



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 22, 2018

CASE NUMBER: 2018OPA-0026

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 (Lawful and Proper)
# 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)

Named Employee #2

Allegation(s):		Director's Findings
# 1	16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity	Not Sustained (Lawful and Proper)
# 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 (Unfounded)

Named Employee #3

Allegation(s):		Director's Findings
# 1	16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity	Not Sustained (Lawful and Proper)
# 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 (Unfounded)

Named Employee #4

Allegation(s):		Director's Findings
# 1	16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity	Not Sustained (Lawful and Proper)
# 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 (Unfounded)

Named Employee #5

Allegation(s):		Director's Findings
# 1	16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity	Not Sustained (Lawful and Proper)
# 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 (Unfounded)

Named Employee #6

Allegation(s):		Director's Findings
# 1	16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity	Not Sustained (Lawful and Proper)



# 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 (Unfounded)
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Named Employee #7

Allegation(s):		Director's Findings
# 1	16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity	Not Sustained (Lawful and Proper)
# 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 (Unfounded)

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 alleged that the Named Employees failed to activate their In-Car Video systems in accordance with Department policy and that they may failed to document a reason for the lack of video.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

Here, the Named Employees were dispatched to a major incident involving a barricaded man who had discharged a firearm. The response to this incident lasted from approximately 21:29 hours on September 29, 2018 through 19:01 hours on September 30, 2018.

SWAT arrived at the scene at 23:07 hours and took tactical and operational control. Officers assigned to the West Precinct and East Precinct Anti-Crime Teams (ACT) also responded at approximately 01:16 hours and were utilized as a contingency element to the extent SWAT needed assistance.

The West Precinct ACT sergeant, Named Employee #1 (NE#1), was interviewed by OPA. He explained that the ACT officers did not participate in any of the law enforcement activities or investigation and simply stood in a stand-by position several blocks away from the scene. They conducted only support activities, such as getting food and beverages for SWAT officers. This was confirmed by Named Employee #2 and Named Employee #3 during their OPA interviews.

Given that the officers under his command were only operating in a support role and were taking no active law enforcement actions, NE#1 determined that it was unnecessary for them to record Department video and instructed the officers accordingly. As such, none of the officers recorded Department video.

That the officers did not record video was discovered by the Department's Force Investigation Team (FIT) during its investigation of this incident. FIT believed that this conduct could have violated Department policy and, consistent with SPD Policy 5.002, referred this matter to OPA. This investigation ensued.



SPD Policy 16.090-POL-5 requires that Department employees record police activity. Among the activity required to be recorded are officers' responses to dispatched calls, arrests and seizures, and questioning victims, suspects, or witnesses.

Based on my review of the policy and of the circumstances of this case, I believe that NE#1's decision to not have the officers under his command record Department video was reasonable. This finding is informed by the portion of the policy that states the following:

If the employee is on a perimeter post at an extended major incident investigation, the on-scene supervisor, or FIT commander where FIT has been notified, may authorize ICV and BWV recording to be stopped when he or she reasonably believes further recording will not capture audio/visual evidence regarding the incident or enforcement efforts.

NE#1 was the on-scene supervisor and he reasonably believed that recording would not capture evidence concerning the incident or any law enforcement activity. Accordingly, I recommend that this allegation be Not Sustained – Lawful and Proper.

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

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 that Department employees document the lack of video and the reason why no video exists. While I conclude that NE#1's decision that the officers under his supervision did not have to record Department video was reasonable, I find that, under this policy, he should have documented that decision. From my review of the record, there is no indication that he did so in either an update to the CAD Call Report or in the General Offense Report. Under this policy, he should have taken these steps. Moreover, had he done so, this matter may never have been referred to OPA in the first place.

That being said, I do not believe that this warrants a Sustained finding. Instead, I recommend that NE#1 receive a Training Referral.

- **Training Referral:** While NE#1's decision to not require Department video to be recorded in this instance was sound, he should have documented the lack of video as required by SPD Policy 16.090-POL-7. NE#1's chain of command should remind him of the elements of this policy and of the requirement that he ensure such documentation in the future. This counseling should be documented and this documentation should be maintained in an appropriate database.

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



Named Employee #2 - Allegations #1

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

The other Named Employees received an order from NE#1 instructing them to not record. They were justified in relying on this order from a superior officer. As such, I recommend that this allegation be Not Sustained – Lawful and Proper as against Named Employees #2 through #7.

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

Named Employee #2 - Allegation #2

16.090 - In-Car and Body-Worn Video 7. Employees Will Document the Existence of Video or Reason for Lack of Video

As NE#1 made the decision to not record video, it was his obligation, not that of the other Named Employees, to document the absence of video in an appropriate report. As such, I recommend that this allegation be Not Sustained – Unfounded as against Named Employees #2 through #7.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #3 - Allegations #1

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

For the same reasons as indicated above (see Named Employee #2, Allegation #1), I recommend that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #3 - Allegation #2

16.090 - In-Car and Body-Worn Video 7. Employees Will Document the Existence of Video or Reason for Lack of Video

For the same reasons as indicated above (see Named Employee #2, Allegation #2), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #4 - Allegations #1

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

For the same reasons as indicated above (see Named Employee #2, Allegation #1), I recommend that this allegation be Not Sustained – Lawful and Proper.

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



Named Employee #4 - Allegation #2

16.090 - In-Car and Body-Worn Video 7. Employees Will Document the Existence of Video or Reason for Lack of Video

For the same reasons as indicated above (see Named Employee #2, Allegation #2), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #5 – Allegation #1

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

For the same reasons as indicated above (see Named Employee #2, Allegation #1), I recommend that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #5 – Allegation #2

16.090 - In-Car and Body-Worn Video 7. Employees Will Document the Existence of Video or Reason for Lack of Video

For the same reasons as indicated above (see Named Employee #2, Allegation #2), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #6 – Allegation #1

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

For the same reasons as indicated above (see Named Employee #2, Allegation #1), I recommend that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #6 – Allegation #2

16.090 - In-Car and Body-Worn Video 7. Employees Will Document the Existence of Video or Reason for Lack of Video

For the same reasons as indicated above (see Named Employee #2, Allegation #2), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**



Named Employee #7 – Allegation #1

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

For the same reasons as indicated above (see Named Employee #2, Allegation #1), I recommend that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #7 – Allegation #2

16.090 - In-Car and Body-Worn Video 7. Employees Will Document the Existence of Video or Reason for Lack of Video

For the same reasons as indicated above (see Named Employee #2, Allegation #2), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**