



## CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 17, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0056

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

Named Employee #1

Allegation(s):		Director's Findings
# 1	13.031 - Vehicle Eluding and Pursuits 7. Officers Must Notify Communications of Pursuits	Not Sustained - Training Referral
# 2	13.031 - Vehicle Eluding/Pursuits 17. Officers will Disengage When the Pursuit is Terminated	Sustained
# 3	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Allegation Removed

**Proposed Discipline**

One to Three Day Suspension and Re-training on SPD Policy Manual 13.031-POL-17.

**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.*

### **ADMINISTRATIVE NOTE ON PROPOSED FINDINGS:**

When the OPA Director recommends a sustained finding for one or more allegations, a discipline committee, including the named employee's chain of command and the department's human resources representative, convenes and may propose a range of disciplinary to the Chief of Police. While OPA is part of the discipline committee, the Chief of Police decides the imposed discipline, if any. See OPA Internal Operations and Training Manual section 7.3 – Sustained Findings.

### **EXECUTIVE SUMMARY:**

The Complainant—a captain—alleged Named Employee #1 (NE#1) failed to notify communications about a pursuit properly. The Complainant also alleged NE#1 failed to disengage when a supervisor terminated the pursuit. Finally, NE#1's alleged failure to terminate the pursuit when ordered constituted insubordination.

### **SUMMARY OF INVESTIGATION:**

On September 16, 2022, Community Member #1 (CM#1) reported he was the victim of an armed robbery. CM#1 stated the perpetrator fled in CM#1's car (Vehicle #1). CM#1 provided Vehicle #1's description and license plate number. On September 25, 2022, NE#1 saw a vehicle without a front license plate and a broken front passenger window. NE#1 ran the vehicle's license plate and determined it was Vehicle #1. NE#1 initiated a traffic stop, but Vehicle



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#1 ignored it. NE#1 pursued Vehicle #1. While during the pursuit, Vehicle #1 struck another vehicle and sped off. Witness Supervisor #1 (WS#1)—NE#1's supervisor—terminated the pursuit. About thirty-five minutes later, Vehicle #1 was located and impounded. Vehicle #1's driver was not found.

ICV captured NE#1's pursuit of Vehicle #1. GPS tracked NE#1's speed and location. Radioed communications were recorded on ICV and corroborated by CAD and GPS. In summary, the evidence showed:

NE#1 traveled westbound on S Genesee Street and pulled behind Vehicle #1. NE#1 followed Vehicle #1, making several turns near Columbia City and Mt. Baker. Both vehicles stopped at a traffic light on Letitia Avenue S. NE#1 "chirped" his siren and activated the cruiser's emergency lights. Vehicle #1 continued northbound on Letitia Avenue S. NE#1 broadcasted his direction of travel, stating, "Going the speed limit. She's, uh, refusing to stop." NE#1 "chirped" the siren again. Dispatch verified the pursued vehicle was stolen and "taken in a robbery . . . armed and [unintelligible] taken in a robbery." NE#1 radioed, "Copy. I'm still behind it. I still have eyes . . . and you can notify a supervisor."

As the vehicles turned southbound on Rainier Avenue S, Vehicle #1 blew past a stop line. Vehicle #1 turned onto Rainier Avenue S, drifted lanes, and accelerated sharply before encountering heavy traffic. NE#1 briefly activated his emergency siren. Vehicle #1 entered a center turn lane to pass another vehicle and drove through an intersection from a left-turn-only lane. Near 4000 Rainier Avenue S, the center turn lane ended, and Vehicle #1 incompletely merged, straddling a double-yellow line.

NE#1 broadcasted, "We're currently southbound on Rainier approaching Adams again. Speed 33. Traffic moderate." Vehicle #1 drove into oncoming traffic. NE#1 "chirped" and then activated his siren. NE#1 also followed Vehicle #1 into oncoming traffic.

NE#1 broadcasted, "Uh, a car behind me. Can you call it?" As the vehicles approached Rainier Avenue S at S Alaska Street, Vehicle #1 struck another car, causing Vehicle #1's front left tire to lift off the ground. Vehicle #1 turned westbound on S Alaska Street. NE#1 broadcasted, "She just collided with another vehicle."<sup>1</sup>

As the pursuit continued westbound on S Alaska Street, WS#1 broadcasted, "[NE#1's callsign] terminate." Dispatch copied the transmission and stated, "Terminate pursuit."

NE#1 slowed, and Vehicle #1 sped off. NE#1 emergency lights were deactivated, but the emergency siren was still activated. NE#1 deactivated the emergency siren about six seconds later.

Vehicle #1 crossed a double-yellow line into oncoming traffic, and NE#1 followed. NE#1 broadcasted, "Sarge, we're doing about twenty-five right now heading towards [Martin Luther King Way.] Do you want me to keep eyes or turn around?" Vehicle #1, still in oncoming traffic, turned southbound onto Martin Luther King Way S into oncoming traffic.<sup>2</sup> WS#1 broadcast, "If she's driving outside normal traffic patterns, terminate."

NE#1 stopped at S Alaska Street at Martin Luther King Way, facing west in an eastbound lane. NE#1 broadcast, "Uh, copy. She's wrong way on MLK right now." NE#1 traveled westbound in the eastbound lane and turned southbound

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<sup>1</sup> While inconclusive, ICV showed Vehicle #1 potentially struck a second vehicle.

<sup>2</sup> At this section of Martin Luther King Way S, a hard barrier and light rail tracks separate the northbound and southbound lanes.



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onto Martin Luther King Way. Two pedestrians at a crosswalk ran to avoid NE#1's approaching cruiser. NE#1's emergency lights were activated.

A short time later, NE#1 turned left at a red light without an activated siren onto S Edmunds Street. About eighteen seconds later, NE#1 broadcasted, "I still have eyes on her. She's heading back towards Rainier. I'm driving normal traffic patterns. Looks like she's dragging a tire." After crossing Rainier Avenue S, NE#1 ran a stop sign at 39<sup>th</sup> Avenue S. NE#1 also turned in the wrong direction (clockwise) into a traffic circle.

**ANALYSIS AND CONCLUSIONS:**

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

***13.031 - Vehicle Eluding and Pursuits; 7. Officers Must Notify Communications of Pursuits***

The Complainant alleged NE#1 provided communications with inadequate information about the pursuit. Specifically, the Complainant alleged NE#1 failed to inform communications when the pursuit started or that Vehicle #1 drove erratically.

Officers must notify communications of pursuits. SPD Policy 13.031-POL-7. That includes information concerning the reason for the pursuit, the location, direction of travel, roadway and weather conditions, the officer's speed, traffic conditions, and speed and operation of the subject's vehicle. *Id.*

Here, NE#1 should have explicitly advised communications he initiated the pursuit. However, NE#1 requested supervisor notification shortly after that, providing the location, direction of travel, speed, and traffic conditions. During his OPA interview, NE#1 explained dispatchers usually seek clarification about whether a pursuit was started, but that did not happen in this instance. NE#1 also stated he used commonly accepted descriptions for the pursuit. WS#1 told OPA after NE#1 requested a supervisor, he believed NE#1 was involved in a pursuit or about to be involved.

However, NE#1 did not provide meaningful updates about the "operation of the subject's vehicle," most notably Vehicle #1's driving along Rainier. There, Vehicle #1 drove erratically, passed other vehicles, and into oncoming traffic in moderate to heavy traffic. WS#1 did not have that information until Vehicle #1 struck another car. Based on NE#1's broadcast request for a secondary unit to "call it," see SPD Policy 13.031-POL-7 ("After joining the pursuit, the secondary unit shall assume the responsibility for all radio transmissions from the primary unit."), NE#1 may have believed a secondary unit would provide those updates. Nevertheless, NE#1 was not relieved of his obligation to update WS#1 about the critical public safety risks until a secondary officer was confirmed.

Overall, NE#1's failure to adequately update communications and, consequently, the controlling supervisor was a possible, but not willful, policy violation best addressed by his chain of command.

Accordingly, OPA recommends the allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with NE#1, review SPD Policy 13.031-POL-7 with NE#1, and provide appropriate retraining and counseling. Retraining and counseling should be documented and maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**



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

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

The Complainant alleged NE#1 failed to end the pursuit upon WS#1's order. Specifically, the Complainant alleged NE#1 failed to deactivate his emergency equipment, followed Vehicle #1, ran a red light and a stop sign, and appeared to have his emergency equipment activated.

Officers must disengage from a pursuit when a supervisor terminates it. SPD Policy 13.031-POL-17. Disengage means returning to a normal traffic pattern, obeying traffic laws, and deactivating emergency equipment. *Id.*

Here, NE#1 did not disengage after WS#1 terminated the pursuit. He did not return to a normal traffic pattern or obey traffic laws. Further, NE#1's emergency equipment was inconsistently deactivated.

After WS#1 terminated the pursuit, NE#1:

- Crossed double-yellow lines on S Alaska Street approaching Martin Luther King Way
- Partially stopped in the intersection of S Alaska Street and Martin Luther King Way, faced westbound in an eastbound lane
- Failed to appropriately yield to pedestrians with a right of way at a crosswalk on Martin Luther King Way
- Ran a red light while turning left from Martin Luther King Way onto S Edmunds Street
- Ran a stop sign at S Edmunds Street and 39<sup>th</sup> Avenue South
- Entered a traffic circle in the wrong direction

NE#1 told OPA he wanted to "keep eyes on the vehicle" and that "for the safety of the public, we had a pretty high interest in finding out where that suspect went." While understandable, NE#1's failure to heed WS#1's order violated policy.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #1 - Allegation #3**

**5.001 - Standards and Duties; 15. Employees Obey any Lawful Order Issued by a Superior Officer**

NE#1 was allegedly insubordinate when he disobeyed WS#1's order to terminate a pursuit.

Employees must obey lawful orders issued by a superior officer. SPD Policy 5.001-POL-15. Failure to do so constitutes insubordination. *Id.*

This allegation is premised on NE#1's failure to end a pursuit upon WS#1's order. That misconduct is fully addressed at Named Employee #1 - Allegation #2. Moreover, WS#1 told OPA he did not find NE#1 undermined his order, explaining: "I don't think he was insubordinate. I think there was an interest in apprehending this person. And I think, you know . . . keeping eye on [Vehicle #1], see if she, this is somebody or a general direction in which she was going, I think was appropriate."



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Accordingly, OPA recommends this allegation be removed.

Recommended Finding: **Allegation Removed**