



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number 2016OPA-1506

Issued Date: 08/09/2017

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 (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 January 1, 2015)
OPA Finding	Sustained
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	Sustained
Allegation #4	<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	Sustained
Final Discipline	Written Reprimand

INCIDENT SYNOPSIS

The Named Employee observed two vehicles that appeared to be racing, and activated his patrol vehicle's emergency lights in an effort to stop the vehicles. Both drivers refused to stop.

COMPLAINT

The complainant, a supervisor within the Department, alleged the Named Employee violated several Department policies by engaging in a pursuit for a traffic violation.

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 (ICV)
4. Interview of SPD employee

ANALYSIS AND CONCLUSION

Per SPD's policy on pursuits, a pursuit exists when an officer, operating an authorized police vehicle with emergency lights and siren activated, proceeds in an effort to keep pace with and/or immediately apprehend an eluding driver. Based on his written statement and interview with OPA, the Named Employee observed two vehicles engaging in "racing" and what the Named Employee perceived to be reckless driving. After following the vehicles for a short period of time in order to catch up with them, the Named Employee accelerated his vehicle, activated his emergency lights and tried to stop the vehicles. Both vehicles accelerated and failed to yield. With emergency lights activated, the Named Employee pursued both eluding vehicles. One of the two vehicles turned off and the Named Employee continued to pursue the other vehicle until it collided with parked cars. The driver fled on foot.

Pursuits are clearly prohibited in policy for traffic violations, misdemeanors, gross misdemeanors, property crimes and the act of eluding alone. The Named Employee pursued the eluding vehicles for traffic infractions and driving misdemeanors only. These offenses fell into the class of offenses for which a pursuit is expressly prohibited. During his OPA interview, the Named Employee acknowledged that he lacked the authorization to pursue the two vehicles and explained that he experienced a "lapse in judgment" when he decided to pursue them.

As stated above, the Named Employee was engaged in an active pursuit. The Named Employee was aware that both vehicles were failing to yield and he believed that one of the vehicles might get into a collision. The Named Employee in his interview with OPA and in his own written statement indicated that he "decided to terminate the pursuit due to the danger caused by continuing." However, the Named Employee only turned off his emergency lights

and continued to follow the eluding vehicle. Under SPD 13.031 (16), when a pursuit is terminated, an officer must “pull over or, if practical under the circumstances, turn off the eluding route and return to a normal driving pattern.” The Named Employee did not do this. Instead, the Named Employee continued to pursue the eluding vehicle without the benefit of his activated emergency lights to warn other motorists or pedestrians. During his OPA interview, the Named Employee acknowledged that he did not follow the requirements of policy and continued to follow the eluding vehicle. The Named Employee justified his actions by saying he was concerned the eluding vehicle might get into a collision and he (the Named Employee) wanted to be right there to provide assistance. While not disputing the sincerity of the Named Employee’s concern for the welfare of the eluding driver and others who might need his assistance, the requirement in policy that officers pull over and stop, or turn off the route of the eluding vehicle, are intended to promote public safety by sending a clear signal to the eluding driver that the police are no longer chasing in hopes that the eluding driver will de-escalate his driving and reduce the danger to himself and the public. Regardless of the motives of the Named Employee, his failure to stop or turn off the route was not consistent with the requirements of policy.

The Named Employee did not provide any information to Communications that he was engaged in a pursuit. For about two minutes the Named Employee was engaged in a pursuit and only indicated that there were two vehicles driving recklessly and then after one of the vehicles was involved in a collision, that he was “just trying to follow it right now.” In addition, because the Named Employee did not have his siren activated, neither Communications nor a supervisor could tell from the background noise in the Named Employee’s radio transmissions that he was attempting to pull over and/or pursuing the two vehicles. During his interview the Named Employee indicated he didn’t provide information to Communications as required by policy because he was to “trying to keep up with the vehicle in dealing with that stress.” Nonetheless, the Named Employee was able to use his radio to transmit some information and had the means and opportunity to notify Communications he was involved in a pursuit.

The Named Employee accelerated, followed and caught up with two vehicles that were driving recklessly. According to ICV evidence, the Named Employee did this for at least a minute before turning on his vehicle’s emergency lights. Once his emergency lights were activated, the Named Employee pursued the vehicles without his siren activated, as required by policy. Furthermore, after the one of the eluding vehicles failed to negotiate a turn and drove up onto a sidewalk, the Named Employee turned off his vehicle’s emergency lights and continued to pursue the eluding vehicle. Additionally, the Named Employee admitted during his OPA interview that he did not exercise due care during this pursuit.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that the Named Employee pursued the eluding vehicles for traffic infractions and driving misdemeanors only. Therefore a **Sustained** finding was issued for *Vehicle Eluding/Pursuits: Officers Will Not Pursue Without Justification*.

Allegation #2

A preponderance of the evidence showed that the Named Employee's failure to stop or turn off the route was not consistent with the requirements of policy. Therefore a **Sustained** finding 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 #3

A preponderance of the evidence showed that the Named Employee did not provide any information to Communications that he was engaged in a pursuit. Therefore a **Sustained** finding was issued for *Vehicle Eluding/Pursuits: Officers Must Notify Communications of Pursuits*.

Allegation #4

A preponderance of the evidence showed that the Named Employee did not exercise due care during this pursuit. Therefore a **Sustained** finding was issued for *Vehicle Eluding/Pursuits: Pursuing Officers Will Exercise Due Care and Activate Emergency Equipment*.

Discipline Imposed: Written Reprimand

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.