by his chain of command regarding his self-reporting and documentation of this issue in his use of force report, NE#1 should be instructed that his failure to record should have been properly memorialized in the General Offense Report or another document itemized in SPD Policy 16.090-POL-7. This re-training and associated counseling should be reflected in a PAS entry.

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