



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2015-1931

Issued Date: 08/09/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 13.031 (16) Vehicle Eluding/Pursuits: Officers Will Disengage When Pursuit is Terminated (Policy that was issued 01/01/2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 16.090 (6) In Car Video System: Employees Will Record Police Activity (Policy that was issued 02/01/2015)
OPA Finding	Not Sustained (Training Referral)
Allegation #3	<u>Seattle Police Department Manual</u> 16.090 (8) In Car Video System: Once Recording Has Begun, Employees Shall Not Stop Recording Until the Event Has Concluded (Policy that was issued 02/01/2015)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employee was on patrol when he observed a vehicle drive driving recklessly.

COMPLAINT

The complainant, a supervisor within the Department, alleged that the Named Employee failed to pull over or turn off the eluding vehicle's route and return to a normal driving pattern after terminating a pursuit.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint memo
2. Review of In-Car Video (ICV)
3. Search for and review of all relevant records and other evidence
4. Interview of SPD employee

ANALYSIS AND CONCLUSION

The Named Employee's chain of command raised a concern that the Named Employee may not have "disengaged" in a timely enough fashion once he terminated his brief pursuit of a reckless driver. Specifically, once a pursuit is terminated, SPD Policy §13.031(16) requires the primary officer in the pursuit (the Named Employee in this case) to "pull over or, if practical under the circumstances, turn off the eluding route and return to a normal driving pattern." In the specific situation under review in this case, 24 seconds elapsed between when the Named Employee activated the emergency lights on his police car and when he shut them down. Only two seconds elapsed between when the Named Employee turned off the emergency lights and when he came around a corner and observed the suspect vehicle crashed off the roadway. For the last ten seconds of this brief pursuit, the Named Employee's police car was travelling along a curving, two lane (one in each direction separated by a double yellow line) road with a narrow shoulder on the right and a concrete barrier separating the Named Employee's lane of travel from a river bank on the right. As the Named Employee shut off the emergency lights, his vehicle was heading into a sharp curve. When he came around the curve, the Named Employee saw the crashed suspect vehicle. The preponderance of the evidence shows that the Named Employee had neither the time nor a practical opportunity to pull over or turn off the eluding route prior to coming upon the crashed suspect vehicle.

The Named Employee automatically began recording his police activity when he activated the emergency lights on his police car as he attempted to pull over a reckless driver. This recording continued for over 19 minutes until the Named Employee turned off the recording system in order to allow officers from another agency to review the video in preparation for a police canine search for the driver who had fled on foot. Once the officers from the other agency had reviewed the video and obtained the information they needed for their own purposes, the Named Employee did not re-activate the In-Car Video (ICV) system and continue recording until "the event has concluded (SPD Policy §16.090(8))." In answering the OPA investigator's questions about what was happening at the scene when he (the Name Employee) decided to stop the recording function of his ICV, the Named Employee stated, that there was no more police action being taken. Policy §16.090(8) states, "an event has concluded when all of the following apply: the employee has completed his or her part of the active investigation; there is little possibility that the employee will have further contact with any person involved in the event; and the employee is leaving the area of the event." For the Named Employee to assure full compliance with SPD policy, he should have reactivated the ICV in his police car once the other

agency's officer had reviewed the previous recording and kept it running until he was leaving the scene of the event.

The Named Employee was at a crime scene in another agency's jurisdiction. At the request of that agency the Named Employee stopped the recording function of his ICV to allow the other officers to view video evidence that might assist them with their investigation. The Named Employee applied sound reasoning and good judgment in his decision, balancing the requirements of policy against the immediate needs of law enforcement for a legitimate purpose. Furthermore, the Named Employee was completely transparent about his act, announcing over the police radio and his own ICV recording that he was going to stop his recording. Nonetheless, the Named Employee should have sought the advice and permission of his supervisor or superior officer before deciding to violate the Department's ICV policy.

FINDINGS

Named Employee #1

Allegation #1

The preponderance of the evidence supports that the Named Employee had neither the time nor the practical opportunity to pull over or turn off the eluding route prior to coming upon the crashed suspect vehicle. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Vehicle Eluding/Pursuits: Officers Will Disengage When Pursuit is Terminated*.

Allegation #2

The evidence supports that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *In Car Video System: Employees Will Record Police Activity*.

Required Training: The NE should be reminded by his supervisor of the policy requirement that he record his entire involvement in an event until the event has concluded as defined in §16.090(8).

Allegation #3

The evidence supports that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *In Car Video System: Once Recording Has Begun, Employees Shall Not Stop Recording Until the Event Has Concluded*.

Required Training: The Named Employee should be told by his supervisor that, when time and circumstances allow, he should consult with his supervisor or superior officer before taking an action in violation of SPD policy.

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.