



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0469

Issued Date: 07/01/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 13.031 (9) Vehicle Eluding/Pursuits: The Controlling Supervisor is Responsible for the Pursuit (Policy that was issued 01/01/2015)
OPA Finding	Not Sustained (Management Action)
Allegation #2	<u>Seattle Police Department Manual</u> 8.300-POL-7 Use of Force Tools: Use of Force – Vehicle-Related Force Tactics (Policy that was issued 09/01/2015)
OPA Finding	Not Sustained (Management Action)
Allegation #3	<u>Seattle Police Department Manual</u> 13.031 (13) Vehicle Eluding/Pursuits: Only Trained Personnel May Use Pursuit-Ending Tactics (Policy that was issued 01/01/2015)
OPA Finding	Not Sustained (Management Action)
Final Discipline	N/A

INCIDENT SYNOPSIS

A suspect armed with a handgun carjacked and attempted to carjack several persons resulting in the theft of several vehicles in a short amount of time. When the last vehicle stolen was spotted by Seattle Police Officers, the suspect fled in the vehicle at an excessively high rate of speed through numerous neighborhoods. The suspect drove the wrong way on one-way streets. At one point during the pursuit, the suspect fired his handgun at the pursuing officers. During the pursuit, the Named Employee is heard on the radio monitoring the pursuit. Following a request of a patrol unit over the radio, the Named Employee authorized units to ram the fleeing vehicle.

COMPLAINT

The complainant, a supervisor within the Department, alleged that the Named Employee may have violated policy when he authorized employees not trained in specific pursuit ending techniques to use the Pursuit Intervention Technique (PIT) or ram a fleeing vehicle.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint memo
2. Search for and review of all relevant records and other evidence
3. Review of Force Investigation Team (FIT) investigation
4. Interview of SPD employee

ANALYSIS AND CONCLUSION

The Named Employee took over as Incident Commander of the entire incident involving SPD efforts to stop and capture an armed subject who had committed armed carjackings, driven recklessly without any regard for public safety and was firing a gun at pursuing police officers. As such, he was the “controlling supervisor” of an on-going and far-flung pursuit of the vehicles driven by the subject. While acknowledging the complexity and chaotic nature of the rapidly evolving events faced by the Named Employee, he bore responsibility for determining whether the pursuit was in policy and for taking appropriate action based on his assessment. “A pursuit exists when an officer, operating an authorized police vehicle with emergency lights and siren activated, proceeds in an effort to keep pace with and/or immediately apprehend an eluding driver.” Multiple officers under the Named Employees’s command were attempting to keep up with and stop the vehicle being driven by the subject. The Named Employee had several very serious public safety concerns to address as Incident Commander and events were unfolding at a rapid pace and in unpredictable ways. The record from the FIT and OPA investigations leads the OPA Director to conclude the Named Employee should have exercised better control over the pursuit aspect of this event or delegated the role of “controlling supervisor” of the pursuit portion of this event to a different supervisor.

The Named Employee gave verbal authorization over the police radio for officers to use a tactic known as “PIT” (Pursuit Intervention Technique) if they were trained to do so. The Named Employee, in response to a request from an officer over the radio also authorized officers to “ram” the fleeing vehicle if it were safe to do so. The Named Employee’s interpretation that the policy allows for the use of other vehicle-related force tactics, such as ramming, so long as they are objectively reasonable given the totality of the circumstances, is not unreasonable. However, a reference to ramming elsewhere in SPD Policy (Allegation #3) could be seen as prohibiting ramming. This potential confusion and contradiction between different policy sections was noted by the Force Review Board and the Named Employee. I believe the Department has an obligation to provide unambiguous policy guidance and corresponding training on such an important and potentially dangerous subject.

The Named Employee told OPA he believed it was only a matter of time before the subject killed a police officer and/or members of the public. This was an entirely reasonable conclusion based on what the Named Employee knew at the time. As such, argued the Named Employee, deadly force was necessary, reasonable and proportional to stop the deadly threat posed by the subject's driving behavior and use of a firearm to rob members of the public and shoot at pursuing police officers. The OPA Director found the Named Employee's conclusion to be reasonable given the totality of the circumstances known to him at the time. According to the Named Employee, when he authorized the use of police cars to ram the fleeing vehicle, he was authorizing officers to use their vehicles as deadly weapons. The Named Employee told OPA he was not so much thinking of his authorization to use ramming as a pursuit-ending technique, but as an authorization to use vehicle-related deadly force to stop the subject's ability to kill or gravely injure officers and the public. Finally, it must be acknowledged that this was a highly unusual and tense situation for which it would be difficult to be fully prepared.

FINDINGS

Named Employee #1

Allegation #1

The evidence supports that the Named Employee should have exercised better control over the pursuit aspect of this event or delegated the role of "controlling supervisor" of the pursuit portion of this event to a different supervisor. Therefore a finding of Not Sustained (Management Action) was issued for *Vehicle Eluding/Pursuits: The Controlling Supervisor is Responsible for the Pursuit*.

Allegation #2

The evidence supports that the Named Employee was reasonable in his interpretation of this policy. Therefore a finding of Not Sustained (Management Action) was issued for *Use of Force Tools: Use of Force – Vehicle-Related Force Tactics*.

Allegation #3

The evidence showed that the conclusion made by the Named Employee was reasonable given the totality of the circumstances known to him at the time. Therefore a finding of Not Sustained (Management Action) was issued for *Vehicle Eluding/Pursuits: Only Trained Personnel May Use Pursuit-Ending Tactics*.

NOTE: The Seattle Police Department Manual policies cited for the allegation(s) made for this OPA Investigation are policies that were in effect during the time of the incident. The issued date of the policy is listed.