



INDEPENDENCE **POLICE**

MEMORANDUM

Date: April 17, 2024

To: Chief Adam Dustman

From: Captain Billy Pope

Subject: IPD Police Pursuit Policy Review

Chief Dustman,

On 02/15/2024 your office received a request, initiated by Councilmember Bridget McCandless, and directed through City Manager Zachary Walker's office, for a review of the Independence Police Department's Pursuit Policy. More specifically, the request from Councilmember McCandless pointed out a recent "spate" of police pursuits that have involved injury or death and a concern for the monetary and financial burden to the General Fund as a result of these pursuits. Also noted in the communication is a concern voiced to her by "older residents" wherein they have expressed fear of driving on the roadways due to the police pursuits. Councilmember McCandless expressed a desire to better understand the pursuit policy, and decision to pursue by IPD officers, so that she could "defend with certainty" the decisions the department members make with regard to pursuits. Finally, Councilmember McCandless wanted to know how the department balances the need to apprehend offenders with the safety of our citizens and expressed appreciation for the complexity that is involved in the choices officers are faced with every day in our city.

You tasked me with preparing a response to Councilmember McCandless' request. I have collected the data, supporting documents and drafted a response to the request. I hope that this response sufficiently answers the concerns shared by Councilmember McCandless and feel confident that this document will act as the 2024 Annual Pursuit review.

Executive Summary

Contained in this comprehensive report is four main areas of importance (Policy, Statistical Analysis, Relevant Case Law, and National Trends) related to police pursuits involving members of the Independence, Missouri Police Department. Below is a summary of the highlights of each of these four sections.

Policy:

The Independence Police Department's Policy establishes the criteria an officer must follow if they decide to pursue a vehicle. The policy allows the officer to pursue a vehicle for misdemeanor and felony violations of the law as long as they do so in accordance with department policy. Officers are afforded tools to be put in place prior to and during a vehicle pursuit, enabling the pursuit to be brought to a safe conclusion. The decision to pursue lies with the officer, closely overseen by both the first line supervisor and shift commander but starts with the individual officer. The fact is, the individual officer terminates far more pursuits than the first line supervisor or shift commander, which is a testament to the development

of these officers. This development is facilitated by a policy such as this, with established guidelines and restrictions, allows the officer to make his/her own decision.

Statistical/Data Analysis:

The data collected and analyzed overwhelmingly shows that the majority of drivers yield to Independence police officers when a vehicle stop is initiated. Of the almost 2500 drivers that did not stop for officers, the pursuit was terminated in nearly 1/3 of those incidents and of those pursuits the involved officer is the one who terminates the pursuit over almost half the time. **Less than 2% of the drivers IPD officers attempt to stop flee from the officer, and less than 1% of those drivers are pursued to apprehension.** The subjects IPD officers pursue are often bad actors and 1 in 5 are armed with a firearm. Unfortunately, some pursuits end injury or death. In the 9-year analysis period (2015-2023), two (2) of the active pursuits ended in the death of an innocent bystander.

Relevant Case Law:

Case law and court decisions indicate that we as officers have a duty to apprehend criminals and to do so without malice or recklessness. As long as we do this, we are not responsible for the suspect's actions or collateral damage caused by the suspect's actions. **Decisions/Opinions from numerous courts are very clear that it is unreasonable and even "absurd" to suggest that when things end badly in a pursuit it is the fault of the officer and not the fleeing suspect.** Judiciary decisions and opinions make reference to what would happen if this were the case, and officers were responsible for the suspect's refusal to comply when a vehicle stop is initiated. They also condemn any decision that would lead to a situation where officers would have to terminate every pursuit once the driver began driving more erratically knowing that's all they need to do to avoid a citation or stop.

National Trends:

Recently, San Francisco, CA Mayor, London Breed, placed a proposition on the ballot for March 2024 asking voters if they wanted their police to pursue for "violent misdemeanors" and some property crimes (grand theft and burglary). The proposition overwhelmingly passed by the voters and lifted an 11-year restriction on police pursuits. **Additional data in this article shows that although SFPD pursued far less vehicles, they were involved in more collisions than our officers. Indicating pursuit of a vehicle is a perishable skill and can decline when not utilized/practiced.** The training we implement in annual block training helps but can only go so far to prepare the officer for an actual pursuit on the street. A pursuit, engaged in by our trained officers, overseen by our first-line supervisors and handled in accordance with department policy and procedure, is far safer when performed by officers that are "familiar" with this procedure.

Policy Review

General Order 1994-026, Vehicle Pursuits (Revised 03/2021)

The Independence Police Department's General Order regarding Vehicle Pursuits¹ was created to establish department policy with regard to vehicle pursuits. The policy clearly outlines the requirements for engaging in a vehicle pursuit, considerations when doing so and operational guidelines governing the officer – supervisor responsibilities during the vehicle pursuit. The General Order continually reminds officers that they are to consider the danger to the public while weighing the need for apprehension of the offender. Officers are cautioned to continuously consider this while either engaged in or considering initiating a pursuit. The General Order provides alternatives to be considered prior to initiating and during the vehicle pursuit along with options for ending the pursuit, whether by decision of the officer – supervisor OR the use of several Pursuit Termination Devices (PTD's).

Officers are encouraged to reduce the need for a pursuit and are provided a few options for doing so. Officers and supervisors are constantly considering and suggesting implementation of these alternate measures, thus trying to reduce the possibility of becoming involved in a pursuit in the first place.

The following are options available to our officers to assist in bringing the pursuit to a timely end or avoid the pursuit altogether:

- 1) Decision not to pursue- is the first and most commonly used option available.
 - Officers are encouraged throughout the General Order to evaluate the need for the pursuit, measure the risk versus reward and are reassured that they will not be criticized for deciding not to pursue. Officers and supervisors are reminded that sometimes the best decision is to NOT pursue.

- 2) Use of KCPD Helicopter – KCPD helicopter “690” is a viable option, however, limited at times.
 - The KCPD helicopter is sometimes unavailable due to weather – they will not fly in rain, high winds, dense fog, overcast/visibility limitations, etc.
 - The KCPD helicopter is not available 24 hours a day – the helicopter unit is not staffed 24/7 and is frequently unavailable during the early morning hours.
 - The helicopter is the only one available in this area – the unit provides service to any police agency in the metropolitan area when requested. The staff could be committed to assisting a police department for a multitude of reasons, such as a police memorial service, funeral services or a vehicle follow for a special covert unit (such as a Jackson County Drug Task Force – Drug Enforcement Administration) just to name a few.

- 3) Boxing in tactics – which is the use of one or more vehicles at an intersection, stop location, parking lot or lane of travel and is implemented to limit the suspect's ability to maneuver the

¹ Independence, Missouri Police Department General Order 1994-026, Vehicle Pursuits

vehicle and flee. This is generally done PRIOR to the attempt to stop the vehicle, while the vehicle is already in motion/traveling on the roadway and is an option to stopping the pursuit before it begins.

- Danger of maneuver – by placing a patrol vehicle, generally both in front of and behind the suspect vehicle, this creates a situation where the officer positioned in front of the suspect is in front of the (potential) threat and at an extreme tactical disadvantage. Additionally, both officers must position their vehicle closely enough so that the suspect vehicle cannot escape the “boxing in” of their vehicle, thus placing them in extremely close proximity to the suspect vehicle. Should the suspect decide to use force against the officers, the lack of distance could be a severe disadvantage and safety concern.
 - Damage to city vehicles is a concern – if the suspect attempts to flee, vehicle damage is almost certain due to the proximity of the vehicles to one another and (often) disregard for vehicle the suspect is operating.
- 4) Pinning of a vehicle – this is similar to Boxing in defined previously but requires specific training and authorized vehicles.
- Limitations and concerns are the same as with the Boxing maneuver.
 - Trained personnel are generally limited to the members of the SWAT team, which is not staffed 24/7, so availability is a concern.
- 5) Pursuit Termination Devices – these are what is commonly referred to as “Spike Strips” and are deployed while the vehicle is in motion. The device is a plastic triangular strip containing numerous hollow spikes designed to puncture and cause (controlled) deflation of the tire.
- Advantages are that they generally reduce the speed of operation once effectively deployed.
 - Disadvantages are that deployment is dangerous to the officer, isn’t always effective and doesn’t cause the vehicle pursuit to end immediately, often the suspect will drive on for miles before the vehicle is too disabled to continue operation.

The following are restrictions that would warrant the termination of a pursuit:

- 1) Policy restricts the number of officers allowed to engage in the pursuit, thus reducing liability and potential for risk to officers and public. Policy restricts pursuits to only two officers actively engaged in the pursuit at a time. The need for additional officers must be justified by the pursuing officer(s) and approved by the on-duty supervisor or watch commander.
- 2) Pertinent information regarding the pursuit MUST be relayed to the communications unit, at regular intervals or the supervisor/watch commander can terminate the pursuit.
- 3) If the identity of the suspect is known, the pursuit will be terminated. The only exception would be in an instance where failing to apprehend this (known) suspect would create substantial risk to others if they were allowed to escape.
- 4) Officers are not allowed to pursue a vehicle the wrong way on a one-way divided roadway.

- 5) If the suspect drives into oncoming traffic and motorists are present on the roadway at the time.
- 6) If the officer believes the vehicle is being operated by a juvenile, due to inexperience in operation of a motor vehicle.
- 7) If the officer believes the vehicle to be occupied by an infant or small child, being placed at risk by the offender's attempt to elude officers.

Statistical Analysis and Pursuit Data

This statistical information² is collected by the police department's Special Operations Division and is compiled annually for analysis by your office (Chief's Office). The data is collected monthly, reviewed annually, and analyzed to determine if there are tendencies or trends that could be factors in these pursuits. These indicators could help refine police pursuits, policy changes or even new procedures to be implemented allowing the pursuits to be ended more swiftly or avoided altogether.

2015 -2023	2015	2016	2017	2018	2019	2020	2021	2022	2023	TOTALS	TERMINATED	TERMINATED BY OFFICER	ARMED INDIVIDUAL ARRESTED	RESULTED IN FELONY CHARGE	RESULTED IN CRASH	RESULTED IN FATALITY
TOTAL PURSUITS INITIATED	235	301	250	330	344	228	202	335	540	2765						
TOTAL PURSUITS (not terminated)	99	147	105	110	125	97	74	117	201	1075	61%	44%	18%	28%	17%	2

The Statistical information collected over the last nine (9) years clearly shows:

- IPD terminates more pursuits than they continue
 - o 62% of all pursuits are terminated
 - o 44% of those pursuits are terminated by the OFFICER, not a supervisor
- More than 1 in 4 people we pursue and apprehend are charged with a felony offense (28%)
- Nearly 1 in 5 suspects arrested during these pursuits are armed (18%)
- IPD Officers conducted 135,859 traffic stops that DID NOT result in pursuits
- **Less than 2% (0.0179) of all vehicle stops result in a pursuit being initiated**
- **Less than 1% (0.0069) of the stops result in a pursuit being continued to completion**
- 17% of the pursuits end in a collision
 - o 100% of those collisions were caused by the fleeing suspect(s)

² Pursuit and Stop Data for the Independence, Missouri Police Department for calendar years 2015-2023

- There were 2 incidents involving a civilian fatality in the nine-year period
 - o 100% of the fatalities were the result of the fleeing suspect(s)
- In one of the instances the officer was over 300 yards behind the suspect vehicle, on a long sweeping curved roadway and had completely lost sight of the suspect vehicle. The pursuit would have almost certainly been terminated by the officer had there been time prior to the fatal collision. The pursuit lasted only (approximately) **18 blocks or 1.5 miles and total of 31 seconds.**
- In only one instance were officers “actively” pursuing a suspect vehicle that was involved in a fatal collision. The pursuit lasted a total of **24 ½ minutes, reached speeds of 70 MPH,** covered multiple miles, swerved at officers during the pursuit, **fatally struck a motorcycle 13 minutes into the pursuit,** multiple “stop stick” deployments and requests for KCPD helicopter (unavailable) before a trained SWAT officer performed a “PIT” maneuver and ended the pursuit.

Relevant State and Federal Case Law

In searching for case law and standards for law enforcement on both a State and Federal level, I found numerous articles on case law, but two cases kept showing up on ALL the searches and in many of the articles covering police liability. Obviously, case law and liability should be a strong consideration when drafting or even considering a Vehicle Pursuit policy for a police department. A more refined search led me to an article written by a local Missouri attorney, Robert T. Plunkert³. This article covered Missouri Law as well as Federal Law and referenced two specific cases as a basis for the findings, Scott v. Harris⁴ and Christiansen v. Eral⁵. The article also defines State and Federal standards of duty, reasonableness, and liability to the public as well as fleeing suspect.

Plunkert is a 2009 graduate of St. Louis University of Law and is the principal/lead attorney at a law firm in St. Louis. His father was also a lawyer and sister a police officer for St. Louis Metro police. With this (family) foundation, I think it fair to say he sees the issue of police pursuits from both a legally educated side as well as by proxy given his sister works in the field. The article has a strong factual based foundation with a laxer/joking inference and approach.

Plunkert’s article covers issues surrounding Missouri Law regarding liability, which is the major concern for all involved. Having been involved in hundreds of these in my 30+ year career, safety is the first concern, but it’s followed closely by “am I going to get in trouble”.

The article centers around “Duty”

³ Robert T. Plunkert, Police Pursuit Liability in Missouri, 79 J. MO. B. 58 (2023),

<https://acrobat.adobe.com/link/review?uri=urn:aaid:scds:US:3b2703fe-a6a6-44a7-8e8e-2d8b02f7e2f1>

⁴ Scott v. Harris, 550 U.S. 372 (2007), [Scott v. Harris :: 550 U.S. 372 \(2007\) :: Justia US Supreme Court Center](#)

⁵ Christiansen v. Eral, 21-3885 (8th Cir. 2022), [Dean Christiansen v. Christopher Eral, No. 21-3885 \(8th Cir. 2022\) :: Justia](#)

- There are two obligations that make up the “duty” of an officer as defined in Missouri Law:
 - o First an obligation to apprehend and to prevent the perpetrator from escape to do further harm.
 - o Second an obligation to do so in a manner that is not reckless, careless, or wanton.

These duties are reflected in the IPD pursuit policy and are referenced several times. The policy states numerous times that the officer must “evaluate the safety of the public” and should be weighed against the “need for apprehension of the suspect”. Given the number of pursuits our department terminates each year, these points of interest have been made very apparent to our officers.

- **Although we owe a “duty” to the innocent, we owe no “duty” to the fleeing suspect.** This has been found in multiple case law rulings and was also covered in this article during the evaluation of Scott v Harris, and Christiansen v Eral.
 - o Courts in both cases found that the officers’ decision to end the pursuit, by means of utilizing the police vehicle to run the suspect vehicle off the roadway and end the pursuit was both legally sound and appropriate.
 - o In both cases the plaintiffs alleged officers had violated their Fourth Amendment rights and suggested that the officers should have “let them go” and discontinued the pursuit.
 - Both courts, in very colorful verbiage, **concluded that it was “absurd” to suggest the officer should terminate the pursuit and found that the officers’ actions ended further threat to the innocent public.** The courts went on to suggest that terminating pursuits didn’t ensure that the fleeing suspect would immediately stop violating the law, but in fact would likely continue with the same dangerous and erratic behavior that caused the officer to take action in the first place.
 - Justice Antonin Scalia, US Supreme Court, with regard to suggestion that officers terminate pursuits, stated “it is obvious the perverse incentives such a rule would create; Every fleeing motorist would know that escape is within his grasp, if only he accelerates to 90 miles per hour, crosses the double-yellow line a few times, and runs a few red lights.”

Recent National Trends

San Fransisco Proposition E

In October of 2023, San Fransisco, CA Mayor, London Breed, placed Proposition E on the ballot for voters to decide, not the SFPD Police Commission⁶. **Mayor Breed stated the proposition was in response to pressure from voters to “cut property crime” in the city.** The proposition, if passed, would loosen the restrictions of a policy that had been in place since 2013. Current policy restricted the pursuit of vehicles unless the suspect had committed a violent felony OR the officer reasonably believed the escape of the person would pose a risk to public safety. Proposition E would expand the officers’ ability to chase drivers in cases involving a “violent misdemeanor” and some property related crimes. The proposition (largely) was opposed in this news article and there was much support of the current policy which the article reported to be “about average” for other cities in the nation.

On March 5th, 2024, San Fransisco voters were presented with Proposition E, a chance for the VOTERS/CITIZENS to decide for themselves if they wanted their police department to have a less restrictive policy with regard to vehicle pursuits.

The citizens voted to pass the proposition, allowing police to chase for property related crimes, such as burglary and grand theft, as well as for “violent misdemeanors”. Of the 104,000 voters that turned out, 60% of them voted to change the ordinance and loosen the restrictions in place governing police pursuits in the city⁷.

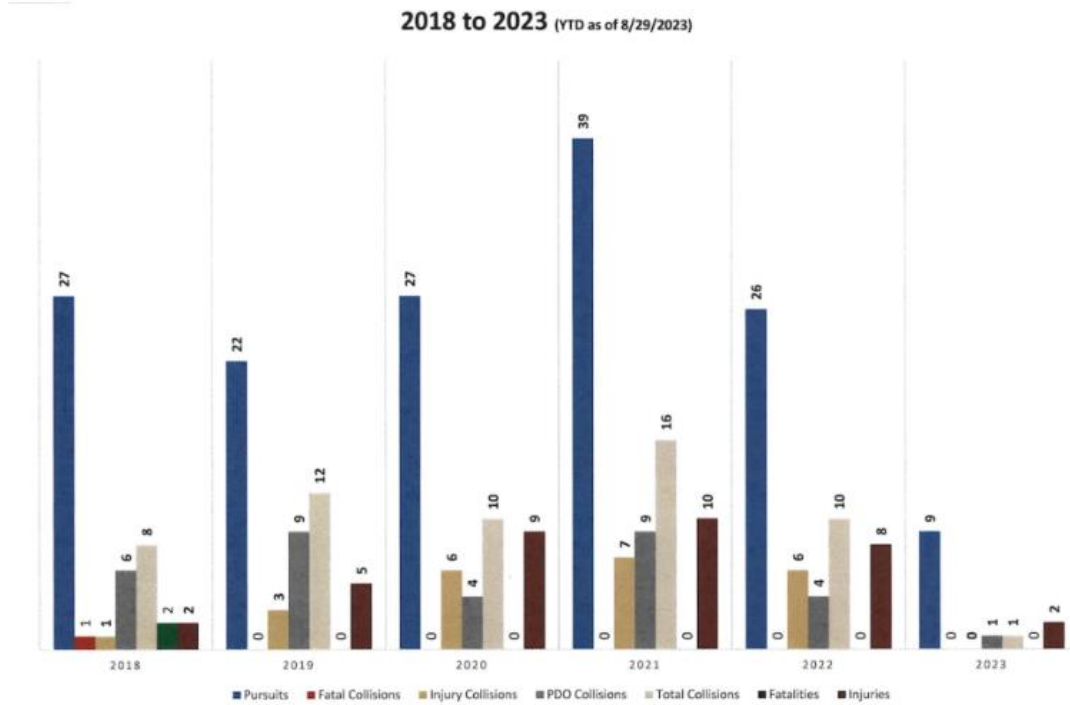
Prior to this proposition, a restriction was put in place by the San Fransisco Police Commission in 2013. This action restricted police to chasing only for violent felonies OR when there was a “reasonable belief” that the suspects’ escape created an immediate threat to safety. **Mayor Breed stated that they want officers to have the “flexibility” to pursue when the opportunity presents itself and that the failure to pursue in some instances might “embolden” drivers to commit more serious crimes.**

Internet news articles on this issue were (largely) opposed to the change or at the very least skeptical and critical of the decision to loosen the restrictions. HOWEVER, what is clear is that the voters are NOT opposed to the change. This is a clear indication that the citizens are tired of being victimized and are in favor of allowing police to decide for themselves whether or not to pursue. This does not mean they WILL automatically pursue now because they CAN or are ALLOWED to do so. It simply means that they are not automatically wrong or in violation of some ordinance or policy because they choose to do so (which is EXACTLY how we conduct ourselves at IPD currently).

The following table shows SFPD pursuits from 2018-2023, with notations for crash, injury, and fatality data. **Note the minimal number of pursuits in a city of 808,437 people:**

⁶ Balakrishnan, “SFPD backs its car-chase policy. So why is Mayor Breed fighting it?”, Mission Local, January 11, 2024, [SFPD backs its car chase policy. So why is Mayor Breed fighting it? \(missionlocal.org\)](https://missionlocal.org/sfpd-backs-its-car-chase-policy-so-why-is-mayor-breed-fighting-it/)

⁷ Gollan and Neilson, “San Francisco voted to loosen police chase rules. Experts say this could endanger the public”, San Francisco Chronicle, March 6, 2024, [Why San Francisco's police chase policy just got more dangerous \(sfchronicle.com\)](https://www.sfgate.com/news/article/san-francisco-voted-to-loosen-police-chase-rules-17500000)



- SFPD pursued 150 vehicles in the 5-year reporting period (2018 thru 2023)
- 33 of those ended in a collision involving the officer
- **22% of SFPD pursuits end in a crash involving the officer**

- IPD pursued 724 vehicles in the same 5-year comparison
- 27 of those ended in a collision involving the officer
- **.037% of IPD pursuits end in a crash involving the officer**

As you can see from the data above, our officers AND citizens were safer despite the disparity in pursuit numbers:

- IPD officers were involved in **5X the pursuits** of this much larger city/department
- IPD officers were involved in **LESS** collisions despite being in far more pursuits

Conclusion

During the collection of the data needed to complete this review, I affirmed what I have long believed. The fact is that our policy is both restrictive AND unrestrictive. The policy clearly outlines what an officer is to CONSIDER before, during, and after the pursuit. There are few things the policy says you WILL do or WILL NOT do, but the policy mostly consists of things the officer and supervisor are to CONSIDER with regard to a pursuit. This not only allows our officers to pursue when they need to, it builds a stronger officer/future supervisor/future leader for this organization. A policy could easily be written that restricts an officer's every move, thought, and action; however, doing so does nothing to build and develop a THINKING officer. Every day, officers are called on by our citizens to think through a problem the citizen cannot solve on their own and to come up with a solution. Sometimes that problem is not so minor, and the officer is afforded only fractions of a second to think, plan, and act. Policies need to be in place to establish a baseline and a list of things you (absolutely) will and will not do. It is the less restrictive part of a policy or procedure that develops people, allows them to stand out and grow as individuals in the organization.

The data collected regarding IPD pursuits is, or at least should be, very reassuring to Councilmember McCandless and the citizens she represents. Data is facts and completely proves or disproves perception. **The data (facts) show that we terminate more pursuits than we continue.** It's the officer that terminates the pursuit (the person with actual EYES ON the pursuit) far more often than the supervisor. When we do pursue, it is real bad actors we are catching. **One of every five we apprehend (this only accounts for the ones we catch, not let go) are armed with a firearm.** Armed criminals that are out in our community, preying, or about to prey, on our community. As I said, this only accounts for the ones we catch, there is no way of detailing the intentions or actions in the instances where we terminate the pursuit. **The data also shows that we are very safe in our pursuits, showing that our officers are involved in a collision less than 1% of the time.** This is not luck, it is skill. This skill is developed by giving officers the discretion to pursue, while teaching them awareness and developing experience necessary to know when to pursue and when not to pursue.

Case law is very clear about our responsibility for the safety of the fleeing suspect, in that there is basically none. **So long as the officer acts without malice or intent to purposefully harm the suspect, and acts within policy, there is no wrongdoing on the police department, or officer's, behalf.** That is obviously the way it should be, the suspect should be responsible for their own actions and any collateral damage caused by those actions. **Case law also recognizes that pursuits are dangerous to the uninvolved (innocent) public, however, acknowledge what we have known for years and that is they are (unfortunately) a necessary evil.** In Justice Scalia's own words, he acknowledges that if the police don't pursue it would create "perverse incentives" that could lead motorists to just speed up and drive carelessly to avoid a ticket/arrest. **Pursuits are dangerous, but not pursuing would open the door to an element in our community that would be far more dangerous in the long run.**

The San Fransisco Prop E situation is very telling (my opinion) when you look at the articles and facts surrounding the vote. A very large "open-minded" city in a very well-known "open-minded" state such as

California, the voters are fed up with crime. **A 60/40 vote is considered a landslide in politics today and is an overwhelming majority vote.** The proposition was placed on the ballot by the mayor, an African-American woman, who is fed up with crime in her city. Whether this turns out to be a good move on her part remains to be seen, however, the real story here is the fact that the voters are so fed up with crime they are willing to sacrifice a little bit of safety on the roadway for safety in their home (again, my take/opinion). Pursuits are dangerous, but not pursuing can be just as dangerous (if not more) in the long run.

I hope this information helps to better explain our department policy on vehicle pursuits and the measures put in place to handle the dangerous process of a pursuit as safely as possible. I hope the overview of the data we collect regarding pursuits helps to ease the mind of Councilmember McCandless, as well as the older residents she references in her communication. **The data IS the facts, not the perception, but the reality.** I know it is easy to see a scary situation, like a vehicle pursuit flying by at 100 MPH, and it causes you to think that happens all the time. **The facts are that it simply does not happen all the time and that our officers err on the side of caution and concern for the citizens far more often than not.**

Respectfully,
Captain Billy Pope
Professional Standards Unit