

MEMORANDUM
Police Department



City of Bothell™

DATE: March 4th, 2024

TO: Julie Beard, Deputy Chief *JB*
Darren Timpe, Risk Management Captain

FROM: Kendall Smith, Operations Captain

SUBJECT: Pursuit Review Summary for case 23-383

Call Summary:

On January 5th, 2023 at about 2217 hours, Master Patrol Officer (MPO) Coby Russell was working in a uniformed patrol capacity, when he witnessed a vehicle traveling southbound on SR 527, in the 22100 block. The vehicle caught MPO Russell's attention because it had all of its badging removed and it looked freshly spray painted. As he was catching up with the vehicle, he observed it hit the road 'turtles' for about two hundred feet and it was intermittently breaking without cars in front of it. Additionally, the vehicle was seen traveling out of its lane, almost striking the overpass wall as it merged onto southbound I 405. Based on his observations, MPO Russell had reasonable suspicion to believe that the driver was under the influence and he initiated his emergency lights and siren to attempt to stop the vehicle.

Once on I 405, the vehicle continued at approximately highway speeds, 60-70 mph. MPO Russell noted that the vehicle continued the same driving pattern of wandering in its lane, failing to maintain its lane of travel, and crossing the fog and skip lines. He then informed dispatch that the vehicle was failing to yield, as they traveled southbound on I 405, towards NE 195th Street. At the NE 195th Street offramp, the (now) suspect vehicle pulled off onto NE 195th Street, and continued eastbound at approximately 30-35 mph. The suspect vehicle then headed into the Holly Hills neighborhood, all the while maintaining its speed at about 30-35 mph, in a 25 mph zone. Sgt. M. McCabe was the on-duty supervisor, and approved the pursuit of the vehicle for suspicion of DUI.

After the point where Sgt. McCabe authorized a pursuit, should one become necessary, MPO Russell stated in his report, "Because I had developed reasonable suspicion to detain the driver for violation of RCW 46.61.502 Driving Under the Influence, the vehicle had failed to stop with auditory and visual clues to stop, had failed to stop at two stop signs, creating a wonton disregard for the safety of others motorists, the driver of the vehicle did not match the registered owner's DOL photograph, I determined the suspect posed an imminent threat to other motorists on the roadway. I determined we had entered into a pursuit." MPO Russell clearly defines that he is in a pursuit, and states that the suspect vehicle's actions posed an imminent threat to other motorists.

The pursuit continues on throughout residential neighborhoods, and onto 228th Street SE, with speeds topping off at about 54 mph, and as low as about 8 mph. At one point, Officer R. Eggen attempted to stop the suspect vehicle by deploying a Stop Stick tire deflation device, but the deployment was unsuccessful.

Finally, the suspect vehicle headed onto westbound Bothell Way NE, into oncoming traffic. MPO Russell used his emergency vehicle to block an intersection, so as to prevent an accident with other motorists. He then advised other Bothell PD units to terminate the pursuit, as he fully pulled off the road and turned off his emergency equipment.

Time and Distance of Pursuit:

Using Google Maps, the pursuit was determined to last about 7.79 miles, and according to the Computer Aided Dispatch (CAD) notes, it lasted about 12 minutes.

Reason for the Pursuit:

Based on the facts and the totality of the circumstances, the officers had reasonable suspicion to believe that the suspect driver was Driving Under the Influence, and there was probable cause for Attempting to Elude.

The officers were dressed in their full patrol uniforms, including Bothell Police Department shoulder patches, external vests with police patches and badges displayed. While attempting to stop the suspect they were in marked and unmarked police patrol vehicles, both with emergency lights and sirens.

Supervision:

Sergeant M. McCabe was the on-duty supervisor that night when this call occurred, he had supervisory oversight of the pursuit, and he was on-scene to determine the facts of the case.

Authorized Pursuit:

As the suspect vehicle took off from the initial scene, MPO Russell had reasonable suspicion to believe that the suspect driver was Driving Under the Influence. He properly outlined his reasons for the pursuit, including safety considerations outlined in 212.4 : Pursuit Factors/Risk Analysis. He also clearly stated that the suspect vehicle posed an imminent threat to other vehicles, but he also recognized that when the suspect vehicle entered into oncoming traffic, the risk had elevated past the point of continuing the pursuit. Up to that point, the suspect vehicle's actions were minimized by the lower speeds as it passed through intersections.

BPD 0212.2 definition. Vehicle Pursuit: *A vehicle pursuit is an attempt by a uniformed peace officer in a vehicle equipped with emergency lights and a siren to stop a moving vehicle where the operator of the moving vehicle appears to be aware that the officer is signaling the operator to stop the vehicle and the operator of the moving vehicle appears to be willfully resisting or*

ignoring the officer's attempt to stop the vehicle by increasing vehicle speed, making evasive maneuvers or operating the vehicle in a reckless manner that endangers the safety of the community or the officer.

212.3 AUTHORIZED PURSUITS

It is the policy of the Bothell Police Department that pursuits are permissible only when the need for immediate capture outweighs the danger created by the pursuit itself. A police officer may only engage in a vehicular pursuit when the following criteria is met:

- The police officer has reasonable suspicion to believe that a person in the vehicle has committed or is committing a violent offense, or sex offense as defined in RCW 9.94A.030, or an escape as defined in chapter 9A.76; or
- A person in the vehicle has committed or is committing a driving under the influence offense under RCW 46.61.502 or a vehicular assault offense under RCW 46.61.522. The impaired or reckless driving must have occurred independent of any attempt to stop the suspect and cannot be solely a result of the suspect's attempting to flee from the officer regardless of the activation of an officer's emergency lights or siren. If the pursuit of a suspected impaired or reckless driver results in the pursued driver displaying an increased level of dangerous driving, the pursuit shall be immediately discontinued, and
- The pursuit is necessary for the purpose of identifying or apprehending the person, and
- The person poses a serious risk of harm to others and the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks of the vehicle pursuit under the circumstances, and
- The pursuing officer notifies a supervising officer immediately upon initiating the vehicles pursuit and there is supervisory oversight of the pursuit, and

Pursuits for other crimes are strictly prohibited. Even when the above criteria are met, the decision to initiate a pursuit or continue a pursuit must be balanced against the greater concern for the safety of the community and the public safety employees. The officer in consultation with the supervisor must consider alternatives to the vehicle pursuit and the supervisor must consider the justification for the vehicular pursuit and other safety considerations. The suspected crime of eluding will not, in and of itself, justify a pursuit. The fact that an officer had to move from the path of a fleeing vehicle may not constitute a violent offense for the purposes of this policy. In order to participate in the pursuit, the pursuing officer must have completed an emergency vehicle operator's course, must have completed updated emergency vehicle operator training in the previous two years and must be certified in at least one pursuit intervention option. Emergency vehicle operator training must include training on performing the risk assessment analysis described in this policy.

If any of the requirements or criteria listed above are not met, the pursuit shall be terminated.

Recommendation:

I reviewed all case reports and CAD for this incident (attached). I found that the officer's and supervisor's actions were reasonable and in compliance with Bothell Police Department Policy BPD-0212. I recommend no further action be taken.

This document concludes the review of this pursuit.

A handwritten signature in black ink, appearing to read 'Kendall Smith', with a long horizontal line extending to the right.

Kendall Smith / Captain
Bothell Police Department / Operations