



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 11, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0185

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	13.031 - Vehicle Eluding/Pursuits 13.031-POL 4. Officers Will Not Pursue Without Articulable Justification that the Public Safety Need to Stop the Eluding Vehicle Outweighs... (Eff. 030120)	Not Sustained - Unfounded (Expedited)
# 2	13.031 - Vehicle Eluding/Pursuits 13.031-POL 5. Officers Will Cease Pursuit When the Risk of Pursuit Driving Outweighs the Need to Stop the Eluding Driver (Eff. 030120)	Not Sustained - Unfounded (Expedited)

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:

On May 29, 2020, Named Employee #1 (NE#1) allegedly observed a vehicle with expired temporary tags speed from a gas station parking lot. NE#1 allegedly initiated a vehicle pursuit. Further, the pursued vehicle allegedly increased speed to elude NE#1, causing the pursued vehicle's involvement in a fatal collision.

ADMINISTRATIVE NOTE:

This case was designated an Expedited Investigation. That means OPA, with the Office of Inspector General's review and approval, believed it could reach and issue recommended findings based solely on its intake investigation, without interviewing the involved employee.

SUMMARY OF INVESTIGATION:

OPA reviewed the Complaint, a legal pleading from a civil lawsuit alleging NE#1 proximately caused the fatal collision. OPA also reviewed the incident and supplemental reports, radio communications, GPS information, Computer-Aided Dispatch (CAD) data, NE#1's in-car video (ICV), and body-worn video (BWV).

A. NE#1's Incident Report.

NE#1 wrote an incident report. In summary, NE#1 documented:



On May 20, 2020, NE#1 was on patrol when he observed a suspicious vehicle in a car wash parking lot. NE#1 noticed the driver was not washing his vehicle, which had an invalid license plate. The driver appeared to notice NE#1 watching him and drove out of the parking lot. NE#1 followed the driver, who made several turns. NE#1 parked in a nearby parking lot to continue monitoring the driver, who pulled into a gas station. The driver sped from the gas station parking lot. NE#1 followed the subject vehicle and activated his emergency lights. NE#1 intended to make a traffic stop, but the subject vehicle sped off.

B. CAD Data & Radio Communications

OPA reviewed NE#1's vehicle's GPS data and compared it with his radio communications. As such, OPA learned:

NE#1 initially notified dispatch by keying his radio and stating his radio callsign while traveling westbound on NE 125th St, approaching 14th Ave NE. NE#1 turned northbound onto 14th Ave NE and radioed that he was trying to catch up to a vehicle initially described as a blue Honda. NE#1 made a lefthand turn onto NE 127th St. NE and radioed, "Yeah, I tried to light him up, but he took off." After turning onto 12th Ave NE, NE#1 radioed the suspect's description and direction of travel. NE#1 also stated, "I'm routine driving at this point."

C. In-Car & Body-Worn Video

OPA reviewed NE#1's in-car and body-worn videos. That footage showed:

At 8:48:40 AM, NE#1 activated his vehicle's emergency lights. A second later, he turned westbound onto NE 125th St from 15th Ave NW and keyed his radio. The subject vehicle was not seen on video. At 8:48:48 AM, NE#1 turned northbound onto 14th Ave NE. Three seconds later, the subject vehicle was observed turning westbound onto 127th Ave NE. The subject vehicle was approximately 100 yards north of NE#1's vehicle when it appeared on video. At 8:48:55 AM, NE#1 deactivated his emergency lights. NE#1 followed the subject vehicle in a manner consistent with routine driving on a residential street. At 8:49:12 AM, NE#1's in-car camera captured the subject vehicle turn eastbound onto NE 130th St. NE#1 then turned eastbound onto NE 130th St at 8:49:26 AM. NE#1 arrived at a collision between the subject vehicle and a motorcyclist. The subject driver fled the scene.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

13.031 - Vehicle Eluding/Pursuits 13.031-POL 4. Officers Will Not Pursue Without Articulable Justification that the Public Safety Need to Stop the Eluding Vehicle Outweighs... (Eff. 03-01-20)

It is alleged NE#1 engaged in an unjustified vehicle pursuit.

SPD Policy 13.031-POL-4 states officers may only engage in a vehicle pursuit if they have probable cause to believe an occupant of the vehicle committed either a violent offense or a sex offense. Additionally, the following factors must exist: (1) the officer must have probable cause to believe the suspect poses a significant imminent threat of death or



serious physical injury to others such that the risk of allowing the suspect to escape outweighs the risk of the pursuit; and (2) the officer received authorization to continue the pursuit from a supervisor.

Here, after observing the subject vehicle engage in suspected reckless driving and failing to display a valid license plate, NE#1 initiated a traffic stop. When the subject vehicle sped off, NE#1 deactivated his emergency lights and did not attempt to close the distance between himself and the subject vehicle. While NE#1 clearly followed the elusive subject vehicle, he did not chase or otherwise engage in a vehicle pursuit. Rather, NE#1 declined to pursue the subject vehicle and stated in his report that he hoped the subject driver would attempt to abandon the car.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited)

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

Named Employee #1 - Allegation #2

13.031 - Vehicle Eluding/Pursuits 13.031-POL 5. Officers Will Cease Pursuit When the Risk of Pursuit Driving Outweighs the Need to Stop the Eluding Driver (Eff. 030120)

It is alleged NE#1 followed the eluding subject vehicle, causing a fatal traffic collision.

SPD Policy 13.031-POL-5 states officers will cease a pursuit when the risk of pursuit driving outweighs the need to stop the eluding driver. The policy also outlines a non-exhaustive list of factors for officers to consider, including the underlying reason for the pursuit, roadway conditions, speed, traffic conditions, and the speed and operation of the eluding vehicle.

Here, NE#1 attempted a traffic stop due to reasonable suspicion the subject driver committed reckless driving and did not display a valid license plate. NE#1 observed the subject driver “accelerating and pulling away” at high speed. NE#1 deactivated his emergency lights within 15 seconds of activation, ceased emergency driving, and drove in the direction of the subject at a normal rate of speed. NE#1 deactivated his emergency lights almost immediately after realizing the subject vehicle “took off on him.”

NE#1 described his decision to return to the regular traffic pattern as an attempt to keep the subject vehicle in his line of sight. Overall, NE#1’s actions suggest he did not engage in activity that would be reasonably construed as “pursuit.”

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited)

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