



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0317

Issued Date: 10/02/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 13.031 (3) Vehicle Eluding/Pursuits: Officers Will Not Pursue Without Justification (Policy that was issued January 1, 2015)
OPA Finding	Sustained
Allegation #2	<u>Seattle Police Department Manual</u> 13.031 (2) Vehicle Eluding/Pursuits: Pursuing Officers Will Exercise Due Care and Activate Emergency Equipment (Policy that was issued January 1, 2015)
OPA Finding	Sustained
Final Discipline	Oral Reprimand

INCIDENT SYNOPSIS

The Named Employee attempted to pull a vehicle over for making erratic and potentially dangerous maneuvers. The vehicle did not comply and continued to drive away at a high rate of speed. The Named Employee followed the vehicle in a continued attempt to make the stop.

COMPLAINT

The complainant, a supervisor within the Department, alleged that the Named Employee initiated and continued a vehicle pursuit that was outside of Department Pursuit Policy when he started a pursuit for a traffic violation, and failed to use sirens and lights simultaneously.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint memo
2. Search for and review of all relevant records and other evidence
3. Review of In-Car Video (ICV)
4. Interview of SPD employee

ANALYSIS AND CONCLUSION

SPD policy 13.031 governs pursuits by SPD employees. The policy defines a pursuit as “when an officer, operating an authorized police vehicle with emergency lights and siren activated, proceeds in an effort to keep pace with and/or immediately apprehend an eluding driver.” 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.

The policy states that an officer may not engage in a pursuit without justification. The policy further mandates that “[o]fficers will not pursue solely for any of the following: Traffic violations/Civil infractions; Misdemeanors; Gross misdemeanors; Property crimes; the act of eluding alone.”

As a preliminary matter, Named Employee #1 denied that he was engaged in a pursuit. However, based on the OPA Director’s review of the ICV, he reached the opposite conclusion. First, it was clear that Named Employee #1 drove his vehicle in an effort to keep pace with and apprehend the subject vehicle. Second, it was clear that the subject vehicle was eluding as defined in the policy. The vehicle increased its speed, it made several maneuvers that could be considered evasive actions, and it refused to stop. Lastly, after being asked by dispatch whether they were in a pursuit, prior to responding, another officer appeared to state to Named Employee #1 that they needed to “shut it down.” While not determinative, in and of itself, it was certainly probative of the fact that the officers believed at that time that they were in a pursuit. Based on the OPA Director’s review of the evidence and pursuant to the letter of the policy, Named Employee #1 was engaged in a pursuit.

With that determination being made, this specific pursuit was not justified and was out of policy. As indicated above, a pursuit is not permitted where it is conducted solely based on traffic violations or on the act of eluding alone. Here, Named Employee #1 began following the subject vehicle based on its high rate of speed and the absence of any apparent license or temporary plates – both traffic violations. The pursuit began in earnest after the vehicle pulled sharply in front of a bus – also a traffic violation – and continued when the vehicle failed to yield.

As identified by a Lieutenant at the time the pursuit was terminated, and by the chain of command during its review, the pursuit was not justified under SPD's policy as it was initiated based on traffic violations and the failure to stop.

SPD policy 13.031(2) requires that officers involved in a pursuit "shall drive with due regard for the safety of all persons, and will use both emergency lights and continuous siren."

A review of Named Employee #1's ICV indicated that he failed to use a continuous siren, which was a violation of policy. At his OPA interview, Named Employee #1 admitted that he did not continuously use his siren, but stated that he did not do so because he wanted to ensure clear radio communication by his partner. However, again based on a review of the ICV, the other officer did not appear to have difficulty communicating over radio during those moments during which the siren was activated.

Ultimately, when in a pursuit, continuous usage of lights and sirens are required. The functional purpose of this policy is to notify civilians that officers are engaged in a pursuit and to, thus, attempt to ensure their safety. The policy does not provide for an exception to this rule to allow for potentially clearer radio communications.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that the pursuit was not justified under SPD's policy. Therefore a **Sustained** finding was issued for *Vehicle Eluding/Pursuits: Officers Will Not Pursue Without Justification*.

Allegation #2

A preponderance of the evidence showed that the Named Employee failed to use a continuous siren, which was a violation of policy. Therefore a **Sustained** finding was issued for *Vehicle Eluding/Pursuits: Pursuing Officers Will Exercise Due Care and Activate Emergency Equipment*.

Discipline Imposed: Oral Reprimand

NOTE: The Seattle Police Department Manual policies cited for the allegation(s) made for this OPA Investigation are policies that were in effect during the time of the incident. The issued date of the policy is listed.