



PORT ORCHARD POLICE DEPARTMENT
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POLICY REVIEW – IR# 20-030

DATE: June 26, 2020

IR# 20-030

SUBJECT: Pursuit D20-000948

BY:

Jason Glantz, *Patrol Sergeant*

REQUIRED REPORTING – POPD [PURSUIT POLICY 307]

Date/Time: May 2, 2020 @ 0920 hrs.

Length of Pursuit: Approximately .35 miles

Involved Units/Officers: B. Schaibly

Initial Reason for the Pursuit: No license plate

Starting Point: Bethel Rd./Lund Ave.

Termination Point: Lund Ave./Harrison Ave.

Disposition: Terminated

Injuries/Property Damage: None

Medical Treatment: None

Supervisor: J. Glantz

Preliminary Determination: Within Policy

Additional Review/Investigation Needed: None

Related Reports: D20-000948

APPLICABLE POLICY SECTION(S):

307.2 POLICY

Best Practice

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.

307.3 OFFICER RESPONSIBILITIES



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State

WASPC - 15.3

Vehicle pursuits shall only be conducted using authorized police department emergency vehicles that are equipped with and displaying emergency lighting and sirens as required by law.

Officers shall drive with due regard for the safety of all persons and property. However, officers may, when in pursuit of a suspect and provided there is no unreasonable risk to persons and property (RCW 46.61.035):

- a. Proceed past a red or stop signal or stop sign but only after slowing down as may be necessary for safe operation.
- b. Exceed the speed limit.
- c. Disregard regulations governing parking, direction of movement or turning in specified directions.

307.3.1 WHEN TO INITIATE A PURSUIT

Best Practice

WASPC - 15.5

Officers are authorized to initiate a pursuit when it is reasonable to believe that a suspect, who has been given an appropriate signal to stop by a law enforcement officer, is attempting to evade arrest or detention by fleeing in a vehicle.

Factors that shall be considered, both individually and collectively, when deciding to initiate or continue a pursuit include, but are not limited to:

- a. The seriousness of the known or reasonably suspected crime and its relationship to community safety.
- b. The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officers, innocent motorists and others.
- c. The safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic (e.g., school zones) and the speed of the pursuit relative to these factors.
- d. The pursuing officers' familiarity with the area of the pursuit, the quality of radio communications between the pursuing vehicles and the dispatcher/supervisor, and the driving capabilities of the pursuing officers under the conditions of the pursuit.
- e. Whether weather, traffic and road conditions unreasonably increase the danger of the pursuit when weighed against the risks resulting from the suspect's escape.



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- f. Whether the identity of the suspect has been verified and whether there is comparatively minimal risk in allowing the suspect to be apprehended at a later time.
- g. The performance capabilities of the vehicles used in the pursuit in relation to the speed and other conditions of the pursuit.
- h. Emergency lighting and siren limitations on unmarked police department vehicles that may reduce visibility of the vehicle, such as visor or dash-mounted lights, concealable or temporary emergency lighting equipment and concealed or obstructed siren positioning.
- i. Vehicle speeds.
- j. Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).
- k. The availability of other resources, such as air support assistance.
- l. Whether the pursuing vehicle is carrying passengers other than on-duty police officers. Pursuits should not be undertaken with an arrestee in the pursuit vehicle unless exigent circumstances exist, and then only after the need to apprehend the suspect is weighed against the safety of the arrestee in transport. A vehicle containing more than a single arrestee should not be involved in a pursuit.

307.3.2 WHEN TO TERMINATE A PURSUIT

Best Practice

WASPC - 15.5

Pursuits should be terminated whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect's escape.

When a supervisor directs the pursuit to be terminated, officers will immediately terminate the pursuit.

The factors listed in this policy on when to initiate a pursuit will apply equally to the decision to terminate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists, themselves and the public when electing to continue a pursuit.

In addition to the factors that govern when to initiate a pursuit, other factors should be considered in deciding whether to terminate a pursuit, including:

- a. The distance between the pursuing vehicle and the fleeing vehicle is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time or distance.
- b. The pursued vehicle's location is no longer definitely known.



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- c. The pursuing vehicle sustains damage or a mechanical failure that renders it unsafe to drive.
- d. The pursuing vehicle's emergency lighting equipment or siren becomes partially or completely inoperable.
- e. Hazards to uninvolved bystanders or motorists.
- f. The danger that the continued pursuit poses to the public, the officers or the suspect, balanced against the risk of allowing the suspect to remain at large.
- g. The identity of the suspect is known and it does not reasonably appear that the need for immediate capture outweighs the risks associated with continuing the pursuit.
- h. Extended pursuits of violators for misdemeanors not involving violence or weapons (independent of the pursuit) are generally discouraged.

307.4.2 PRIMARY PURSUIT VEHICLE RESPONSIBILITIES

Best Practice

WASPC - 15.5

The initial pursuing officer will be designated as the primary pursuit vehicle and will be responsible for the conduct of the pursuit unless he/she is unable to remain reasonably close to the suspect's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspect without unreasonable danger to him/herself or others.

The primary pursuing officer should notify the dispatcher, commencing with a request for priority radio traffic, that a vehicle pursuit has been initiated, and as soon as practicable provide information including, but not limited to:

- a. The location, direction of travel and estimated speed of the suspect's vehicle.
- b. The description of the suspect's vehicle including the license plate number, if known.
- c. The reason for the pursuit.
- d. The use of firearms, threat of force, violence, injuries, hostages or other unusual hazards.
- e. The number of occupants and identity or description.
- f. The weather, road and traffic conditions.
- g. The need for any additional resources or equipment.
- h. The identity of other law enforcement agencies involved in the pursuit.

Until relieved by a supervisor or a secondary pursuing officer, the officer in the primary pursuit vehicle shall be responsible for broadcasting the progress of the pursuit. Unless circumstances reasonably indicate otherwise, the primary pursuing officer should, as soon as practicable, relinquish the responsibility of broadcasting the progress of the pursuit to an officer in a secondary pursuit vehicle or to air support joining the pursuit to minimize distractions and allow the primary pursuing officer to concentrate foremost on safe pursuit tactics.



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BACKGROUND:

Officer Schaibly noticed a male operating, on what he believed was an older black Enduro style motorcycle, in the parking lot between O'Reilly Auto Parts and Safeway on Bethel Rd. The motorcycle didn't have a license plate. He attempted to stop the motorcycle near the intersection of Bethel Rd./Lund Ave., and according to his written report, utilized his patrol car's emergency lights and siren. The motorcycle didn't yield and continued N/B on Bethel Rd. and turned E/B onto Lund Ave. The motorcycle sped up to 65 mph, in a posted 35 mph zone, continuing E/B on Lund Ave. Officer Schaibly notified CENCOM he wasn't in pursuit, shut off his lights and siren, and pulled over onto the shoulder at Lund Ave./Harrison Ave.

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 Schaibly initiated a vehicle stop and immediately broadcast that the vehicle wasn't yielding. Officer Schaibly advised the vehicle was now fleeing after using his siren, which was heard in the Kitsap 911 audio file. From listening to the audio recording this incident happened so quickly and for a very short period of time, Officer Schaibly was only able to broadcast his location, direction of travel, speed and number of occupants. Officer Schaibly 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".

In this case, the initial factors are compelling to continue the pursuit for a brief amount a time are justified. Officer Schaibly then self terminated the pursuit after only approximately .35 miles using the above criteria.

Officer Schaibly demonstrated in his radio transmission that he advised of the motorcycle's location, direction of travel, speed and number of occupants, but didn't include the weather, road and traffic conditions because of the very brief attempted elude. I would submit that Officer Schaibly's decision to discontinue the pursuit further demonstrates that he continually weighed the importance of apprehending the suspects against the risk factors associated with the pursuit.

It should be noted that Officer Schaibly wrote in his police report he pulled over to the shoulder at Lund Ave./Harrison Ave. That should be Lund Ave./Harris Rd.



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CONCLUSION

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

RECOMMENDATION:

None.