



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 5, 2018

CASE NUMBER: 2018OPA-0545

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	13.031 - Vehicle Eluding/Pursuits 4. Officers Will Not Pursue Without Articulable Justification that the Public Safety Need to Stop the Eluding Vehicle Outweighs the Inherent Risk of Pursuit Driving	Sustained

Imposed Discipline

Written Reprimand

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 engaged in an out of policy pursuit.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

13.031 - Vehicle Eluding/Pursuits 4. Officers Will Not Pursue Without Articulable Justification that the Public Safety Need to Stop the Eluding Vehicle Outweighs the Inherent Risk of Pursuit Driving

It was reported that an individual may have stolen items from a construction site. The suspect got into his vehicle and drove from the scene. Named Employee #1 (NE#1) located the truck and activated his emergency equipment to effectuate a traffic stop. The suspect did not stop and eluded NE#1. NE#1 then engaged in a pursuit. NE#1 went over the radio and indicated that he was in a pursuit. A Department Sergeant requested the justification for the pursuit and NE#1 stated that he was “pursuing a suspicious vehicle involved in a burglary.” The Sergeant ordered NE#1 to terminate the pursuit and he did so. He reported that he “immediately turned off all emergency equipment” and “turned around.”

After the pursuit, NE#1 properly completed a Blue Team Vehicle Pursuit entry. The reviewing Sergeant noted that, given the basis provided by NE#1, the pursuit was not justified. A Lieutenant, who conducted the next level of review, reached the same conclusion and referred this matter to OPA. In his referral, the Lieutenant noted that NE#1 received training and a PAS entry and proposed that this be sufficient action to resolve this case. The Lieutenant further wrote that, after the incident, he spoke with NE#1 about the pursuit and characterized that conversation as follows: “He said he didn’t know why he started it in the first place and that he knew we (SPD) could not pursue for property crimes.”



SPD Policy 13.031-POL-4 states that “officers will not pursue without articulable justification that the public safety need to stop the eluding vehicle outweighs the inherent risk of pursuit driving.” The policy clearly states that a pursuit may not be initiated based solely on a suspected property crime.

As part of its investigation, OPA interviewed NE#1. NE#1 stated that he believed it possible that the public safety need to apprehend the subject outweighed the risk of the pursuit. He stated that, while he only had information concerning the burglary, it was possible that there had been a robbery or an assault that had also occurred. He reported that he engaged in the pursuit to buy time to allow the primary unit responding to the scene to determine information justifying the pursuit. This never occurred and he ceased the pursuit when it was terminated by a supervisor. He stated that he would have terminated himself even had the supervisor not done so. He denied that the Lieutenant’s recitation of their conversation in the aftermath of the incident was accurate. He recalled that, instead, he told the Lieutenant that he knew that the Department “prefers” officers to not pursue for property crimes. NE#1 stated that the remainder of his conversation with the Lieutenant would have been consistent with what he told OPA during his interview.

From OPA’s review of NE#1’s interview. It does not appear that he understands that his actions violated Department policy and, to the contrary, he continued to attempt to provide justifications after the fact. The sole basis proffered for his pursuit was that a burglary had been committed. This crime, standing alone, could not support the pursuit. Moreover, the policy does not permit an officer to engage in an out of policy pursuit while waiting for information to later justify his actions.

I note that had NE#1 come into his OPA interview, accepted responsibility for his actions, and repeated the substance of the statement that was attributed to him by the Lieutenant, OPA would have recommended a Training Referral, particularly given that NE#1 had already received retraining and a PAS entry. However, it is clear from OPA’s investigation that he did not learn from either of these. Given this fact, as well as that he clearly violated policy, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**