



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0100

Issued Date: 08/17/2016

Named Employee #1, #2 and #3	
Allegation #1	<u>Seattle Police Department Manual</u> 13.031 (2) Vehicle Eluding/Pursuits: Pursuing Officers Will Exercise Due Care and Activate Emergency Equipment (Policy that was issued 01/01/15)
OPA Finding	Not Sustained (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 13.031 (3) Vehicle Eluding/Pursuits: Officers Will Not Pursue Without Justification (Policy that was issued 01/01/15)
OPA Finding	Not Sustained (Training Referral)
Allegation #3	<u>Seattle Police Department Manual</u> 13.031 (4) Vehicle Eluding/Pursuits: Officers Will Cease Pursuit When the Risk of the Pursuit Outweighs the Danger to the Public if the Suspect is not Captured (Policy that was issued 01/01/15)
OPA Finding	Not Sustained (Training Referral)
Allegation #4	<u>Seattle Police Department Manual</u> 13.031 (6) Vehicle Eluding/Pursuits: Officers Must Notify Communications of Pursuits (Policy that was issued 01/01/15)
OPA Finding	Not Sustained (Training Referral)
Allegation #5	<u>Seattle Police Department Manual</u> 13.031 (16) Vehicle Eluding/Pursuits: Officers Will Disengage When Pursuit is Terminated (Policy that was issued 01/01/15)
OPA Finding	Not Sustained (Training Referral)

Allegation #6	<u>Seattle Police Department Manual</u> 13.031 (17) Vehicle Eluding/Pursuits: Officers Will Not Reinitiate Pursuits That Have Been Terminated (Policy that was issued 01/01/15)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	N/A

Named Employee #4	
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 01/01/15)
OPA Finding	Not Sustained (Inconclusive)
Allegation #1	<u>Seattle Police Department Manual</u> 5.002 (5) Responsibilities of Employees Concerning Complaints of Possible Misconduct: Supervisors Will Investigate and Document Certain Allegations of Misconduct (Policy that was issued 01/01/15)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	N/A

INCIDENT SYNOPSIS

Named Employee #1, #2 and #3 engaged in vehicle pursuit. Named Employee #4 was their supervisor.

COMPLAINT

The complainant, the Force Review Board (FRB), alleged that Named Employee #1, #2 and #3 actively engaged in an unauthorized vehicle pursuit. The FRB alleged that Named Employee #4 failed to adequately monitor several officers engaged in a pursuit, and failed to clearly state that the pursuit was either authorized or not. The FRB alleged that the Named Employee was aware of pursuit policy violations of the officers, but failed to report those violations to OPA.

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 In-Car Videos
4. Interviews of SPD employees

ANALYSIS AND CONCLUSION

Named Employee #1, #2 and #3 engaged in a vehicle pursuit. Named Employee #4 could only control the pursuit to the extent he was provided with clear and timely information from those officers involved in the pursuit. The OPA Director did not find a preponderance of evidence to either prove or disprove that Named Employee #4 failed to act reasonably in supervising the pursuit. Named Employee #4 made an entry in the personnel file for the officers involved in the pursuit that both praised them for their actions and pointed to potential violations of the pursuit policy by one or more of those involved. Named Employee #4's pursuit reviews also make note of actions during the pursuit that appear to have been violations of the Pursuit Policy, but justify those actions by pointing to later dangerous acts by the fleeing suspect or the positive outcome. This sort of "mixed message" to officers could lead to the mistaken belief that adherence to Department Policy is optional depending on the situation. Named Employee #4 would have been well-advised to have referred the pursuit to OPA for review and classification.

FINDINGS

Named Employee #1, #2 and #3

Allegation #1

The evidence showed that Named Employees #1, #2 and #3 would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Vehicle Eluding/Pursuits: Pursuing Officers Will Exercise Due Care and Activate Emergency Equipment.*

Allegation #2

The evidence showed that Named Employees #1, #2 and #3 would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Vehicle Eluding/Pursuits: Officers Will Not Pursue Without Justification.*

Allegation #3

The evidence showed that Named Employees #1, #2 and #3 would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Vehicle Eluding/Pursuits: Officers Will Cease Pursuit When the Risk of the Pursuit Outweighs the Danger to the Public if the Suspect is not Captured.*

Allegation #4

The evidence showed that Named Employees #1, #2 and #3 would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Vehicle Eluding/Pursuits: Officers Must Notify Communications of Pursuits.*

Allegation #5

The evidence showed that Named Employees #1, #2 and #3 would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Vehicle Eluding/Pursuits: Officers Will Disengage When Pursuit is Terminated*.

Allegation #6

The evidence showed that Named Employees #1, #2 and #3 would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Vehicle Eluding/Pursuits: Officers Will Not Reinitiate Pursuits That Have Been Terminated*.

Required Training: Named Employee #1, #2 and #3 should be clearly reminded of the restrictions placed on pursuits by SPD policy §13.031 and cautioned that failure to follow this policy in the future will be treated as a serious matter. Specifically, the following should be emphasized in counseling Named Employee #1, #2 and #3.

(a) The actions of an officer who engages in a pursuit will be evaluated by what was known by the officer at the time the pursuit was initiated, not by what later transpired or the length of the pursuit.

(b) Once a pursuit is terminated by either the primary officer or a supervisor, SPD policy §13.031(16) mandates that the pursuing officer(s) take action to turn off the route and return to a normal driving pattern. The pursuing officer(s) must not, as was the case in this incident, continue to follow the subject after the pursuit was terminated. The various In-Car Video (ICV) recordings of this incident make it abundantly clear that the involved officers continued to chase the suspect after they shut down their emergency equipment.

(c) When operating an emergency vehicle police officers are granted the authority to drive in violation of laws governing direction, turns and speed. The exemptions granted to an authorized emergency vehicle in RCW 46.61.035 apply only when the vehicle is making use of visual signals, something which the officers in this incident did not consistently do. While following the eluding vehicle in this incident, the officers exceeded the speed limit, went into oncoming traffic lanes and did not obey traffic control devices. Failing to use emergency equipment presents a serious risk to the general public and exposes the officer and the department to unnecessary civil liability. As RCW 46.61.035(4) states, "The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his or her reckless disregard for the safety of others."

(d) SPD Policy §13.031(6) calls for the primary or secondary unit in a pursuit to use the radio to keep Communications and the controlling supervisor informed regarding the speed, direction of travel, road conditions, etc. throughout the duration of the pursuit.

Finally, review SPD Policy §§13.031 and 13.030, along with RCW §46.61.035, with Named Employee #1, #2 and #3.

Named Employee #4

Allegation #1

The evidence could not prove nor disprove that Named Employees #4 violated the policy. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Vehicle Eluding/Pursuits: The Controlling Supervisor Is Responsible for the Pursuit*.

Allegation #2

The evidence showed that Named Employee #4 would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Responsibilities of Employees Concerning Complaints of Possible Misconduct: Supervisors Will Investigate and Document Certain Allegations of Misconduct*.

Required Training: Named Employee #4 should be reminded of his affirmative obligation to refer to OPA all acts which appear to be a violation of SPD Policy not otherwise designated as appropriate to be addressed by a supervisor (see SPD Policy §§5.002(5) and 5.002(6)).

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.