



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 25, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0593

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 that the Public Safety Need	Not Sustained (Training Referral)
# 2	13.031 - Vehicle Eluding/Pursuits 7. Officers Must Notify Communications of Pursuits	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 that the Public Safety Need	Not Sustained (Training Referral)
# 2	13.031 - Vehicle Eluding/Pursuits 7. Officers Must Notify Communications of Pursuits	Not Sustained (Training Referral)
# 3	13.030 – Emergency Vehicle Operations 5. Officers Are Responsible for the Safe Operation of Their Police Vehicle	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 Employees may have engaged in a short out of policy pursuit and that they failed to notify the Communications Section of their joining the pursuit. It was further alleged that, during the pursuit, Named Employee #2 may have operated his patrol vehicle in an unsafe manner.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

13.031 - Vehicle Eluding/Pursuits 4. Officers Will Not Pursue Without Articulate Justification that the Public Safety Need

On the date in question, King County Metro dispatch contacted SPD dispatch requesting the assistance of SPD officers. Specifically, King County Metro requested a "fastback" for help apprehending a stolen car. Named Employee #1 (NE#1) and Named Employee #2 (NE#2) were both driving marked patrol vehicles. Each had a passenger officer with them. They joined the pursuit for approximately twenty seconds prior to terminating,



including becoming the lead cars momentarily. After ceasing the pursuit, the officers went over the radio to state that they were not pursuing and that they were driving within normal traffic patterns.

A supervisor later reviewed the Body Worn Video (BWV) and In-Car Video (ICV) for this incident and concluded that, while for a very short period of time, the Named Employees were engaged in a pursuit when they joined the King County Sheriff's Office in trying to apprehend the fleeing vehicle. Given that the sole crime at issue was that the vehicle was stolen, the supervisor deemed the pursuit to be out of policy. An acting lieutenant concurred and an OPA referral was made.

In the referral, the SPD supervisors noted their belief that the pursuit was out of policy, as well as documented that the Named Employees did not notify communications of their engaging in the pursuit, which was also required by policy. The supervisors also identified that NE#2's driving was, at times, unsafe. Both NE#1 and NE#2 received thorough counseling and retraining, which was documented.

SPD Policy 13.031-POL-4 provides guidance for when officers may engage in pursuits. Relevant to this case, officers may not pursue a vehicle solely due to the fact that it is stolen.

When the Named Employees joined the pursuit in this case, they acted contrary to policy. This was regardless of whether employees of the King County Sheriff's Office initiated the pursuit. The Named Employees were still required to follow SPD guidelines. Moreover, this is the case even though the pursuit lasted for only 20 seconds.

This being said, consistent with OPA precedent, a Sustained finding is not warranted under these facts. In recent similar cases, OPA has instead issued Training Referrals where the following criteria is met: the officers engaged in a short out of policy pursuit that did not cause or subject anyone to the risk of undue harm; the officers have no prior history of pursuit violations; and the officers received thorough documented retraining and counseling from their chain of command.

Accordingly, OPA issues the Named Employees the below Training Referral and reminds them that any future violations of the pursuit policies will result in Sustained findings and the imposition of discipline.

- **Training Referral:** As the Named Employees have already received thorough retraining and counseling from their chain of command, no further action is required. However, OPA requests that the chain of command ensure that the Named Employees are on notice that future violations of this policy will result in discipline.

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

Named Employee #1 - Allegation #2

13.031 - Vehicle Eluding/Pursuits 7. Officers Must Notify Communications of Pursuits

SPD Policy 13.031-POL-7 requires that officers who join or initiate a pursuit provide notification to the Communications Section.

As indicated by the chain of command, the Named Employees did not do so here. This was contrary to policy. However, for the same reasons as stated above, OPA issues a Training Referral rather than a Sustained finding.



Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #2 - Allegation #1

13.031 - Vehicle Eluding/Pursuits 4. Officers Will Not Pursue Without Articulable Justification that the Public Safety Need

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Training Referral.

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

Named Employee #2 - Allegation #2

13.031 - Vehicle Eluding/Pursuits 7. Officers Must Notify Communications of Pursuits

For the same reasons as stated above (see Named Employee #1 – Allegation #2), OPA recommends that this allegation be Not Sustained – Training Referral.

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

Named Employee #2 - Allegation #3

13.030 – Emergency Vehicle Operations 5. Officers Are Responsible for the Safe Operation of Their Police Vehicle

SPD Policy 13.030-POL-5 requires officers who are engaged in emergency vehicle operations to safety drive their patrol vehicles. Here, NE#2's chain of command alleged that he did not do so.

OPA concurs with the chain of command's determination that, at times, NE#2 appeared to operate his patrol vehicle in an unsafe manner. However, as with Allegations #1 and #2, OPA notes that he has already received retraining and counseling, as well as that he has not violated this policy in the past. Accordingly, OPA recommends that he receive the above Training Referral.

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