



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 16, 2018

CASE NUMBER: 2018OPA-0101

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 (Management Action)
# 2	16.090 - In-Car and Body-Worn Video 4. Employees Address and Note System Malfunctions	Not Sustained (Management Action)

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 Named Employee #1 responded to an event prior to logging into his In-Car Video system and that he belatedly activated his In-Car Video.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

Named Employee #1 (NE#1), a Department Lieutenant, was working in the precinct when he heard a radio transmission indicating that a suspect who was being sought in connection with a narcotics transaction had dropped a firearm while being chased by officers. There was also a “fast back” call. NE#1 self-dispatched and rode to the scene in a patrol vehicle. Prior to leaving the precinct, NE#1 did not log into his In-Car Video (ICV) system. NE#1 stated that, when he got into the patrol vehicle, he noticed that its ICV was already running from the previous shift. On his way to the scene, NE#1 activated the patrol vehicle’s emergency lights, which caused the ICV to start recording. When he got to the scene, he also activated his Body Worn Video (BWV), which recorded his response to the incident.

At the conclusion of the call, NE#1 documented his failure to log into his ICV system and his late activation in the CAD Call Log. He also disclosed this information to a Department Administrative Lieutenant. He articulated that these failures were based on his exigent response to the scene based on the “fast back” call.

SPD Policy 16.090-POL-1(5)(b) requires that Department personnel record delineated activity, including responses to dispatched calls. The policy further states that: “If circumstances prevent recording at the start of an event, the employee will record as soon as practical.” (SPD Policy 16.090-POL-1(5)(b).)



While NE#1 did not properly log into the ICV system during this incident, he did in fact record, even if belatedly. NE#1 noted his failure to log into the system and the late recording as required by policy. He further articulated, in my opinion convincingly, that he substantially met the requirements of the policy and, even where he did not, those failures were excused by the exigency of the circumstances that he faced.

My only substantive concern with this case involves a secondary justification raised by NE#1 at his OPA interview. He contended that he interpreted this policy as requiring that an officer record ICV or BWV, not that an officer needed to do both. Stated another way, NE#1 believed that, so long as an officer activated one of those cameras, the failure to simultaneously record on the other did not constitute a violation of policy. He stated, however, that he thought that recording on both at the same time was best practice.

I disagree with NE#1's view of the policy. I interpret the policy as requiring that, where an officer is equipped with ICV and BWV, both systems must be activated for each call the officer responds to. This has been the standard practice of SPD officers since being equipped with BWV. NE#1's contrary understanding of this policy is, in my opinion, an outlier. Indeed, his reading of the policy is inconsistent with the purpose of this policy and the entire idea of equipping officers with BWV in addition to ICV. The whole point is that officers now have a second mechanism to more fully record their law enforcement activity, not that they now have the discretion to choose which camera they want to utilize in any given case. While I think that NE#1's view is unique, he is correct that there is some vagueness in the policy. SPD should make it abundantly clear that it is the expectation of both the Department and the Community that officers equipped with ICV and BWV will record on both cameras and do so simultaneously.

I further note that this is not the first time that NE#1 has made this same argument. He did so in another case (2017OPA-1301), which resulted in a similar Management Action Recommendation calling for revision of the policy consistent with OPA's interpretation. In the present case, I issue another Management Action Recommendation echoing my prior suggestions. Here, however, I provide more specificity as to the exact language that I believe the Department should add to the policy to ensure that this section of the policy is clear and that this issue is fully resolved.

- **Management Action Recommendation:** SPD Policy 16.090 should include a new subsection concerning the expectations for the use of both ICV and BWV simultaneously. This subsection should read as follows: *Officers equipped with both ICV and BWV shall utilize both systems simultaneously when recording is required under 16.090-POL-1(5)(b). The failure to activate one or both systems constitutes a violation of policy and must be documented and reported consistent with 16.090-POL-1(4) and 16.090-POL-1(7).*

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

Named Employee #1 - Allegation #2

16.090 - In-Car and Body-Worn Video 4. Employees Address and Note System Malfunctions

SPD Policy 16.090-POL-1(4) requires that: "At the start of the shift, employees will prepare ICV and BWV systems as outlined in the training and 16.090 TSK-1." It further requires that: "If an employee discovers an operational issue with ICV or BWV at any time during the shift, the employee will...note the issue in a CAD update, and notify a supervisor as soon as practicable." (SPD Policy 16.090-POL-1(4).)



As discussed above, NE#1 failed to properly prepare his ICV system as he did not log into the system prior to dispatching to the call. I find that this was excused, however, by the exigency of his response. He did document his failure to log into his ICV system and his late activation in an update to the CAD Call Log. He further stated that he informed a Department Administrative Lieutenant of these issues. This was confirmed by the Administrative Lieutenant.

For these reasons, I find that NE#1 substantially complied with the requirements of this policy. As such, I recommend that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**