

Memorandum

To: Chief Kelley
CC: Deputy Chief Holmstock
From: Captain Dalton
Date: January 2024
Re: Motor Vehicle Pursuit Analysis for 2023

An analysis of our motor vehicle pursuits for the 2023 calendar year indicates the Durham Police Department was involved in one pursuit (23DUR-460-OF). Prior to this year's pursuit, the last pursuit by an officer of the Durham Police Department took place in 2019. The Durham Police Department has been involved in seven pursuits in the past 24 years. Our pursuit policy was updated in 2023.

As shown in the chart below, the Durham Police Department is rarely involved in pursuits. This makes conducting an analysis problematic when looking to see if there are any trends. However, two major points of interest continue to stand out when evaluating the department's participation in pursuits.

- 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 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 useless unless it is reviewed on a regular basis. Durham officers are required to read our pursuit policy annually, and show they understand it by signing the document. Annually 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 or not to engage in a pursuit are made based on those values. I continue to believe that the two issues noted above are as relevant to our lack of pursuits as any other factors.

Critique and Analysis of the 2023 Pursuit

I have conducted an analysis of the motor vehicle pursuit that took place on July 31, 2023, at approximately 2305 hours.

- The Durham patrol officer initiating the pursuit completed an investigation report. The shift supervisor wrote 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.”*
 - 2) On the date and time in question, the Newmarket Police Department put out a B.O.L.O. for the operator of a vehicle who tried to evade Newmarket Police. The operator of the vehicle had numerous felony warrants and was operating after suspension/revocation. A Durham patrol officer, along with a University of New Hampshire police officer (UNH), were parked on Mast Road. The UNH officer’s cruiser was parked facing the roadway and the Durham patrol officer was parked facing away from the roadway when the suspect drove past them. The UNH officer activated his lights and siren in an attempt to stop the vehicle. The Durham patrol officer followed the UNH officer, as a secondary unit, with his lights and siren activated. The vehicle failed to stop.
 - 3) The Durham patrol officer notified Strafford County Dispatch that he was a secondary officer in the pursuit of the vehicle. During the pursuit, which lasted approximately ten minutes, it was reported that the suspect and officer’s speeds were between 40 and 60 MPH, and that there was only one civilian vehicle driving in the area during the pursuit. There were no adverse weather or road conditions. When the vehicle pulled into a parking lot, the Durham patrol officer fell behind when UNH officers tried to block the vehicle from leaving a large parking lot. It should be noted that the large parking lot has numerous parking lots nearby, which are not attached, and must be entered by separate entrances. It also has a very large building in the middle

of the parking lot that obstructs views of the separate parking areas. The blocking of the parking lot was not known to Durham officers until they came upon the scene, and it was at this time the suspect pulled past the “roadblock” and the Durham patrol officer fell further behind the fleeing vehicle and the UNH pursuing officer. Sergeant #1, who had just arrived at the area, then joined the pursuit as the secondary unit and activated his lights and siren. Sergeant #2, who had also just arrived on scene, and the Durham patrol officer, followed behind the pursuit at a safe distance, as it traveled through the Town of Lee and Town of Madbury.

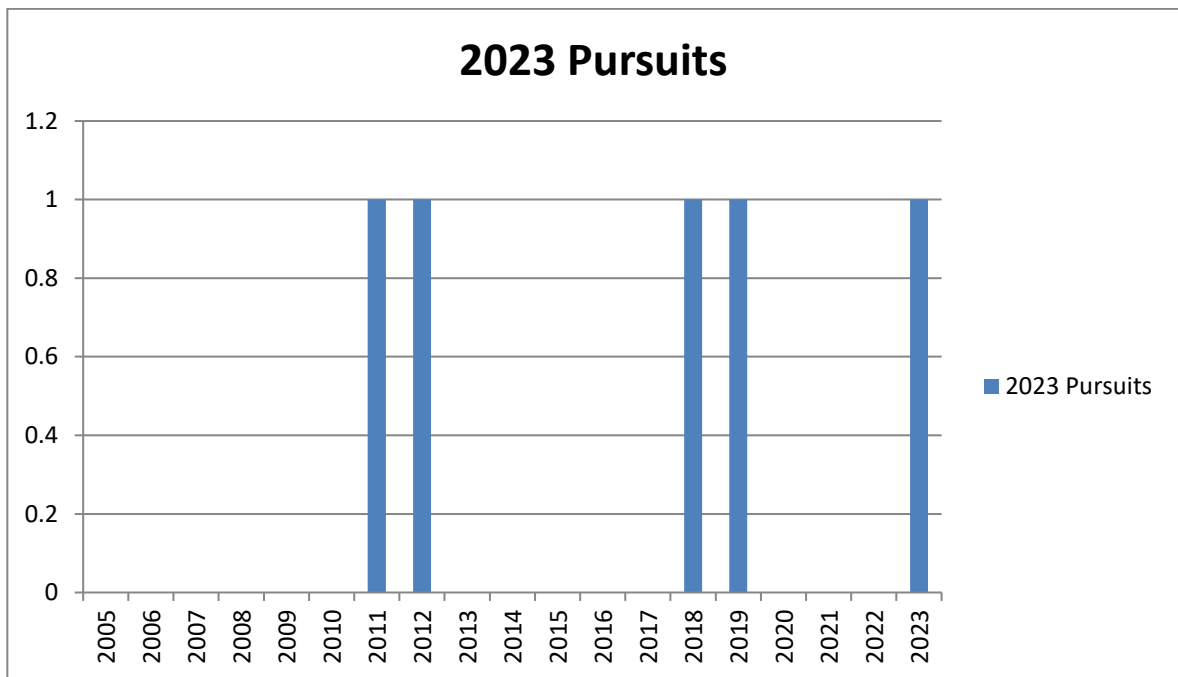
- 4) Once it was deemed the pursuit was ineffective, continued to enter other jurisdictions, and determined the suspect could be apprehended later, Sergeant #2 terminated the pursuit for all Durham officers. The suspect was arrested the following day.
- 5) Sergeant #1, Sergeant #2, and the Durham patrol officer’s actions were lawful, based on the operator’s failure to stop for Newmarket Police, and that the operator had numerous felony and misdemeanor warrants.
- 6) All three Durham officers’ actions were lawful and professional. The officers made a rational evaluation of the situation based on facts and circumstances known to them at the time. The officers strictly adhered to the pursuit policy during this incident and documented their actions appropriately.
- 7) There were no roadblocks or other devices, such as “stop sticks” used by Durham officers during this pursuit. The officers showed they are well trained, the equipment worked as designed, and the policy was followed.
- 8) However, there were aspects of the pursuit that were identified that show a need for improvement. At the start of the pursuit, it was not initially clear to the Durham supervisor if the Durham or UNH officer initiated the pursuit. Part of the issue was due to multiple radio frequencies (UNH Dispatch and Strafford County Dispatch). Although Durham officers were scanning UNH Dispatch at the time, the UNH officer’s transmissions, on the UNH frequency, did not come over the Durham supervisors’ cruiser radio. It was later discussed that Durham’s patrol officer could have updated Dispatch that he was the second unit and the UNH officer was the lead vehicle involved in the pursuit. A UNH officer attempted to relay information over the Durham frequency through Strafford County Dispatch but resulted in overlaps of transmissions between UNH and Durham officers.
- 9) Based on the review, we updated our pursuit policy to be clearer and more decisive.

Analysis of Related Factors

The information below continues to be as relevant in 2023:

1. (Geography): The annual analysis of Response to Resistance 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, most 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. There remains no discernable impact regarding enforcement of motor vehicle laws west of the downtown area.
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 generate conditions 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 substantially increase patrol presence in these areas of town prone to illegal 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 motor vehicle laws change, either by legislation or judicial review, our officers are trained on the changes and are expected to enforce the laws using appropriate discretion.
4. (Conduct): Durham Police Officers 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.

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 continues to do an outstanding job of rapport building with students at all levels.
6. (Training): Ongoing roll call training that includes repetitive review of the department's Mission and Values Statements, the Law Enforcement Code of Ethics, and Response to Resistance 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 unnecessary risk.



As part of the 2023 analysis, I conducted a review of our pursuit policy and all policies, procedures and practices associated with the reporting process. I believe our policy is timely and comprehensive. Currently, the changes we made in 2023 were very positive, and I do not recommend any additional changes to this policy.

