



PORT ORCHARD POLICE DEPARTMENT
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POLICY REVIEW – IR# 20-093

DATE: February 11, 2021

IR# 20-093

SUBJECT: Pursuit D20-002540

BY: *Josh Horsley, Sergeant*



731

REQUIRED REPORTING – POPD [PURSUIT POLICY 307]

Date/Time: December 28, 2020 @ 0114 hrs.

Length of Pursuit: 4.14 miles

Involved Units/Officers: J. Gapsch

Initial Reason for the Pursuit: Driver had Felony Warrants and PC for Burglary 1st Degree

Starting Point: 1701 SE Sedgwick RD, Chevron Gas Station

Termination Point: Mullenix @ Ray Miller

Disposition: Officer terminated after losing sight of vehicle.

Injuries/Property Damage: None

Medical Treatment: None

Supervisor: None on duty

Preliminary Determination: Within Policy

Additional Review/Investigation Needed: None

Related Reports: K20-010525

APPLICABLE POLICY SECTION(S):

Policy 307- Vehicle Pursuits

BACKGROUND:

On December 26, 2020 Officer Gapsch was notified by Kitsap County Deputy Rohde #100, of a subject wanted by the Sheriff's Office for a burglary followed by a violent assault (K20-010525). Officer Gapsch was informed that probable cause existed to arrest Aaron Habenicht for Burglary



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in the 1st Degree. Officer Gapsch is familiar with Habenicht from past arrests and LE contacts. Officer Gapsch was also told that Habenicht has recently been driving a white Mercedes SUV (WA #BWS1593).

Officer Gapsch checked Habenicht through NCIC/WASIC and learned of multiple warrants; a Felony Department of Corrections no bail Escape warrant, and warrants out of Port Orchard Municipal Court, must post bail, for Theft 3rd, DWLS 3rd, Assault 4th Degree, and Malicious Mischief 3rd Degree. He also learned that Habenicht's license was suspended.

On December 28, 2020 at approximately 0114 hours, Officer Gapsch observed a white Mercedes SUV park near the gas pumps at the Chevron on the corner of Sedgwick and Bethel. He observed a short in stature, white male exits the vehicle. Officer Gapsch used his issued binoculars from a neighboring parking lot to positively identify the male as Habenicht.

After positively identifying him, Officer Gapsch contacted Kitsap County Sergeant Twomey #16 via radio and confirmed there was still probable cause to arrest Habenicht for Burglary 1st degree. Officer Gapsch then provided CENCOM with Habenicht's full data. Data return still had all the above-mentioned warrants and his driver's status was still suspended.

Officer Gapsch requested additional units and waited to contact Habenicht. Habenicht got in the driver seat of the SUV and appeared to be getting ready to leave. Officer Gapsch left his observation spot with the intent to contact Habenicht to place him into custody for the above-mentioned warrants and probable cause.

Officer Gapsch travelled through the parking lot to the north of him and stopped directly in front of Habenicht's Mercedes. He activated the front portion of his vehicle's lightbar to a steady red, white, and blue color. This was to identify himself as the Police, if his fully marked patrol vehicle was not enough. Then utilizing his public announcement speaker, He told "Aaron" to shut the car off and step out.

Habenicht began to frantically look around then back at Officer Gapsch. Habenicht reversed the Mercedes, then circled around the gas pumps to the SW of his vehicle, heading toward SE Sedgwick Rd. Officer Gapsch activated his full emergency lights and siren and followed Habenicht onto SE Sedgwick Rd. Officer Gapsch informed CENCOM that he was in pursuit of the vehicle as they crossed Bethel heading W/B on SE Sedgwick Rd.

During the pursuit, Officer Gapsch provided CENCOM with the reason for the stop, current speeds, roadway conditions, direction of travel, description of vehicle and traffic on the roadways. He also requested for assistance from WSP when the suspect turned onto HWY 16.



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Officer Gapsch pursued Habenicht as he turned onto E/B HWY 16. On HWY 16 speeds reached 107 MPH. Habenicht continued E/B on HWY 16 until exiting onto SE Mullenix, subsequently turning E/B onto SE Mullenix Rd.

Habenicht continued E/B up Mullenix. Between the area of Row Ln and Horizon Ln, Habenicht began to pull away from Officer Gapsch patrol vehicle. As he crested the hill east of Ray Miller Officer Gapsch lost sight of Habenicht because he crested the hill before Officer Gapsch did. At this point Officer Gapsch was unable to determine where Habenicht went. He shut down his emergency equipment, advised CenCom he had lost the vehicle and began to check the multiple side roads in that area. By that time, multiple county and state units were in the area checking for the vehicle.

Ultimately, Officers, Deputies, and Troopers were unable to re-locate Habenicht and his vehicle.

ANALYSIS:

To conduct this policy review, I reviewed all written reports, pursuit report, and all audio files provided by Kitsap 911 related to this incident.

Officer Gapsch attempted to apprehend a known wanted suspect because there was probable cause for his arrest for Burglary 1st degree. The suspect also had one felony and multiple misdemeanor warrants. Officer Gapsch attempted to contact the suspect before he had a chance to leave in his vehicle. The suspect ignored Officer Gapsch emergency lights and orders, leaving in his vehicle. Officer Gapsch advised he was in pursuit, the reason for the stop, the direction, speeds and traffic/road conditions. Officer Gapsch continuously broadcast his location, direction of travel, speed, traffic, roadway conditions and requested assistance from other agencies. Officer Gapsch remained calm throughout the incident and did not appear to be overwhelmed by the event.

POPD policy states, "It is the policy of this department to weigh the importance of apprehending suspects who unlawfully flee from law enforcement against the risks associated with vehicle pursuits". It also states, to terminate a pursuit when "The pursued vehicle's location is no longer definitely known."

In this case, what was known by the officer at the time of the contact justified starting and continuing the pursuit. While speeds in triple digits are not recommended, this was on a straight section of a four-lane divided highway, at 0120 hrs and with no other traffic. Given the felony crimes that the suspect was wanted for it is my opinion that this is reasonable. Officer Gapsch self-terminated the pursuit when he lost sight of the vehicle per policy.



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Officer Gapsch demonstrated in his radio transmissions that he was actively monitoring speed, road, and driving conditions throughout the event. I would submit that Officer Gapsch decision to discontinue the pursuit, when he lost sight of the suspect vehicle, further demonstrates that he continually weighed the importance of apprehending the suspects against the risk factors associated with the pursuit.

CONCLUSION

It is my opinion that based upon the totality of the events, Officer Gapsch's actions in this incident are within policy.

RECOMMENDATION:

None