



## ***CLOSED CASE SUMMARY***

ISSUED DATE: MARCH 24, 2020

CASE NUMBER: 2020OPA-0164

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	13.031 - Vehicle Eluding/Pursuits 4. Officers Will Not Pursue Without Articulable Justification that the Public Safety Need to Stop the Eluding Vehicle Outweighs the Inherent Risk of Pursuit Driving	Not Sustained (Training Referral)

***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:**

It was alleged that the Named Employee may have engaged in an out of policy pursuit.

### **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 Employee. As such, the Named Employee was not interviewed as part of this case.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 - Allegations #1**

#### ***13.031 - Vehicle Eluding/Pursuits - 4. Officers Will Not Pursue Without Articulable Justification that the Public Safety Need to Stop the Eluding Vehicle Outweighs the Inherent Risk of Pursuit Driving***

On February 26, 2020, Named Employee #1 (NE#1) on-viewed a disturbance between two vehicles in a parking lot. NE#1 directed the vehicles to remain where they were, but one vehicle fled from the parking lot, nearly striking NE#1. Given what had occurred, NE#1 developed probable cause to arrest the driver for obstruction (fleeing after receiving a direct command to stop) and reckless driving (leaving the parking lot at a high rate of speed and nearly striking NE#1). NE#1 began to perform an area check to try to locate the vehicle. While doing so, NE#1 further learned that there was an open felony burglary warrant for the driver.

The subject vehicle was subsequently located on an onramp to Interstate 5. NE#1 and other officers activated their emergency equipment in order to stop the vehicle; however, it fled into heavy traffic on the interstate. NE#1, while using his emergency equipment and while driving at speeds outside of normal traffic patterns, moved into the carpool lane. He began to pass cars in that lane by driving on the shoulder. Again using his emergency equipment, he then merged across the interstate to exit at the 175<sup>th</sup> Street offramp. At that time, NE#1 drove through two red lights and around traffic. Ultimately, the subject vehicle eluded NE#1 and the other officers.



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NE#1 later documented the pursuit and that documentation was reviewed by his chain of command. The chain of command determined that the pursuit was technically outside of policy. The chain of command reached this conclusion because, even though NE#1 drove in a controlled and safe manner, policy explicitly prohibited him from engaging in a pursuit for the crimes at issue here. Given this, the chain of command referred this matter to OPA. Notably, as was appropriate, the chain of command counseled and retrained NE#1 concerning this incident and the relevant policies at issue. NE#1 recognized that he had engaged in an out of policy pursuit and was receptive to the retraining and counseling.

In evaluating this matter, OPA agrees that the pursuit engaged in by NE#1 was outside of policy. However, OPA, like the chain of command, believes that this matter is better addressed by retraining and counseling than by discipline. OPA also recognizes that NE#1 recognized what he did wrong and OPA expects that he will not repeat this same mistake in the future. Lastly, OPA notes that this is time first time that NE#1 has violated this policy. The purpose of discipline is to ensure that behavior is corrected. Given the steps that were taken by the chain of command and NE#1's acceptance of responsibility, the system has worked and OPA believes that a Sustained finding is not appropriate. Instead, OPA issues NE#1 the below Training Referral.

- **Training Referral:** From OPA's perspective, NE#1's chain of command has fully addressed this matter with him. As such, no further counseling or retraining is required by OPA and any additional action concerning this matter is within the discretion of the chain of command.

Recommended Finding: **Not Sustained (Training Referral)**