



## **CLOSED CASE SUMMARY**

ISSUED DATE:      AUGUST 2, 2018

CASE NUMBER:     2018OPA-0141

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

**Named Employee #1**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	13.030 - Emergency Vehicle Operations 5. Officers Are Responsible for the Safe Operation of Their Police Vehicle	Not Sustained (Lawful and Proper)
# 2	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)
# 3	13.030 - Emergency Vehicle Operations 3. Officers Shall Modify Their Emergency Response When Appropriate	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:**

It was alleged that the Named Employee engaged in emergency vehicle operations, most notably driving on the light rail tracks, that may have been in violation of policy.

### **ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

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

A Deputy from the King County Sheriff’s Department contacted SPD Dispatch to raise a concern regarding the emergency operations of a SPD vehicle. The Deputy stated that the SPD vehicle traveled over the light rail tracks in a manner that was a “little dangerous.” This matter was referred to OPA.

OPA determined that the individual driving the SPD vehicle was Named Employee #1 (NE#1). OPA obtained the CAD Call Report. The CAD indicated that, at 1559 hours, a priority one 911 hang up call from a school was received. The line was silent and then it sounded like there were two to three children arguing. A call back to the number went to voicemail. When the 911 operator re-listened to the call, it appeared that there was a man yelling in the background. NE#1 self-dispatched to the call at 1603 hours and arrived at the school at 1608 hours. At 1613 hours, after NE#1 arrived, the call was updated to state that there were no incidents inside the school.

While driving to the location, NE#1 activated his lights and siren. He drove southbound for a period of time on Martin Luther King, Jr. Boulevard. While he was driving faster than the speed limit at that time, he was not driving unsafely. He drove through at least one red light, but he cleared the intersection before pulling through. A long line of traffic slowed in front of him, preventing NE#1 from driving around. He made the decision to start driving on the



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light rail tracks. He eased his vehicle onto the tracks and began driving southbound. He kept his lights and siren activated. He drove at a slower pace past one intersection and then up to another, when he merged back onto the thoroughfare. He then continued to the school, driving at a faster speed and through red lights. Again, he cleared each light before driving through. He arrived at the location and, shortly thereafter, the call was cleared.

SPD Policy 13.030-POL-5 states that officers are responsible for the safe operation of their police vehicle. The policy further provides that: "Officers are not relieved of the obligation to drive with due regard for the safety of all persons" and that "Officers will drive no faster than reasonably necessary to safely arrive at the scene." (SPD Policy 13.030-POL-5.)

During his OPA interview, NE#1 explained that the location where the school was located had experienced gun violence on a regular basis. He felt that the hang up with no answer on a call back during school hours was "extremely unusual." NE#1 stated that he was concerned that there could be an ongoing dangerous situation at the school based on the yelling and arguing heard on the call and because of gun violence in schools both locally and nationally.

NE#1 recounted that he entered the light rail track because there was significant stopped traffic in front of him. He balanced the potential danger of doing so against the threat to students, teachers, and other community members if there was ongoing violence within the school. He stated that he considered the risks of his driving, both while he was on the street and on the tracks. He stated that, when he started driving on the tracks, he knew that the train was behind him and would not catch up to him. He further looked for pedestrians and any potential hazards while driving. Lastly, he noted that there was a railing separating him from the pedestrians. He explained that, while driving on the tracks and through the station, he did so "in a safe manner, making eye contact and verifying that there were no pedestrians in the way." He ceased his emergency vehicle operations as soon as he got to the school.

Based on my review of the ICV and of NE#1's OPA interview, I agree that the potential threat of harm to community members in the school, which was very possible at that time, outweighed the calculated risks that he took while driving. Under the circumstances, I feel that he operated his vehicle, even when driving on the light rail tracks, with due regard for the safety of people around him. He did not drive excessively fast and appeared to be cognizant of his surroundings. For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper.

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

**Named Employee #1 - Allegation #2**

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

SPD Policy 13.030-POL-2 states that officers may drive in an emergency response only when the need outweighs the risk. The policy instructs that: "The preservation of life is the highest priority." (SPD Policy 13.030-POL-2.)

Applying the same reasoning as above, I find that the need for NE#1's emergency driving outweighed the risk in this case. While it ultimately was unfounded, NE#1 clearly articulated his legitimate concerns that people in the school were possibly in danger. I find that this reasonable fear justified his emergency driving.



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For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper.

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

**Named Employee #1 - Allegation #3**

***13.030 - Emergency Vehicle Operations 3. Officers Shall Modify Their Emergency Response When Appropriate***

SPD Policy 13.030-POL-3 states that officers shall modify their emergency response when appropriate. The policy explains that emergency driving should be modified or terminated: “When the totality of the circumstances indicates the risk of continuing the emergency driving outweighs the need.” (SPD Policy 13.030-POL-3.)

I presume that this allegation was classified because, after he started driving on the light rail tracks, NE#1 passed through an intersection and, instead of pulling off, continued back onto the tracks. I do not find that NE#1 was prohibited from continuing on the tracks at that point. While the traffic was less than when he first started driving on the tracks, it was still present. Moreover, the same potential threat existed. Lastly, NE#1 only drove on the tracks for a very short additional amount of time before turning off.

For these reasons, I conclude that NE#1 did not violate this policy when he continued on the light rail tracks and that he properly terminated his emergency driving when he arrived at the school. As such, I recommend that this allegation be Not Sustained – Lawful and Proper.

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