



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-1203

Issued Date: 04/07/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 13.031 (3) Vehicle Eluding/Pursuits: Officers Will Not Pursue Without Justification (Policy that was issued January 1, 2015)
OPA Finding	Sustained
Allegation #2	<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 January 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #3	<u>Seattle Police Department Manual</u> 13.031 (6) Vehicle Eluding/Pursuits: Officers Must Notify Communications of Pursuits (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #4	<u>Seattle Police Department Manual</u> 13.030 (4) Emergency Vehicle Operations: Officers Are Responsible for the Safe Operation of Their Police Vehicle (Policy that was issued November 21, 2012)
OPA Finding	Not Sustained (Lawful and Proper)
Final Discipline	Written Reprimand

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 13.031 (3) Vehicle Eluding/Pursuits: Officers Will Not Pursue Without Justification (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Training Referral)
Allegation #2	<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 January 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #3	<u>Seattle Police Department Manual</u> 13.031 (6) Vehicle Eluding/Pursuits: Officers Must Notify Communications of Pursuits (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #4	<u>Seattle Police Department Manual</u> 13.030 (4) Emergency Vehicle Operations: Officers Are Responsible for the Safe Operation of Their Police Vehicle (Policy that was issued November 21, 2012)
OPA Finding	Not Sustained (Lawful and Proper)
Final Discipline	N/A

Named Employee #3	
Allegation #1	<u>Seattle Police Department Manual</u> 13.031 (3) Vehicle Eluding/Pursuits: Officers Will Not Pursue Without Justification (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Training Referral)
Allegation #2	<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 January 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)

Allegation #3	<u>Seattle Police Department Manual</u> 13.031 (6) Vehicle Eluding/Pursuits: Officers Must Notify Communications of Pursuits (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #4	<u>Seattle Police Department Manual</u> 13.030 (4) Emergency Vehicle Operations: Officers Are Responsible for the Safe Operation of Their Police Vehicle (Policy that was issued November 21, 2012)
OPA Finding	Not Sustained (Lawful and Proper)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employees responded to a location where a stolen vehicle had been tracked.

COMPLAINT

The complainant, a supervisor within the Department, alleged the Named Employees violated policy by engaging in an out of policy pursuit that was not properly communicated over radio and for failing to operate their vehicles safely.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

The preponderance of the evidence from this investigation showed that Named Employees #1, #2, and #3 engaged in a pursuit as defined by SPD Policy 13.031-POL (1) of a driver suspected only of operating a stolen vehicle. SPD Policy 13.031(3) prohibits pursuits solely for property crimes. At the time he engaged in this pursuit, Named Employee #1 had no reason to believe the driver of the eluding vehicle was suspected of committing any crime other than possession of a stolen vehicle.

After discussion at a meeting held for this case and after further review and consideration of the evidence from this investigation, the OPA Director was convinced that Named Employees #2 and #3 likely acted in good faith to provide cover and security to Named Employee #1 when

they (Named Employees #2 and #3) decided to join Named Employee #1 in the pursuit. While the actions of Named Employees #2 and #3 in participating in the pursuit were not consistent with the policy, the OPA Director recognized that Named Employees #2 and #3 were placed in a difficult position when Named Employee #1 took off in pursuit of the stolen vehicle. Named Employees #2 and #3 understandably felt an obligation to not abandon Named Employee #1 and to attempt to keep him in sight should Named Employee #1 become engaged directly with the driver of the eluding vehicle.

The preponderance of the evidence from this investigation supported a conclusion that Named Employees #1, #2, and #3 operated their marked police vehicles in a manner consistent with the requirements of SPD Policy 13.031 (2).

The preponderance of the evidence from this investigation supported a conclusion that Named Employee #1 used the radio in his police vehicle to notify communications of what was taking place. While it would have been clearer and more helpful to the supervisor monitoring the event had Named Employee #1 used the word "pursuit", the OPA Director believed Named Employee #1 provided sufficient information over the radio to inform communications and the supervisor regarding his actions.

The preponderance of the evidence from this investigation supported a conclusion that Named Employees #1, #2, and #3 operated their marked police vehicle in a manner consistent with the requirements of SPD Policy 13.030 (4).

The preponderance of the evidence from this investigation supported a conclusion that Named Employee #1 used the radio in his police vehicle to notify communications of what was taking place. Since Named Employees #2 and #3 were in the third and second positions respectively in the pursuit and since Named Employee #1 was providing radio updates during the pursuit, the OPA Director believed Named Employees #2 and #3 had no obligation themselves to provide additional updates over the radio.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that at the time he engaged in this pursuit, Named Employee #1 had no reason to believe the driver of the eluding vehicle was suspected of committing any crime other than possession of a stolen vehicle. Therefore a **Sustained** finding was issued for *Vehicle Eluding/Pursuits: Officers Will Not Pursue Without Justification*.

Discipline Imposed: Written Reprimand

Allegation #2

A preponderance of the evidence showed that Named Employee #1 operated his marked police vehicle in a manner consistent with the requirements of this policy. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Vehicle Eluding/Pursuits: Pursuing Officers Will Exercise Due Care and Activate Emergency Equipment*.

Allegation #3

A preponderance of the evidence showed that Named Employee #1 used the radio in his police vehicle to notify communications of what was taking place. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Vehicle Eluding/Pursuits: Officers Must Notify Communications of Pursuits*.

Allegation #4

A preponderance of the evidence showed that Named Employee #1 operated his marked police vehicle in a manner consistent with the requirements of this policy. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Emergency Vehicle Operations: Officers Are Responsible for the Safe Operation of Their Police Vehicle*.

Named Employees #2 and #3

Allegation #1

The evidence showed that the Named Employee 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*.

Required Training: Named Employees #2 and #3 should receive clear counseling from their supervisor regarding the Department's policy and restrictions concerning vehicle pursuits. In addition, it would be helpful for the supervisor to assist Named Employees #2 and #3 in considering what they could and should do in the future if they are presented with a situation in which another officer initiates an out of policy pursuit, both to keep from violating policy themselves and to assist their fellow officer.

Allegation #2

A preponderance of the evidence showed that Named Employees #1 and #2 operated their marked police vehicles in a manner consistent with the requirements of this policy. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Vehicle Eluding/Pursuits: Pursuing Officers Will Exercise Due Care and Activate Emergency Equipment*.

Allegation #3

A preponderance of the evidence showed that Named Employees #2 and #3 had no obligation to provide additional updates over the radio. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Vehicle Eluding/Pursuits: Officers Must Notify Communications of Pursuits*.

Allegation #4

A preponderance of the evidence showed that Named Employees #2 and #3 operated their marked police vehicles in a manner consistent with the requirements of this policy. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Emergency Vehicle Operations: Officers Are Responsible for the Safe Operation of Their Police Vehicle*.

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.