



## **CLOSED CASE SUMMARY**

ISSUED DATE: JUNE 5, 2019

CASE NUMBER: 2019OPA-0103

### **Allegations of Misconduct & Director’s Findings**

Named Employee #1

Allegation(s):		Director’s Findings
# 1	13.031 - Vehicle Eluding/Pursuits 17. Officers will Disengage When Pursuit is Terminated	Not Sustained (Training Referral)
# 2	13.031 - Vehicle Eluding/Pursuits 18. Officers Will Not Reinitiate Pursuits That Have Been Terminated	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:**

It was alleged that the Named Employee failed to immediately stop engaging in a pursuit when it was terminated by a supervisor. It was further alleged that the Named Employee then reinitiated the pursuit after it had been terminated.

#### **ADMINISTRATIVE NOTE:**

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employee. As such, the Named Employee was not interviewed as part of this case.

The Named Employee self-reported that she failed to activate her Body Worn Video (BWV) during this incident. That matter was referred back to the chain of command to be handled as a Supervisor Action.

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

##### **Named Employee #1 - Allegations #1**

##### ***13.031 - Vehicle Eluding/Pursuits 17. Officers will Disengage When Pursuit is Terminated***

On the morning of January 1, 2019, Named Employee #1 (NE#1) was working as a uniformed patrol officer in the North Precinct. At approximately 4:56 a.m., NE#1 engaged in a vehicle pursuit of a suspected drunk driver. NE#1’s Sergeant reported that he immediately ordered her to terminate the pursuit. However, during a video review of the pursuit, the Sergeant reported that he had concerns about NE#1’s apparent delayed response to the termination order. The Sergeant noted that he discussed his concerns with NE#1, and that she addressed those concerns to the Sergeant’s satisfaction. At a later point, the North Precinct Captain discussed the details of this incident with OPA, and it was determined that a violation of policy may have occurred so it was referred to OPA for investigation.



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OPA reviewed the General Offense report pertaining to this incident and it detailed the same general information as provided above. Additionally, NE#1 noted that shortly after she deactivated her emergency equipment and continued along her path after terminating her pursuit, she saw the vehicle that she was previously pursuing now driving at the posted speed limit so she initiated a traffic stop and the vehicle accelerated away from NE#1. She wrote that she pulled over to the side of the road and updated the call over the police radio.

OPA also reviewed NE#1's In-Car Video (ICV). The video showed the activity associated with NE#1's attempt to pull over the suspect vehicle and her brief pursuit. NE#1 advised police radio that she was terminating the pursuit, which was followed by her turning off her siren and then her overhead emergency lights. The time between her announced pursuit termination and the lights going off was approximately 14 seconds. Approximately 20 seconds after the pursuit termination, a radar speed sign was visible in the video as NE#1's vehicle passed by. That radar speed sign reflected the speeds of 47 mph and then 45 mph in a clearly marked 30-mph zone. NE#1's vehicle appeared to slow down when she was seen directly behind the suspect vehicle. NE#1 then turned on her overhead emergency lights to initiate the second traffic stop; however, the suspect vehicle accelerated away. NE#1 immediately pulled over to the side of the road, came to a stop, and deactivated her emergency equipment.

SPD Policy 13.031-POL-17 requires that officers disengage from a pursuit when the pursuit is terminated by a supervisor. The policy defines disengaging as, while continuing to record Department video, returning to a normal traffic pattern, obeying all traffic laws, and deactivating the vehicle's emergency equipment.

Based on OPA's review of the evidence, including NE#1's ICV, OPA finds that she did not immediately disengage from the pursuit when she was ordered to do so. Notably, she continued to drive outside of normal traffic patterns as she traveled at a speed that was 17 miles above the posted speed limit seconds before she attempted to pull the suspect vehicle over again. Department policy in this area is clear. When an order to terminate is given, officers are expected to do so. When NE#1 did not timely comply with the order to terminate here, she contrary to policy.

The above being said, OPA finds that a Training Referral is the more appropriate result here. OPA notes that NE#1 has already been re-trained and counseled by her chain of command concerning her actions. Moreover, there is no indication from the evidence that NE#1 deliberately intended to violate this policy and, instead, it appears that she made a mistake.

- **Training Referral:** NE#1's chain of command does not need to provide her with any additional re-training or counseling unless it deems it necessary. However, the chain of command should inform NE#1 that a future unexcused failure to comply with this policy will likely result in OPA recommending a Sustained finding.

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

**Named Employee #1 - Allegation #2**

***13.031 - Vehicle Eluding/Pursuits 18. Officers Will Not Reinitiate Pursuits That Have Been Terminated***

SPD Policy 13.031-POL-18 states that officers will not reinitiate pursuits that have been terminated. However, the policy provides two exceptions from this general rule: first, when the officer has an articulable basis to believe that a new violent crime has been committed; and, second, where a supervisor reauthorizes the pursuit.



Here, NE#1 did not meet either exception. As such, when she again tried to stop the subject vehicle by activating her emergency equipment and while driving above the posted speed limit, she reinitiated a terminated pursuit. When she did so she acted contrary to policy.

However, for the same reasons as discussed above, I recommend that she receive the below Training Referral rather than a Sustained finding.

- **Training Referral:** NE#1's chain of command does not need to provide her with any additional re-training or counseling unless it deems it necessary. However, the chain of command should inform NE#1 that a future unexcused failure to comply with this policy will likely result in OPA recommending a Sustained finding.

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