

Memorandum

To: Chief Kurz
CC: Deputy Chief Kelley
From: Capt. David Holmstock
Date: January 17, 2019
Re: Motor Vehicle Pursuit Analysis for 2018: 44.2.2 (I)

An analysis of our motor vehicle pursuits for the 2018 calendar year reveals the Durham Police Department was involved in (1) pursuit. That represents five pursuits in the past 19 years. The last pursuit by an officer of the Durham Police Department took place on 12-17-2018.

At the risk of sounding repetitive, two major issues continue to play a role over the past several years regarding our minimal participation in pursuits. Although there is no empirical evidence to support the connection due to a lack of quantitative or qualitative research, I believe the connection continues to be sound.

- 1. A strong policy.** *Pursuits should only be initiated when an officer has observed a violator committing a felony or misdemeanor before pursuit is engaged or attempted, or has probable cause to believe the violator has committed a felony or misdemeanor and clearly exhibits the intention of avoiding apprehension. That the violator has created a misdemeanor offense by fleeing shall not be a permissible cause for pursuit. If you attempt to stop a person for speeding (or any violation), and they flee or otherwise attempt to elude you (thereby creating a misdemeanor offense), you shall not be permitted to engage in a pursuit. This prohibition is because the reason for the initial attempt to stop the driver was for a violation.*

The policy, last modified in September 2018, leaves no room for interpretation and provides clear direction to supervisors and officers alike. The policy removes several options available to officers in the past and provides clear direction and limitations regarding pursuits. I believe it continues to play a role in our decrease or lack of pursuits and places the preservation of life as the utmost priority.

- 2. Training.** A policy is worthless unless it is reviewed on a regular basis. Durham officers are required to read our policy annually, and show they understand it by passing a written test. An officer must read and review the policy annually for the rest of their career. Finally, our Use of Force instructors incorporate key points of the policy in their lesson plans and subsequent written tests. Constant reinforcement from supervisors and training officers contributes to a culture that also values human

life above everything else and subsequent decisions to engage in a pursuit or not to engage in a pursuit are made based on those values. Again, due to a lack of statistical information, my analysis can only be made based on my twenty-nine years of experience with our department. I believe that in 2018, the two issues noted above are as relevant to our lack of pursuits as any other factors.

Critique Analysis

I have conducted an analysis of the motor vehicle pursuit conducted by Sergeant Lavoie on 12-17-18, at approximately 0009 hours.

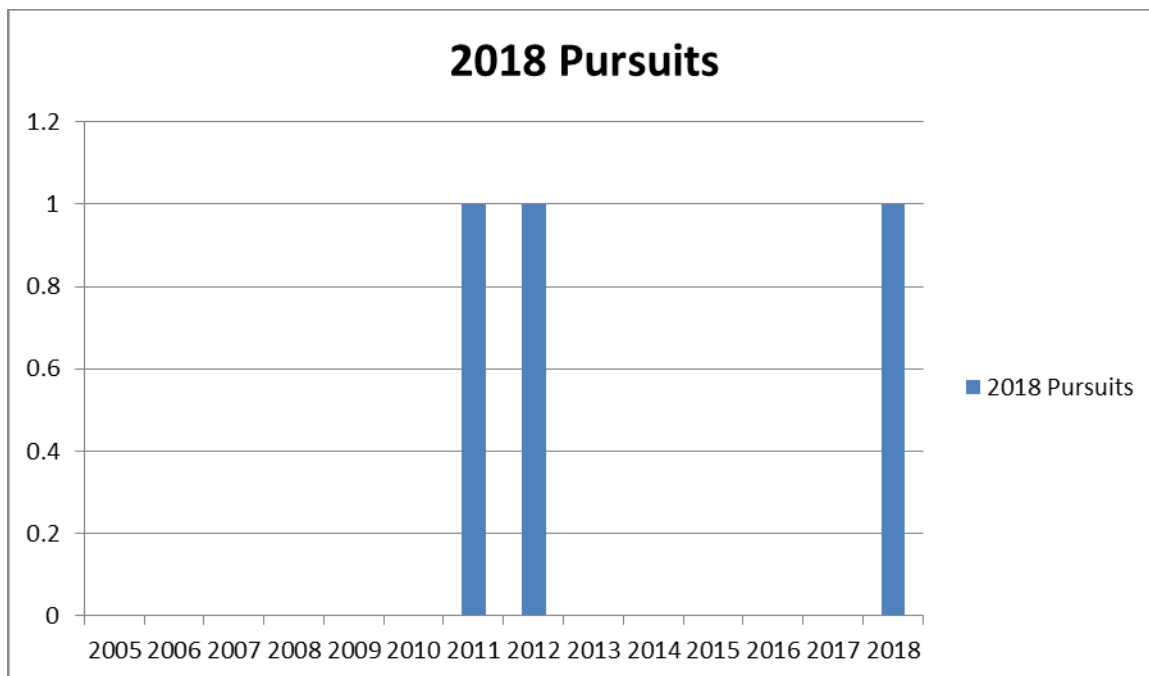
- As the initiating officer, Sergeant Lavoie completed an investigation report and a letter to the Chief that was submitted within one business day as required by policy.
1. The Durham Police Department policy clearly states the following: *“Pursuits should only be initiated when an officer has observed a violator committing a felony or misdemeanor before pursuit is engaged or attempted, or has probable cause to believe the violator has committed a felony or misdemeanor and clearly exhibits the intention of avoiding apprehension.”* Sergeant Lavoie clearly identified the reason for the attempt to stop in his letter and report. The initial attempt to stop the vehicle originated in another jurisdiction after the vehicle was in a pursuit by the Epping Police Department and later failed to stop for the Newmarket Police Department.
 2. Sergeant Lavoie’s actions were very reasonable. Although the conditions present at the time were not ideal, he observed the vehicle swerve over the painted, double yellow line and travelled into the oncoming lane of traffic. Although he was not positive it was the vehicle in question due to the fact he could not get close enough to read the license plate, he still had probable cause to stop the vehicle as it continued to drive erratically.
 - Sergeant Lavoie activated his emergency lights and siren and the vehicle immediately increased its speed adding to Sergeant Lavoie’s belief that he was attempting to stop the same vehicle identified to him by dispatch. The vehicle continued through a red light at the Newmarket and Dover Road intersection and sped up to 47 mph in a posted 30 mph zone.
 - In less than a quarter of a mile, Sergeant Lavoie terminated the pursuit due to the conditions present and the nature of the crimes involved weighed against the safety of other drivers and pedestrians that could have been placed in danger.
 - Sergeant Lavoie, through dispatch, notified the surrounding agencies of the location and disposition of the suspect vehicle upon conclusion of the pursuit.

3. Everything about the actions of the officer during this pursuit was positive. The sergeant controlled his emotions and made clear and reasonable decisions while under stress.
 - The pursuit was called off almost as soon as it started as the officer weighed the benefits against the possible negative outcomes and he appears to have made a very smart decision based on all of the facts known to him at the time.
 - The officer strictly adhered to the policy during this incident and documented his actions very well.
4. The pursuit was of such duration as to barely go beyond the parameters of a motor vehicle stop where a driver is distracted and fails to stop because they did not notice the officer signaling them to pull over. That is not the case in this pursuit, but the officer recognized the situation for what it was and called off the pursuit almost as soon as it had started. There is no aspect of this pursuit that would require an improved response or alternate actions.
5. There were no roadblocks or other devices, such as “stop sticks” used during this pursuit. The officer showed he was well trained, the equipment worked as designed and policy was adhered to.

The information below continues to be as relevant in 2018 as it was in 2012.

1. (Geography): The annual analysis of use for force by the Durham Police Department has proven that the highest crime area requiring extensive patrol coverage and other police services continues to be the area centered on the Downtown/Madbury Road/Garrison Avenue area, to include adjacent roadways. However, the vast majority of the offenses detected as part of officers’ self-initiated activity are committed by offenders that are; (a.) on foot and (b.) without immediate access to motor vehicles. The “Cottages” off campus housing complex and the Lodges at West Edge Apartments have now been in existence for a substantial enough time to draw reasonable inferences regarding their impact on motor vehicle enforcement efforts. There remains no discernable impact regarding enforcement of motor vehicle laws.
2. (Date and Time): The time, monthly activity, and days of the week remain the same when identifying our busiest activity periods. Activities that would normally generate an atmosphere conducive to a criminal choosing to flee occur largely on Thursday, Friday and Saturday nights, between the hours of 9PM and 3AM. Our activity increases during the first ten weeks and last eight weeks of the UNH school year (the number of weeks fluctuates to some degree based on UNH Commencement, Homecoming, and even Halloween). The Durham Police Department takes exhaustive steps to prevent such an atmosphere from developing by employing tactics that drastically increase patrol presence in those areas of town that are prone to this criminal behavior. This increase in police officer presence in the form of cruiser, motorcycle (UNH Police), bicycle and foot patrols creates the illusion that attempts to flee would likely be fruitless.

3. (Enforcement): Motor vehicle violations resulting in summonses being issued to the violator are followed by swift and just prosecution; poor judgment/driving habits are immediately addressed by a police officer at the time of violation and shortly thereafter affirmed by the court. Additionally, as MV laws change either by legislation or judicial review, our officers are quickly trained on the changes and are expected to enforce the laws using appropriate discretion. In the past few years, our enforcement methods were recently studied and validated by members of the University of New Hampshire Master's Degree Program.
4. (Conduct): Durham Police Officers continue to treat violators with a professional demeanor, dignity, respect, and compassion, thus minimizing the anxiety often associated with an encounter with the police. This theory is furthered by the absence of citizen complaints of alleged police officer misconduct associated with motor vehicle enforcement. We have had no motor vehicle related complaints filed in 2017 or 2018.
5. (Outreach): The Durham Police Department community policing efforts target age groups that are most likely to engage in high-risk behaviors. We have been successful in establishing a two-way dialogue with those age groups. As the community grows, so should our programs. Our school resource officer does an outstanding job of rapport building with students at all levels.
6. (Training): Ongoing roll call training includes repetitive review of the department's Mission and Values Statements, the Law Enforcement Code of Ethics, and Use of Force standards as they relate to pursuit and/or forcible stopping. The clearly stated provisions of the pursuit and roadblock policies gives our staff the necessary understanding of what is expected and what limitations they have BEFORE they initiate a dangerous pursuit. **The result of this agency wide effort is effective enforcement without un-necessary risk.**



Policy Analysis

As part of the 2018 analysis, I conducted a review of our pursuit policy and all policies, procedures and practices associated with the reporting process. The policy was last modified on 9-4-2018. At that time, the policy was modified to show that “roadblocks” is the only forcible stopping technique considered valid by the Durham Police Department. All related policies were updated at that time.

- The current policy has clear definitions that are comprehensive and provide clear explanations regarding terminology.
- Current laws are identified that outline the liability and responsibility of the officers should they engage in a pursuit.
- The most important question, “When can an officer enter into a pursuit?” is clearly defined and leaves no room for misinterpretation. Officers are provided training on the policy every year as noted previously in this report.
- The responsibility of the officer and supervisors both during and after a pursuit are clear and comprehensive.
- The responsibilities of the Stafford County Dispatch Center are clear and comprehensive.
- Abandoning and terminating pursuit is clear and comprehensive, to include a caution note regarding the emotions experienced by an officer during and immediately after a pursuit.

- Use of Force to terminate a pursuit is clearly defined, to include the authority to authorize such use of force. As noted earlier, all related policies regarding roadblocks were updated in September. That information is also taught to officers during the firearms portion of their Use-of-Force training.
- Our policy defines the parameters involved in Inter-jurisdictional pursuits. It is clear and comprehensive.

Conclusion:

I believe our policy is timely, clear, and comprehensive. I believe our reporting system is fair and sound. I do not recommend any changes to our policies at this time.

Analysis Reviewed by:

Deputy Chief _____ Date _____

Comments:

Chief of Police _____ Date _____

Comments: