



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 26, 2020

CASE NUMBER: 2019OPA-0914

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	13.030 - Emergency Vehicle Operations 2. Officers May Drive in an Emergency Response Only When the Need Outweighs the Risk	Not Sustained (Lawful and Proper)

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.

EXECUTIVE SUMMARY:

The Complainant alleged that the Named Employee operated his patrol vehicle in an unsafe manner.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the review and approval of the Office of Inspector General for Public Safety, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

13.030 - Emergency Vehicle Operations 2. Officers May Drive in an Emergency Response Only When the Need Outweighs the Risk

The Complainant alleged that he was driving in a left turn lane when an SPD officer in a patrol vehicle issued directions to the Complainant and other vehicles in his lane. Specifically, the officer told the Complainant and the other vehicles that they needed to move out of the patrol vehicle's way so that it could take a left turn. The Complainant stated that, at this time, the patrol vehicle's emergency lights were activated. The Complainant asserted that the patrol vehicle could have gone around the traffic in a different manner. He believed that the officer's actions constituted an abuse of authority as it did not appear to the Complainant that the patrol vehicle was traveling to a true emergency.

OPA's investigation indicated that the patrol vehicle in question was driven by Named Employee #1 (NE#1). OPA further determined that, at that time, NE#1 was responding to an in-progress burglary in which it was reported that multiple suspects were in the residence and could be escaping. OPA also reviewed the In-Car Video (ICV) from NE#1's patrol vehicle. The ICV showed that NE#1 activated the patrol vehicle's emergency lights and siren. The officers drove in an emergency response until they reached a lane of vehicles turning left. A female officer, who was the passenger in the patrol vehicle, told the cars to move to the right. The vehicles gradually did so until all of the vehicles were out of the turn lane. The patrol vehicle then turned left and continued to the burglary scene. When

they turned left, the ICV showed a pedestrian hurrying across the street. However, the patrol vehicle slowed at that time and did not come particularly close to the pedestrian.

SPD Policy 13.030-POL-2 governs emergency driving by officers. the policy states that officers may drive in an emergency response only when the need outweighs the risk. RCW 46.37.190 also provides guidance in this area. This statutory provision requires motorists to yield to an officer engaged in emergency vehicle operations and, when doing so, to move to the right side of the roadway as soon as possible.

Based on OPA's review of the evidence, the officers were permitted to engage in emergency vehicle operations given that they were responding to an in-progress burglary. This was a call that was, contrary to the Complainant's assumption, a true emergency. As such, they had the right of way and the Complainant and the other vehicles in the left turn lane were required by law to move to the right when NE#1 pulled behind them. While it is certainly possible that NE#1 could have driven around to the right of the Complainant and the other vehicles, there are many reasons why he could have believed this to be a less safe option. Regardless, based on policy and the law, he was not required to do so and his decision-making during this incident was not improper. Lastly, from OPA's watching of the ICV, there is no indication that NE#1 drove in a dangerous manner or put motorists and pedestrians at an undue risk of harm.

For the above reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**