



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 19, 2020

CASE NUMBER: 2020OPA-0213

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	13.031 - Vehicle Eluding/Pursuits 4. Officers Will Not Pursue Without Articulate Justification ...	Not Sustained (Training Referral)

Named Employee #2

Allegation(s):		Director's Findings
# 1	13.031 - Vehicle Eluding/Pursuits 4. Officers Will Not Pursue Without Articulate Justification ...	Not Sustained (Training Referral)

Named Employee #3

Allegation(s):		Director's Findings
# 1	13.031 - Vehicle Eluding/Pursuits 4. Officers Will Not Pursue Without Articulate Justification ...	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 the Named Employees engaged in a vehicle pursuit that was not authorized by SPD Policy.

ADMINISTRATIVE NOTE:

Four additional employees were originally included in this investigation as a result of their failure to complete or properly review reports required by SPD Policy when a pursuit occurs. Similar allegations were originally made against Named Employees #2 and #3. However, OPA determined these issues would be better addressed by the employees' chain of command and referred them for Supervisor Action. As such, those allegations are not addressed herein.

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 - Allegation #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

Named Employee #1 (NE#1) and his partner, Witness Officer #1 (WO#1) located an occupied stolen vehicle. NE#1 was driving. Named Employee (NE#2), Witness Officer #2 (WO#2), Named Employee #3 (NE#3), and Witness Officer #3 (WO#3) all responded as backup. NE#2 and NE#3 were driving their respective patrol vehicles. NE#1 and WO#1 initiated a high-risk stop of the stolen vehicle. The suspect vehicle initially came to a stop at a red light. However, when WO#1 started to give commands to the driver, she drove away from officers at a high rate of speed.

Although there was no evidence that the occupants of the vehicle had engaged in criminal activity beyond property crimes and eluding, the Named Employees re-entered their patrol vehicles and briefly pursued the suspect vehicle. NE#1, who was driving the lead vehicle, reported driving at speeds of up to 40 miles per hour for approximately two blocks. The speed limit on the roadway in question, an arterial, was 30 miles per hour. Review of SPD video from this incident showed that in response to a query over radio as to which unit was in pursuit, NE#1 was heard asserting to WO#1 that they were not in a pursuit, and thereafter turning off his emergency equipment. Similarly, NE#3 was heard asking WO#3: "Are we in [pursuit]?" She then immediately turned off her emergency equipment. The pursuit lasted less than a minute, and officers lost sight of the suspect vehicle. Roughly a minute later, officers located the suspect vehicle, which had crashed into a small tree and shrub and suffered minor damage. Both occupants fled, but the passenger was caught and arrested for an outstanding felony warrant.

NE#1 was ordered to complete a pursuit report in Blue Team. NE#2 and NE#3 did not complete pursuit reports in Blue Team. None of the documentation generated by the Named Employees suggested any reason for the pursuit beyond the fact that the suspect vehicle was stolen. The chain of command subsequently referred this incident to OPA, alleging that NE#1 engaged in a pursuit that was outside of SPD Policy. OPA added allegations against NE#2 and NE#3 as they were also driving SPD vehicles and engaged in pursuit driving.

SPD Policy 13.031 governs pursuits by SPD employees. The policy defines a pursuit as: "when an officer, in an effort to keep pace with and/or immediately stop or apprehend an eluding driver, drives in a manner that is outside of normal traffic restrictions." (SPD Policy 13.031-POL-1.) Eluding is defined as when a driver is given a signal to stop and after a reasonable amount of time to permit the compliance with the signal to stop, the driver either increases speed, takes evasive actions or refuses to stop. (*Id.*)

SPD Policy 13.031-POL-4 further states that: "officers will not pursue without articulable justification that the public safety need to stop the eluding vehicle outweighs the inherent risk of pursuit driving." The policy indicates that: "[t]he circumstances justifying the decision to pursue an eluding vehicle must be articulable at the time the officer initiates the pursuit. (SPD Policy 13.031-POL-4.) Lastly, the policy explains when a pursuit is not justified, including where the crime is one or a combination of the following: traffic violations/civil infractions; misdemeanors/gross misdemeanors; property crimes; and the act of eluding alone. (*Id.*) Accordingly, it is a violation of SPD policy to pursue a vehicle solely because it has been reported stolen and then eludes officers.

Here, the Named Employees technically violated SPD policy when they used their emergency equipment and exceeded the speed limit to keep pace with the eluding suspect vehicle and apprehend the suspects. However, OPA



believes this issue would be better addressed with counseling and retraining by the chain of command rather than formal discipline. OPA comes to this conclusion for three reasons:

- First, none of the Named Employees have been previously investigated or disciplined by OPA for violating SPD's pursuit policy.
- Second, the pursuit itself was very brief and involved relatively low speeds.
- Third, OPA's review of SPD video from the incident revealed apparent confusion amongst the Named Employees about whether they were actually engaged in a pursuit.

Instead, OPA recommends that the Named Employees receive the below Training Referral:

- **Training Referral:** The Named Employees' chain of command should review this incident with the Named Employees with a focus on what constitutes a pursuit under SPD Policy 13.031 and what facts and circumstances support engaging in a vehicle pursuit. This retraining should be documented in an appropriate database.

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

Named Employee #2 - Allegation #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

For the same reasons as explained in the context of Named Employee #1 – Allegation #1, OPA recommends that this allegation be Not Sustained – Training Referral. OPA refers to the Training Referral set forth above.

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

Named Employee #3 - Allegation #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

For the same reasons as explained in the context of Named Employee #1 – Allegation #1, OPA recommends that this allegation be Not Sustained – Training Referral. OPA refers to the Training Referral set forth above.

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