

A23-047

OMBUDS CLOSING REPORT

**POLICY AND PROCEDURES REPORT
AND RECOMMENDATIONS**



**OFFICE OF THE
POLICE OMBUDS**
INDEPENDENT CIVILIAN OVERSIGHT

This report was authored by Bart Logue, Police Ombuds, and co-authored by Luvimae Omana, Deputy Police Ombuds. The Office of the Police Ombuds (OPO) presented this report to the Office of the Police Ombuds Commission on August 27, 2024.

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Staff Information

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Bart Logue began serving in this capacity in September 2016, after serving as the Interim Police Ombuds. Bart also serves as a Commissioner on the Washington State Criminal Justice Training Commission. Bart is a Certified Practitioner of Oversight through the National Association for Civilian Oversight of Law Enforcement (NACOLE). Bart has a Master of Forensic Sciences from National University and a Master of National Security Affairs from the Naval Postgraduate School. Bart is a graduate of the Federal Bureau of Investigation National Academy, Session 239, and is also a certified Advanced Force Science Specialist.

Luvimae Omana, *Deputy Police Ombuds*

Luvimae Omana has dual degrees in Business Administration and Political Science from the University of California, Riverside and a Juris Doctorate from Gonzaga University School of Law. Luvimae is licensed to practice law in Washington. Luvimae is a Certified Practitioner of Oversight through NACOLE. Luvimae is also a certified Advanced Force Science Specialist.

Christina Coty, *Administrative Specialist*

Christina began working at the City of Spokane in 2015 for the ITSD department in contract procurement and joined the Office of the Police Ombuds in 2018. Christina is a Certified Practitioner of Oversight through NACOLE. Prior to her work at the City of Spokane she worked for Sony Electronics as a Regional Sales Manager managing the retail store operations in Southern California.

Tim Szambelan, *OPO Attorney*

Tim works in the Civil Division of the City Attorney's Office and currently represents the Ombuds Office and other departments within the City of Spokane. Tim is licensed to practice law in Washington and Arizona.

This document was reviewed by the City Attorney's Office as to form prior to submission for review by the Spokane Police Guild pursuant to the requirements provided in Article 27 of the Agreement between the City of Spokane and the Spokane Police Guild (2017-2021).

Mission, Authority, and Purpose

The Office of Police Ombuds exists to promote public confidence in the professionalism and accountability of the members of the Spokane Police Department (SPD) by providing independent review of police actions, thoughtful policy recommendations, and ongoing community outreach.

The OPO does so through providing independent and thorough oversight of matters that impact the community and the department. We desire to help bridge the gap between the community and the SPD by writing closing reports in cases that are of public concern to increase accountability and transparency into the matter as well as closing reports that may lead to recommendations for improving police policies or practices. By insisting on transparency, our goal is to help eliminate similar incidents in the future and ensure that the practices contained herein are limited and/or never happen again. It is also our intent to highlight effective police practices to give the community a better understanding as to why those practices were utilized, although this is limited by provisions within the 2017-2021 Collective Bargaining Agreement (CBA).

Spokane Municipal Code (SMC) §04.32.030 and the CBA provide authority for the OPO to publish closing reports on a case once it has been certified by the Police Ombuds and the Chief of Police has made a final determination in the matter. The OPO can also publish policy and procedure reports regarding cases the OPO reviews during a review board process. The OPO's recommendations will not concern discipline in specific cases or officers and shall not be used in disciplinary proceedings of bargaining unit employees. Reports are solely meant to further discussion on aspects of incidents that may be improved upon.

Reports also provide opportunities for policy and procedure recommendations that can result in improved police performance through their eventual implementation. Writing a report allows us to provide a more thorough review of what occurred in an incident to offer recommendations for improving the quality of police investigations and practices, including the Internal Affairs (IA) investigative process, policies, and training or any other related matter.

The OPO may also recommend mediation to the Chief of Police at any time prior to certifying a case. Should all parties agree and the officer(s) participate in good faith, the OPO may publish a report following a mediation including any agreements reached between parties. Mediations are governed by the Revised Code of Washington (RCW) 7.07. The content of the mediation may not be used by the City or any other party in any criminal or disciplinary process.

Required Disclosures

Under Article 27 of the current CBA between the City of Spokane and the Spokane Police Guild, this report must provide the following disclosures:

1. Any closing report from an IA investigation shall clearly state the information expressed within the report is the perspective of the OPO, that the OPO does not speak for the City on the matter, and the report is not an official determination of what occurred;
2. The report will include the current policy practice, policy, and/or training as applicable and shall expressly state the policy recommendations that follow reflects the OPO's opinion on modifications that may assist the department in reducing the likelihood of harm in the future; they do not reflect an opinion on individual job performance under the current policy, practice, or training;
3. A report shall not comment on discipline of an officer(s). This prohibition includes a prohibition on writing in a report whether the OPO or OPOC agrees with or differs from the Chief's findings, whether the officer acted properly, whether the officer's actions were acceptable, or whether the officer's actions were in compliance with training or policy. Additionally, no report will criticize an officer or witness or include a statement on the OPO or OPOC's opinion on the veracity or credibility of an officer or witness.
4. The OPO's closing report shall not be used by the City as a basis to open or re-open complaints against any bargaining unit employees, or to reconsider any decision(s) previously made concerning discipline.
5. The report may not be used in disciplinary proceedings or other tangible adverse employment actions against bargaining unit employees, but not limited to decisions regarding defense and indemnification of an officer; and
6. The names of officers or witnesses may not be disclosed.¹

Additional information and records regarding this matter are available through the City Clerk's Office by [Public Records Requests](#).

¹ In addition to not mentioning officer or witness names, every effort was made to remove identifying pronouns throughout this report. The same standard was used for the complainant and involved persons.

Summary

Procedural History

This incident occurred on August 3, 2023. The incident was reviewed by SPD due to officers getting into a collision. SPD Employee H was the final reviewer and made the final determination on November 3, 2023. The case was reviewed by the Collision Pursuit Review Board (CPRB) in March 2024.² The case also involves an Administrative Review that stemmed from the original incident.

The OPO's summary of facts are based upon a careful review of reports, BWC footage, the chain of command review, and participation in the CPRB. This closing report provides an analysis of issues identified through the chain of command review and review board processes, which allow for a policy and procedures report.

OPO Summary of Facts

Incident

On August 3, 2024, Spokane police officers responded to assist the Spokane County Sheriff's Office at Longhorn Barbeque in Airway Heights. There had been an officer involved shooting and an Airway Heights officer advised shots were fired and the suspect was fleeing in a vehicle east bound on Highway 2 (Hwy 2).

SPD officers were driving west bound to Airway Heights when they were advised over the radio that the suspect was now driving east bound on Interstate 90 (I-90). They were informed that the suspect was driving against oncoming traffic, going east bound on the west bound lanes, on I-90.

Two SPD vehicles were involved in a collision with each other while pursuing the suspect. The lead vehicle was driven by Officer A, a reserve officer, with Officer B, a SPD officer serving as a reserve mentor, in the passenger seat. Officer C was in the second vehicle.

Officer A drove onto I-90 traveling west bound. Officers A and B switched over to the county radio channel to monitor it for information. The county radio advised that the suspect was traveling at speeds around 100 miles per hour (mph) and going east bound on Hwy 2, driving into oncoming traffic.³ Officer B heard that Officer D authorized a pursuit if police units got involved.⁴ Officers A and B were between Hwy 195 and the Airway Heights exit, when they heard the

² Under the agreement between the City and the Police Guild in the current CBA, the OPO is prohibited from mentioning whether the officer(s) acted properly, whether the officer's actions were acceptable, or whether or not the officer's actions were in compliance with training or policy. As such, the final determination by the chain of command cannot be mentioned.

³ Officer A's BWC at 2:17 (August 3, 2023).

⁴ Officer B, Field Case Supplement, case 2023-20153222 (August 3, 2023).

suspect almost hit a patrol vehicle and was now east bound on I-90, still driving into oncoming traffic.⁵ Officers A and B saw the suspect approaching them and civilian vehicles swerving out of the way. The suspect got close to them and Officer A feared the suspect might hit them.⁶ Officer B directed Officer A to slow down and make a U-turn to continue pursuing the suspect. Officer B wrote, "I told Officer [A] to turn around. My intent was to be able to respond quickly if the suspect had crashed [their] vehicle into a civilian's vehicle close to our location."⁷ As Officer A started the U-turn, they collided with Officer C.

Officer C kept their radio on city channels and received second hand delayed information about the pursuit as they were not monitoring county radio traffic.⁸ Officer C did not hear that the suspect was driving against oncoming traffic on I-90.⁹ Officer C did not know why Officer A slowed down, so Officer C attempted to go around Officer A's vehicle.¹⁰ Officer A's U-turn was unexpected and caused a collision with Officer C's vehicle. Officers A, B, and C did not suffer serious injuries. However, the SPD vehicles sustained approximately \$100,000 in damages.¹¹ The suspect passed both SPD vehicles and got away.

Supervisor review

Officer E noted the following items in arriving at the recommended finding of "preventable" for Officers A and B and "non-preventable" for Officer C:

- Ultimately, the suspect was at fault for the collision due to driving the wrong way on I-90 over 100 mph.
- Attempting to pursue a suspect the wrong way on I-90 is a policy violation.
- While Officer A was the one driving, the violation lies with Officer B since they were acting in a training/supervisory role.
- This policy violation is a training issue due to the intense nature of the incident that the officers had never been involved in.
- Officer B's intentions to apprehend the suspect were correct. However, they got caught up in the moment and did not clearly think through the practical or policy issues with pursuing the suspect going the wrong way on I-90.
- Officer E discussed the merits of switching to the appropriate radio channel to receive live updates.

Officer F noted the following items in concurring with Officer E in their suggested findings:

- Officers A and B were at fault for the collision but the actions of the suspect were a direct cause to the incident.

⁵ See *supra* note 4.

⁶ Officer A, Field Case Supplement, case 2023-20153222 (August 3, 2023).

⁷ See *supra* note 4.

⁸ Officer E, Supervisor Review, case 2023-20153222 (August 3, 2023).

⁹ Officer C, Field Case Supplement, case 2023-20153222 (August 3, 2023).

¹⁰ *Id.*

¹¹ BlueTeam Vehicle Accident Report, case 2023-20153222 (August 3, 2023).

- Officer B did a good job of directing Officer A during the incident but found fault when they directed Officer A to make a U-turn on the freeway. This not only put Officer A in danger but also exposed other vehicles traveling in the same direction to danger as well. Officer A was a new reserve officer and relied heavily on directions from full-time officers.
- “This incident is a perfect example of a low frequency, high stress event. And an event that is virtually impossible to train for.”¹² The officers have likely never been exposed to these exact circumstances and were making decisions under stress and had to react to constant updates.
- This incident has brought up training points that were debriefed by this patrol team.
 - SPD pursuit policy prohibits officers from pursuing fleeing suspects in the wrong direction on the freeway.
 - Radio traffic and what is the appropriate radio channel for multi-agency events.

Officer G noted the following in arriving at the recommended finding that the collision was “preventable:”

- Officer G concurred with Officers E and F on the collision being “preventable” at Officer B’s direction.
- However, Officer G also found Officer A liable for a “preventable” collision. Officer A attended a Reserve Academy with a modified emergency vehicle operations course (EVOC). While Officer A should take directions from Officer B, Officer A needs to be aware of their surroundings and should have known that Officer C was traveling in the same direction.
- If Officer A has not already been trained, they should be afforded the same training on emergency vehicle operation.

Officer H noted the following in arriving at their decision:

- Officer H agreed this is a low frequency event, but officers have received training on pursuit driving and SPD’s pursuit policy.
- The investigation referenced that Officer D approved this pursuit. Officer H questioned if Officer D knew the pursuit was at speeds of 100 mph in the wrong direction on I-90.
- Officer B’s direction to Officer A not only resulted in this collision but if the collision had not occurred, making a U-turn would have created an extremely dangerous situation for the citizens of Spokane and officers.
- Officer H was concerned with and disagreed with Officer E’s assertion that this is a “training issue.”

CPRB

When the CPRB reviewed this case, there were two points of note. First, several members echoed Officer F’s sentiment that pursuits are “low frequency, high stress” events and that officers do not receive ample training for pursuits since the agency highly restricts pursuits. Members were concerned that SPD sends officers out unprepared for pursuits and just hopes for the best. Second,

¹² Officer F, BlueTeam Chain of Command History comments, A23-047 (September 16, 2023).

a member of the board noted that Officer C should have had heightened awareness since they were traveling in comparable speeds to pursue the suspect who was going 100 mph.

Policy Recommendations

Recommendations to Policy and/or Training

Vehicle pursuit training

Applicable policy:

- 1. SPD Policy 314.2.1. Officers shall notify a supervisor immediately upon initiating a pursuit. While officers may initiate a pursuit for the above listed reasons, officers shall at all times consider the following factors individually and collectively in deciding whether to initiate or continue a pursuit:**
 - a. 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.
 - b. Whether there are alternatives other than a pursuit.
 - c. Apparent nature of the fleeing suspect(s) (e.g., whether the suspect(s) represent a serious threat to public safety).
 - d. 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 and the speed of the pursuit relative to these factors.
 - e. Pursuing officer(s) familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher/supervisor and the driving capabilities of the pursuing officers under the conditions of the pursuit.
 - f. Weather, traffic and road conditions that substantially increase the danger of the pursuit beyond the worth of immediately apprehending the suspect.
 - g. Performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit.
 - h. Vehicle speeds.
 - i. Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).
 - j. Availability of other resources such as helicopter assistance.
 - k. The police unit is carrying passengers other than police officers. Pursuits shall not be undertaken with a prisoner(s) in the police vehicle. Pursuits shall not be initiated or entered into when a passenger is in the vehicle. Exceptions may be granted by the Office of the Chief or designee.
 - l. As soon as practicable after initiating a pursuit, officers and the supervisor shall develop a plan to end the pursuit through the use of available pursuit intervention options, such as a pursuit intervention technique (PIT) or deployment of spike/stop sticks in compliance with department policy.

The CPRB left a strong impression that supervisors feel the training SPD provides to officers on pursuits is not enough. Officer E attributed the alleged policy violation to a training issue. Officer F said vehicle pursuits were virtually impossible to train for since they were “low frequency, high stress events.” Officer H agreed this was a “low frequency, high stress” event but refuted the assertion that it was due to a training failure. Officers G and H relied on the fact that both Officers A and B received some form of EVOG training and guidance from the department’s Vehicle Pursuit Policy.

While every officer has received EVOG training and acknowledged receipt of the Vehicle Pursuit Policy, the CPRB questioned if it was enough. In 2023, the Police Executive Research Forum (PERF), in conjunction with the Department of Justice, Community Oriented Policing Services (COPS), released a guide on vehicular pursuits, “Vehicular Pursuits: A Guide for Law Enforcement Executives on Managing the Associated Risks” (Guide).¹³ The Guide made dozens of recommendations surrounding vehicular pursuits, many of which SPD policy has previously adopted. However, it makes several recommendations that could enhance SPD’s vehicle pursuit training.

Regular and ongoing training

Based on this case, it appears SPD only provided officers with EVOG training in the academy as well as training updates to the Vehicular Pursuit Policy. The Guide provides that agencies must reinforce their pursuit policy through regular and ongoing training. Emergency and pursuit driving are high-liability areas that should be a regular part of an agency’s training plans. All officers should receive all general training at the academy and agency-specific training and behind-the-wheel refreshers every two years.¹⁴ Officers should receive more frequent training on the agency’s pursuit policy, pursuit tactics, and decision-making skills.¹⁵

Decision-making model

SPD’s policy discusses weighing factors but is silent on a decision-making model. One of the most important elements of pursuit training is decision-making. Selecting a decision-making model should be the cornerstone of an agency’s vehicular pursuit policy.¹⁶ A decision-making model will assist officers and supervisors in decisions regarding pursuits, use of force, and problem solving. A decision-making model can be used in post-incident debriefs, formal pursuit reviews, and remedial training.

¹³ Vehicular Pursuits: A Guide for Law Enforcement Executives on Managing the Associated Risks, POLICE EXECUTIVE RESEARCH FORUM & DEPARTMENT OF JUSTICE, COMMUNITY ORIENTED POLICING SERVICES, <https://portal.cops.usdoj.gov/resourcecenter/content.ashx/cops-r1134-pub.pdf>. (last visited August 5, 2024).

¹⁴ *Id.* at 103.

¹⁵ *Id.* at Recommendation 5.1.

¹⁶ *Id.* at 97.

For example, the PERF Critical Decision Making Model (CDM) trains officers to continually ask themselves about the nature of the incident, any threats and risks, their powers and authority to take action, and options.¹⁷ After taking action, officers assess whether the action had the desired effect and begin the decision-making process again, if necessary.¹⁸ The CDM is well suited to dynamic and evolving situations such as vehicle pursuits. The model walks officers through critical decision points, such as determining if a pursuit is appropriate, evaluating the reasonableness of continuing the pursuit, and whether to discontinue.¹⁹

The CDM is a five-step critical thinking process:

1. Collect information
2. Assess the situation, threats, and risks
3. Consider police powers and agency policy
4. Identify options and determine the best course of action
5. Act, review, and re-assess

Ethics are at the core of the CDM with elements of:

1. Sanctity of all human life
2. Police ethics
3. Agency values
4. Concept of proportionality

Agencies should also develop specialized training for other personnel (e.g., supervisors, communications personnel, air support officers, watch commanders) who may play a role in a pursuit or pursuit review.

Recommendation 24-5: SPD should adopt a critical decision-making model or something similar regarding pursuits. The use of a decision-making model can assist officers and supervisors in deciding whether to initiate a pursuit, gathering and evaluating information during the pursuit, and deciding when to discontinue. SPD should also develop specialized training for other personnel (e.g., supervisors, communications personnel, incident commanders) who may play a role in a pursuit or pursuit review.

¹⁷ *Id* at 162.

¹⁸ *Id.*

¹⁹ *Id.*

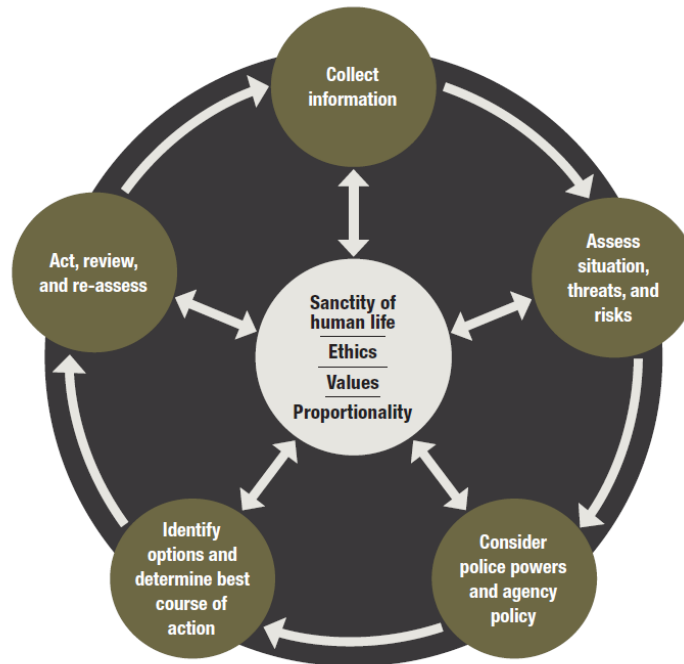


Figure 1: PERF's Critical Decision-Making Model illustrated

Policy instruction

Agencies must provide regular training on the pursuit policy both online and in the classroom. Often agencies teach officers about policies and policy changes through an e-learning platform or officers are told to read a policy and sign an acknowledgement. This covers the agency but does not provide accountability for an officer's learning to ensure they understand or interpret the policy properly. An online format of e-learning is often designed for policy management rather than dynamic, interactive critical decision-making training. According to PERF, agencies should conduct training whenever it changes its policy and in-service training on pursuits should recur at least annually and include both online and classroom components.²⁰

Agencies should consider having officers sign off on policy updates via online platforms, but the sign off should not be considered a substitute for classroom or roll-call training. In-person training allows officers to ask questions. This also conveys to officers that the organization's leadership considers the matter important and is committed to making changes.

²⁰ *Id.* at 164.

For example, the Minnesota State Patrol conducts live training where the trainer plays a video and each person had to decide whether to discontinue the pursuit.²¹ Each person had a clicker to use at the point that they would discontinue and the results were shared with the group at the end of the exercise. The training staff then debriefed each of the points in the exercise with the group. This is a low-cost, engaging exercise to demonstrate decision making in a realistic scenario.

Recommendation 24-6: In-service training on the vehicle pursuit policy should occur at least once per year and could include both in-service and roll call components.

Driving simulator training

SPD already uses VirTra simulators in use of force training. However, simulators can also be used to simulate pursuits. Simulators can fill in a gap for agencies that do not have the facilities to conduct regular training. Simulators replicate stress in a virtual environment and reinforce the decision-making model. Simulators can also incorporate scenario-based training that are more relevant and relatable to officers. Simulators can also include Companies such as FAAC and VirTra make pursuit training and emergency driving simulators. Benefits of driving simulators include:²²

- Instructors can control the training for custom scenarios.
- Video playback allows debriefs.
- Simulators provide flexibility in the training schedule.
- Minimal space is needed to conduct training.
- Policy training can be incorporated into each scenario.
- Officers' split-second decisions can be evaluated.
- Simulator training can reduce liability and costs.
- Simulator training can improve overall driving skills.

Recommendation 24-7: SPD should consider purchasing, sharing, or leasing a driver simulator that can incorporate scenario-based and decision-making training to provide practical refresher training.

Other scenario-based training points

Scenario based training makes emergency and pursuit driving training as realistic as possible. De-briefing specific policy or tactical training points in short, targeted, training sessions is known as microlessons. Microlessons can introduce newly added elements of an existing policy or address

²¹ *Id.* at 106.

²² *Id.* at 105.

an issue identified throughout the agency.²³ Microlessons can also be used for the benefit of the whole department and not just the team of the involved officers.

a. Heightened awareness of surroundings

In this case, the officers were traveling at high speeds on I-90 and trying to apprehend a suspect who was approaching them head-on, at high speeds, while trying to evade law enforcement. A member of the CPRB raised the issue that Officers A, B, and C should have heightened awareness of their surroundings in this situation.

b. Radio discipline

Applicable policies:

SPD Policy 314.3.3 Primary Unit Responsibility.

The initial pursuing unit will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless it is unable to remain reasonably close enough to the violator's vehicle.

Notify Dispatch and a Supervisor immediately upon initiating a vehicle pursuit that a vehicle pursuit has been initiated and provide information including, but not limited to:

- A. Reason for the pursuit.**
- B. Location and direction of travel.**
- C. Speed of the fleeing vehicle.**
- D. Description of the fleeing vehicle and license number, if known.**
- E. Number of occupants in the vehicle.**
- F. The identity or description of the known occupants.**
- G. Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.**
- H. Traffic conditions, vehicular and pedestrian.**
- I. Weather conditions to include road surface.**
- J. Visibility and illumination.**

The officer in the primary unit shall be responsible for broadcasting the progress of the pursuit unless directed otherwise by a supervisor or when practical circumstances indicate. If the primary unit desires they may relinquish the responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft in order to concentrate on pursuit driving.

"Progress" shall mean updating speed, location, direction of travel and traffic conditions.

SPD Policy 314.3.4 Secondar Unit(s) Responsibility

The second officer in the pursuit is responsible for the following:

²³ *Id.* at 103.

- A. The officer in the secondary unit should immediately notify the dispatcher of entry into the pursuit.
- B. Remain a safe distance behind the primary unit unless directed to assume the role of primary officer, or if the primary unit is unable to continue the pursuit.

SPD Policy 314.3.5(D) Pursuit Driving Tactics

The decision to use specific driving tactics requires the same assessment of considerations outlined in the factors to be considered concerning pursuit initiation and termination. The following are tactics for units involved in the pursuit: officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or requested to do so by the primary unit.

In this case, the chain of command was silent on evaluating the officers' radio communications. Officer C kept their radio on the city's radio channel while Officers A and B were listening to the county radio. It appears that from the moment officers activated their BWC up to the collision, Officers A and B were listening to county radio and Officer B was reiterating information to Officer A. SPD Policy 314.3.3 requires the primary unit, Officers A and B, to communicate various factors to radio such as location and speed. If Officer B communicated their actions in pursuing with radio, it was not audible. Setting aside the issue that Officer C was on a different radio channel, had Officer B communicated their actions, it would have alerted Officer C that they saw the suspect coming head-on and the reason for slowing down. Had they communicated their attempted maneuver, it would have given others listening in on the call, such as the supervisor, an opportunity to terminate the pursuit.

Additionally, officers should be reminded that SPD Policy 314.3.5(D) requires that when officers are in pursuit, they should not attempt to pass other units unless there is some communication to do so.

Recommendation 24-8: SPD should use this incident to provide departmentwide scenario-based training in pursuits, specifically reminding officers to maintain hyperawareness of their surroundings and in radio discipline during pursuits.

Role of supervisors in pursuits

Applicable policies:

SPD Policy 314.2.3 Prohibited Actions

Sworn employees will not pursue violators while they are traveling the wrong way on any freeway, freeway frontage road, divided highway, or one-way street.

314.6.2 Pursuits Extending into This Jurisdiction

SPD Policy 314.2.4 Speed Limits

The speed of a pursuit is a factor that should be evaluated on a continuing basis by the officer and supervisor. Evaluation of vehicle speeds shall take into consideration public safety, officer safety and the safety of the occupants of the fleeing vehicle. Should high vehicle speeds, for the surrounding environment, be reached during a pursuit, officers and supervisors shall also consider these factors when determining the reasonableness of the speed of the pursuit.

When speeds are such that the immediate risks to the public and officer(s) exceed the interest in the apprehension of the suspect, the pursuit WILL BE terminated (see 314.2.3 above).

SPD Policy 314.2.2 Shift Commander Authorization of Pursuits

When probable cause exists to believe a crime was committed for which initiation of pursuit is authorized by RCW 10.116.060 but is not otherwise authorized under SPD Policy 314.2.1, a shift commander (or higher) may give authorization for pursuit under exceptional circumstances. The shift commander must give great consideration to the factors outlined in SPD Policy 314.2.1 and 314.2.2 in determining whether to authorize a pursuit initiation, and to allow pursuit continuation, under exceptional circumstances. Authorization shall not be given unless the risk to the public created by failing to immediately apprehend the suspect outweighs the risk created by the vehicle pursuit. Shift commander authorization does not alleviate the involved officers of their responsibilities under SPD Policy 314. The authorizing shift commander shall complete a report detailing their justification for authorization of the pursuit.

SPD Policy 314.2.3(F) When to Terminate a Pursuit

Pursuits shall be discontinued 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 safety risks associated with the vehicular pursuit are considered to be greater than the safety risks of failing to apprehend or identify the person. The primary responsibility to continue a pursuit or to terminate lies with the pursuing officer(s).

The factors listed in Policy Manual § 314.2.1 are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to motorists and themselves when electing to continue a pursuit.

Pursuits will be immediately terminated under the following condition(s): hazards to uninvolved bystanders or motorists outweighs the need for apprehension.

SPD Policy 314.4 Supervisory Control and Responsibility

- A. It is the policy of this department that there will be supervisory oversight of the pursuit. The field supervisor of the officer initiating the pursuit, or if unavailable, the nearest field supervisor will be responsible for the following:**
- 1. Advise dispatch that they are monitoring the pursuit.**
 - 2. Consider alternatives to the vehicular pursuit.**
 - 3. Immediately ascertain all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established department guidelines.**
 - 4. Consider relevant factors affecting public safety, such as whether there are minors present in the vehicle.**
 - 5. In only extreme circumstances engage in the pursuit to provide on scene supervision. Supervisors directly involved cannot monitor the pursuit.**
 - 6. Exercise management and control.**
 - 7. Ensure that no more than the number of required police units needed are involved in the pursuit under the guidelines set forth in this policy.**
 - 8. Direct that the pursuit be terminated if, in his/her judgment, it is unjustified to continue the pursuit under the guidelines of this policy.**
 - 9. Ensure that aircraft are requested if available.**
 - 10. Ensure that the proper radio channel is being used.**
 - 11. Ensure the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this agency.**
 - 12. Comply with agency procedures for coordinating with other pursuing officers and jurisdictions.**
 - 13. Control and manage SPD units when a pursuit enters another jurisdiction.**
 - 14. Complete additional reports as necessary and/or Pursuit Review Report. A Pursuit Review will only be conducted when the officer's intentional actions meet the definition of pursuit as defined in this policy.**

In this case, there were various factors that warranted terminating the pursuit such as speed limits and pursuing a suspect driving the wrong way on I-90. While a shift commander may authorize a pursuit under exceptional circumstances, it was unclear what the supervisor's thought process throughout the pursuit because there was no documentation of their involvement in the case. It was only in Officer B's report that they said they heard on the radio that Officer D authorized the pursuit. Officer H raised follow up questions for Officer D's decision-making process in their review but it is unclear whether any follow up occurred.

Additionally, the vehicle pursuit policy provides an extensive list of supervisor responsibility in pursuits such as exercising management and control, ensuring the proper radio channels are used, and terminating the pursuit. Again, it is unclear what the supervisor's decision-making process was since there was no report attached.

Under SPD Policy 314.2.2, the authorizing shift commander shall complete a report detailing their justification for authorization of the pursuit. In practice, this can be different from the reviewing supervisor, who was a different individual in this case. Officer D authorized the pursuit but Officer E wrote the supervisor review. The OPO conducted a review of SPD's 2023 pursuits to determine whether it is SPD's practice for the authorizing supervisor to write reports detailing their justification. In 2023, SPD had 12 pursuits. In 9 out of 12 cases, the reviewing supervisor was the same person who approved the pursuit. In 2 out of the 12 cases, a different supervisor authorized the pursuit and did not write a report. In 1 out of the 12 cases, pursuit procedures were not followed because the pursuing officer did not believe they were in a pursuit.

Recommendation 24-9: SPD should ensure all supervisors who authorize pursuits write a report detailing their justification for the pursuit pursuant to SPD Policy 314.2.2.

Duty to intervene

Applicable policies:

SPD Policy 314.2.3 When to Terminate a Pursuit

Pursuits shall be discontinued 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 safety risks associated with the vehicular pursuit are considered to be greater than the safety risks of failing to apprehend or identify the person. The primary responsibility to continue a pursuit or to terminate lies with the pursuing officer(s).

SPD Policy 301.9 Duty to Intervene and Report

When officers witness violations of the law and/or department policies, regardless of their rank, they are required to intervene according to the following guidelines:

- 1. Any on-duty Spokane Police Officer who witnesses another peace officer engaging or attempting to engage in the use of excessive force against another person shall intervene when in a position to do so to end the use of excessive force or attempted use of excessive force, or to prevent the further use of excessive force. A peace officer shall also render aid at the earliest safe opportunity in accordance with RCW 36.28A.445, to any person injured as a result of the use of force.**
- 2. Any on-duty Spokane Police Officer who witnesses any wrongdoing committed by another peace officer, or has a good faith reasonable belief that another peace officer committed wrongdoing, shall report such wrongdoing to the witnessing officer's supervisor or, in the absence of their supervisor, any other available supervisor, and that notification shall follow through the chain of command to the Office of the Chief of Police.**

3. **Officers shall not be disciplined or retaliated in any way for intervening in good faith or for reporting wrongdoing in good faith as required by this section.**
4. **The Spokane Police Department, in compliance with state law, shall send notice to the criminal justice training commission of any disciplinary decision resulting from an officer's failure to intervene or failure to report as required by this section to determine whether the officer's conduct may be grounds for suspension or revocation of certification under RCW 43.101.105. This notification shall occur within 15 days of any disciplinary decision.**
5. **For purposes of this section:**
 - a. **"Excessive force" means force that exceeds the force permitted by law or policy of the witnessing officer's agency.**
 - b. **"Peace officer" refers to any general authority Washington peace officer.**
 - c. **"Wrongdoing" means conduct that is contrary to law or contrary to the policies of the witnessing officer's agency, provided that the conduct is not de minimis or technical in nature.**

The officers' BWC were all approximately five minutes long from when they activated their cameras to when the incident occurred. The OPO acknowledges this was a rapidly evolving, low frequency type of situation and that Officer A is a reserve officer and is junior to and relies on direction from full-time officers. Officer A's report did not give much insight into their state of mind other than they were following directions and feared the suspect may hit them. However, when an officer is provided an instruction that will likely endanger and cause harm to the public and they are the one driving the vehicle, they have a responsibility to intervene and terminate the pursuit.

The Guide provides that vehicle pursuit policies should make it clear that anyone, regardless of rank can decide that the pursuit should be discontinued if, in their assessment, the risks of the pursuit are no longer justified.²⁴ In addition, the policy should communicate what officers are expected to do once this decision is made. At a minimum, these actions should include:²⁵

- turning off emergency lights and siren;
- communicating their location to the dispatcher;
- reducing speed and complying with all traffic laws;
- verbally acknowledging the instruction to terminate the pursuit.

²⁴ *Id.* at Recommendation 2.4.

²⁵ *Id.*

Summary of Recommendations

1. **Recommendation 24-5**: SPD should adopt a critical decision-making model or something similar regarding pursuits. The use of a decision-making model can assist officers and supervisors in deciding whether to initiate a pursuit, gathering and evaluating information during the pursuit, and deciding when to discontinue. SPD should also develop specialized training for other personnel (e.g., supervisors, communications personnel, incident commanders) who may play a role in a pursuit or pursuit review.
2. **Recommendation 24-6**: In-service training on the vehicle pursuit policy should occur at least once per year and could include both in-service and roll call components.
3. **Recommendation 24-7**: SPD should consider purchasing, sharing, or leasing a driver simulator that can incorporate scenario-based and decision-making training to provide practical refresher training.
4. **Recommendation 24-8**: SPD should use this incident to provide departmentwide scenario-based training in pursuits, specifically reminding officers to maintain hyperawareness of their surroundings and in radio discipline during pursuits.
5. **Recommendation 24-9**: SPD should ensure all supervisors who authorize pursuits write a report detailing their justification for the pursuit pursuant to SPD Policy 314.2.2.