



City of Seattle

Seattle Police Department

October 21, 2016

Director Pierce Murphy
Office of Professional Accountability
720 Third Avenue, 18th Floor
Seattle, WA 98104

Re: Management Action Recommendation (2016OPA-0214)

Dear Director Murphy:

I am writing in response to your September 21, 2016, Management Action Recommendation, arising from an investigation into a recent complaint that an SPD employee engaged in a pursuit of a red light violator in violation of SPD policy. While agreeing that the evidence from the investigation “clearly demonstrated that no pursuit took place,” you raise a concern that the policy definition of “pursuit” may allow officers to exempt themselves from scrutiny over their vehicle operations by simply not activating their emergency equipment during what would otherwise be deemed pursuit driving. You recommend, accordingly, that SPD policy § 13.031 be amended to clarify that the limitations on pursuits in Department policy apply regardless of whether officers activate their emergency equipment.

The Department’s pursuit policy presupposes both (1) an eluding driver, and (2) that an officer is exercising, or intending to exercise, statutory privileges to proceed outside the rules of normal traffic operations. I agree with you that the use of emergency equipment, under law and policy, is not a defining element *of* a pursuit; it is a requirement if *in* pursuit. Just as the use of emergency equipment does not, absent an eluding driver and the exercise of emergency driving privileges, transform otherwise normal driving operations into a pursuit, the failure to use emergency equipment during a pursuit – a stand-alone violation of the policy – does not somehow remove emergency driving operations in pursuit of an eluding driver from the scope of § 13.031.

I am not aware that there is confusion amongst the rank and file either as to what driving behavior constitutes a “pursuit” or their obligations under law and policy with respect to the policy restrictions on pursuit driving and the requirement to use emergency equipment if in pursuit. I agree, however, that the policy definition of “pursuit” could be subject to misinterpretation, and am therefore directing the Audit, Policy, and Professional Standards Section to revisit this policy and its definitions to determine what clarifications may be appropriate given both the concern you raise and the statute on which the policy is based.

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Further, while recognizing that events are always nuanced, I would have significant concerns if you are seeing a pattern of officers or supervisors reasoning that it is the use, or non-use, of emergency equipment that determines whether or not an officer's driving implicates the pursuit policy. I am therefore directing my Senior Counsel to work with you to identify these cases and follow up with bureau commanders as appropriate.

We will, of course, provide you with any draft revisions of § 13.031 for your review and comment. And, as always, please let me know if you would like to discuss further.

Sincerely,



Kathleen M. O'Toole
Chief of Police

Cc: Deputy Chief Carmen Best
Brian Maxey, Chief Operating Officer
Assistant Chief Lesley Cordner
Rebecca Boatright, Senior Counsel