



Seattle

Police Department

October 4, 2019

Director Andrew Myerberg
Office of Police Accountability
PO Box 34986
Seattle, WA 98124-4986

Dear Director Myerberg,

Please see the below Management Action Recommendation response.

Case Numbers

- 2018OPA-0198/2019COMP-0008

Topic

- Pursuit Termination

Summary

- It was alleged that an employee was instructed to terminate a pursuit but did not disengage by returning to a normal traffic pattern. When interviewed, the employee asserted he believed he was already out of the pursuit prior to the order for termination and reasoned that he transitioned from a pursuit to emergency vehicle operations to get to a crime scene (or pending crime scene) namely, the subject's potentially crashed vehicle.

OPA Recommendation: Action Taken

- Modify SPD Policy 13.031 – Vehicle Eluding/Pursuits-17 – Officers will disengage when Pursuit is Terminated to clarify what steps officers are expected to take when transitioning from a vehicle pursuit to emergency vehicle operations
- Consider establishing a requirement that the officer issue an oral advisement over the radio of the intent to transition to emergency vehicle operations to allow a Department supervisor to approve that decision – specifically where a supervisor has already terminated the pursuit.

Action Taken:

- The Department believes that the recommendation offered here effectively writes into Policy Section 13.031 a decision that, under the circumstances of this incident, should more appropriately be analyzed under 13.030. Under the controlling statute (RCW 46.61.035, Authorized Emergency Vehicles), the duty to drive with due regard for the safety of others and considerations as to emergency equipment apply regardless of whether an officer is in "pursuit" or operating as an "authorized emergency vehicle." SPD's policy manual draws a distinction in that, when an officer is in "pursuit" (defined as proceeding in "an effort to keep pace with and/or immediately stop or apprehend an eluding driver"), Manual Section 13.031 is clear as to the obligations of an officer upon termination of the pursuit: "to return to a normal driving pattern, obeying all traffic laws" and "deactivate all emergency equipment." Neither policy nor law contemplates a situation where an officer "transitions" from "pursuit driving" to "emergency driving." In terms of duty towards other members of the public there is no distinction, and the Department does not believe it should create a carve-out in 13.031 to suggest that there is such a transition.

Rather, in those circumstances where a pursuit under policy (i.e., effort to keep pace with/apprehend an eluding driver) has been terminated, and the officer satisfies the requirements of Policy 13.031, any subsequent decision that, under the totality of circumstances, the need for a subsequent emergency response outweighs the inherent risk of emergency vehicle operation should be analyzed under Section 13.030, and the obligation should be on the officer to clearly articulate the basis for the decision and the factors considered. Since these circumstances will always be very fact-dependent, if there is an issue with officer discretion, the Department believes that is an issue that should be dealt with through supervision/training, rather than policy.

Final Disposition:

- Action Declined

Please do not hesitate to contact me if you have further concerns or questions.

Sincerely,



Carmen Best
Chief of Police