Bismarck POLICE

February 3, 2023

From: Dave Draovitch
Chief of Police

To: Senator David Clemens, Chairman, and Members of the Transportation Committee

Subj: SB 2348

I come before you today to seek your support for SB 2348. The City of Bismarck, as well as many other communities in ND, are experiencing many incidents of people fleeing from the police when we initiate a traffic stop. Sometimes the officers don't even get a chance to initiate a stop, the people flee as soon as they see the police car.

The way people flee from the police is without regard for the public's safety. I am amazed that we have not had more serious accidents in which people are seriously injured or killed. In fact, I am very thankful that two of our officers were not killed when a fleeing suspect hit their police car at 70-80 MPH. The officers had no idea there was a fleeing vehicle in the area as the officer that was initiating the stop had no time to warn anyone about the fleeing vehicle. Our public is at this same risk every time a vehicle flees from the police.

There are so many dangerous fleeing incidents that we have teamed with the North Dakota Highway Patrol (NDHP) and the North Dakota National Guard (ND NG) for air support to run special operations in an effort to catch those responsible for the fleeing incidents. These efforts have been successful, but it is not possible to have these special operations on a consistent basis.

I have also submitted our 2022 Pursuit Analysis/Attempting to Elude Incidents report for your review. I believe the report will give you a clear view of what we are facing.

Although I cannot speak to specifics, many of the Chiefs of Police across the State of North Dakota experience similar issues and have similar concerns as we do in Bismarck.

I thank you for the time I have been allowed to provide information about this very important Bill and I thank you for considering supporting it as it is written today.

If you have any questions feel free to contact me at your convenience. I may be reached at ddraovitch@bismarcknd.gov or 701-223-1212.

Dave Draovitch, Chief of Police
Phone: 701-223-1212 • Fax: 701-355-1861 • 700 South 9th Street • Bismarck, ND 58504-5899
www.bismarcknd.gov • TDD 701-221-6820 • An Equal Opportunity-Affirmative Action Employer

Respectfully,

DAVE DRAOVITCH
Chief of Police

Dave Draovitch, Chief of Police
Phone: 701-223-1212 • Fax: 701-355-1861 • 700 South 9th Street • Bismarck, ND 58504-5899
www.bismarcknd.gov • TDD 701-221-6820 • An Equal Opportunity-Affirmative Action Employer

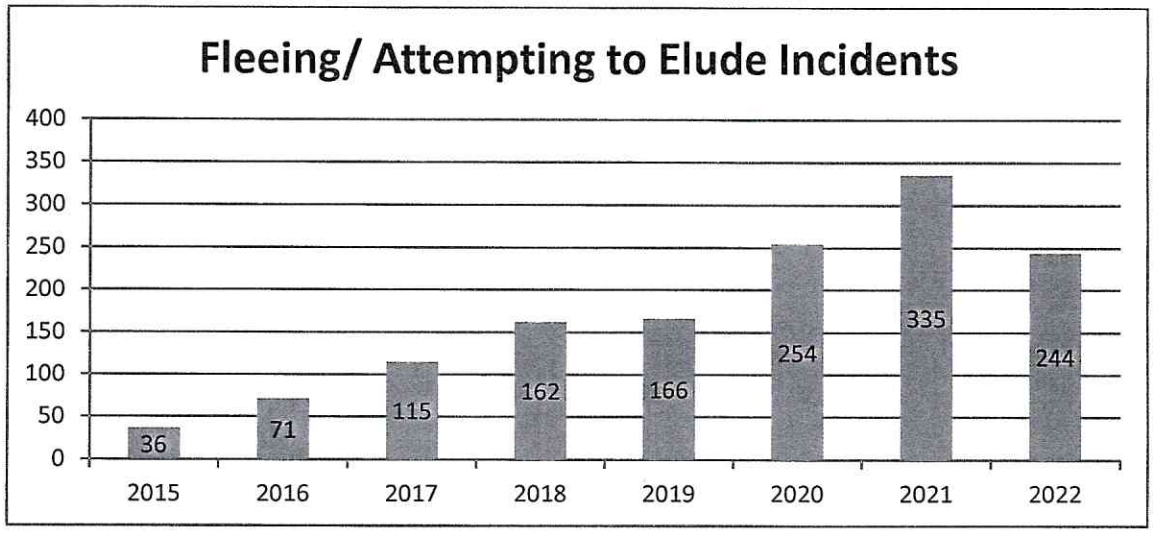
2022 Summary

Pursuit Analysis / Attempting to Elude Incidents

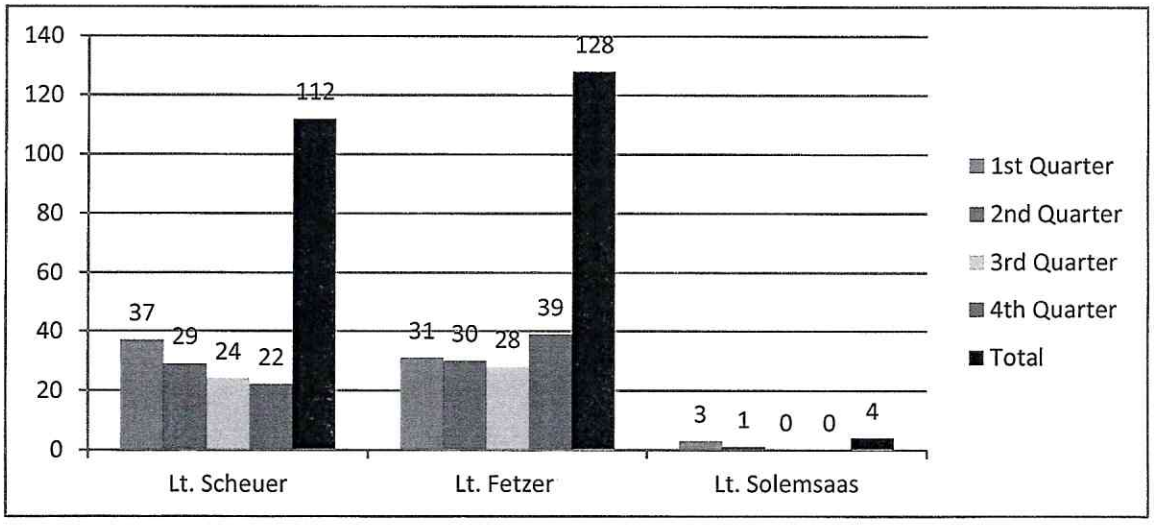
Lt. Jeff Solemsaas

Traffic Commander

In 2022 there were a total of 244 reported instances of a vehicle pursuit/attempting to elude, which is down from 355 in 2021. This data is used to attempt to identify trends or patterns that may exist and also to suggest any possible changes to the current department policy governing pursuits/attempting to elude incidents. The Bismarck PD has a limited pursuit policy that restricts officers from engaging in pursuits unless certain criteria are met. There is a misconception that the department has a "no pursuit" policy but it is, in fact, a limited pursuit policy which is similar to what a large number of law enforcement agencies are using at the present time.



The following is the breakdown by shift for pursuits/attempts to elude occasions for 2021 by quarter:



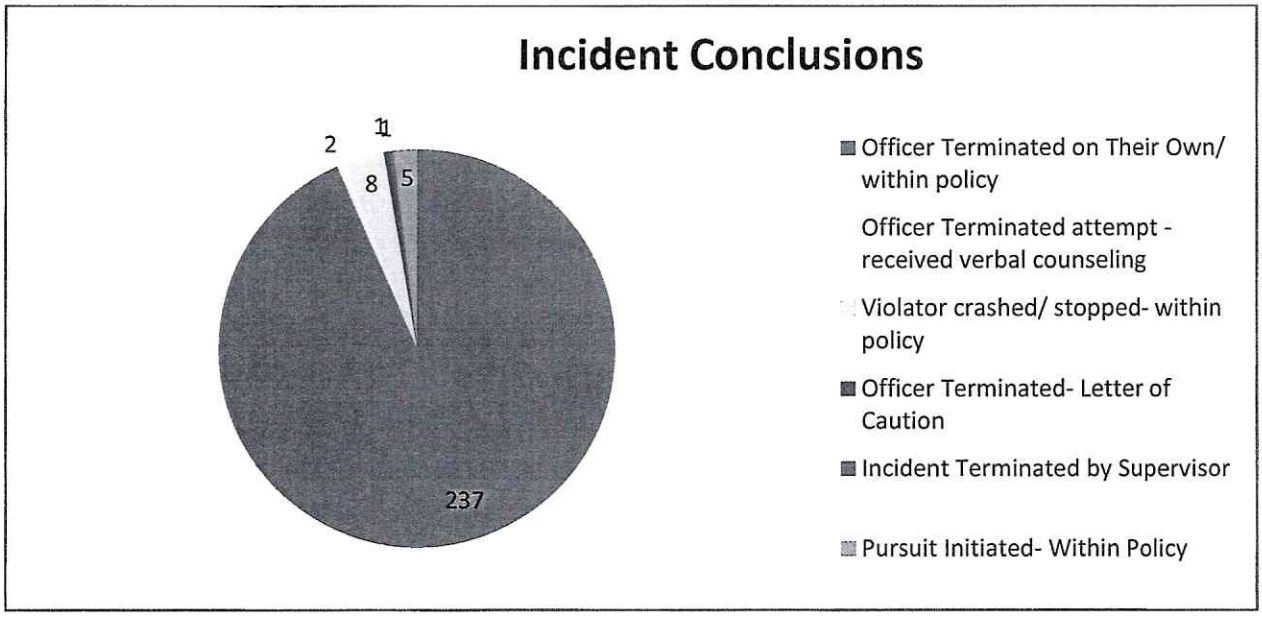
Historically, the most frequent occurrence of a driver fleeing from an attempted traffic stop occurs during the nighttime hours. In 2022 research shows that the majority of instances in which a driver flees from officers continue to follow that trend. There were 157 occasions (64%)

that happened at night, leaving 36% (87 occasions) occurring during the daytime hours. This is the same ratio of nighttime versus daytime occasions from 2021. This is also a very similar ratio from the last several years. For the purpose of establishing this ratio, the shift schedule time was used so that any incident between 0700 hours and 1900 hours is considered as daytime, 1900 hours to 0700 hours is considered nighttime.

When officers are presented with the decision to pursue or to not pursue, in the majority of circumstances, they are making the correct decision to follow the department policy. As noted previously, there were a total of 244 incidents involving the use of a vehicle to flee from an attempt to stop that vehicle. In 237 of those instances (97%), the officer involved terminated the attempt to stop on their own without the direction of a supervisor/commander. For this calculation I used the fact that the officer terminated on their own even if the result was either verbal counseling or a letter of caution from the supervisor. There were 8 (3%) incidents in which the violator crashed his/her vehicle or stopped on their own.

In 2022 there were four (4) instances in which a pursuit was judged to have been initiated. In all cases the pursuit was considered within policy. There were two (2) cases in the 1st quarter, in one case the suspect crashed and was taken into custody. The second case was terminated at the orders of the field supervisor.

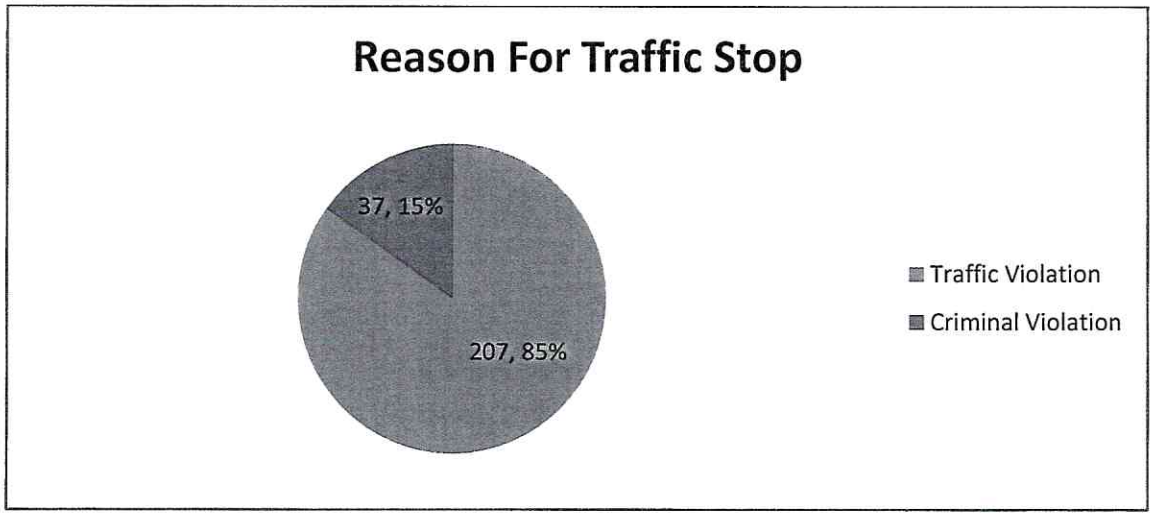
There were also two cases in the 2nd quarter, in one , the suspect was involved in a collision and was taken into custody. In the second case the ND Highway Patrol and Burleigh County Sheriffs department assisted with the suspect vehicle being forced to stop with the use of spike strips. All of these was considered to be within policy and authorized.



Please note that the statistics will total more than the total number of incidents due to the fact that a single occasion may have more than one factor. An example would be a pursuit initiated and then having a field supervisor ordering termination. Also, an officer may be authorized but receive discipline for their driving during the event.

There has been a concentrated effort to educate the officers of the importance of following the department policy regarding pursuits. In the past there was a perception that a supervisor or commander had to order the pursuit to be terminated. All officers should now understand that they have the expectation and obligation to "self-terminate" the attempt to stop a fleeing vehicle. Since the training has been expanded there has been a greater understanding of the expectations and officers are more likely to discontinue the attempt to stop on their own without the guidance of a supervisor/commander.

In 2022 the most common reason for the initial attempt for a traffic stop was for a traffic violation. Of the 244 reported instances, 207(85%) were for a traffic violation that the officer observed. The other reason for a traffic stop was for a criminal violation such as physical assault or the driver/occupant was wanted for a criminal violation; these occasions account for 37 (15%) of the total incidents in 2022.



Under the current Bismarck Police Department policy roadblocks are only to be used in cases of emergency in order to capture persons wanted for criminal violations. In 2022 there were no cases of a roadblock being used. The likelihood of using the spike strips in a pursuit situation are somewhat limited in that the department has very few authorized vehicle pursuits and

when they do occur there is limited time given to properly utilize the spike strips. AS noted previously, there was one instance in which spike strips were used by another agency assisting with the fleeing vehicle.

The policy of having commanders review and discuss the incidents with the officers has reinforced the importance that the department has placed on adherence to the policy. Even when officers have violations of the policy, the commanders are able to openly discuss why the policy is such a critical element in the safety of the officers and the community. This has also led to the perception that the department is not looking to punish officers for violations of policy but only to stress the importance of following the policy and the liability for the city and department that comes from vehicle pursuits. This, in turn, makes it more likely that officers will report instances in which the driver fails to obey with the order to stop.

With the large increase in the number of drivers that are fleeing/ attempting to elude officers it would be prudent to look at some possible strategies that would help lower the occurrences. As noted previously, some officers are working with the States Attorney's office to impound vehicles that are frequently involved in fleeing instances. Another possible goal would be to increase the penalties to the drivers of vehicles that flee officer's attempts to conduct traffic stops. In a previous legislative session, a bill was adopted that enhanced the penalties for drivers that flee from law enforcement officers when done so recklessly. The purpose of this bill was to deter and reduce the number of drivers fleeing from officers. In speaking with officers this criminal charge has been used seldomly and, on face value, it appears that it has had no impact reducing the number of violators that chose to flee from an attempted traffic stop. There also appears to be little appetite to seize vehicles with the current legal climate.

There were a couple of special enforcement events that occurred in 2022 involving the use of a Highway Patrol airplane. The plane was used to follow the suspect after officers had discontinued the attempt to stop the suspect vehicle after it had fled. The department announced the enforcement and the results through various media releases and social media postings. There seemed to be a slight decline in the number of fleeing vehicles after the special enforcement events. There are more events planned for 2023. With these events I will more closely monitor the behavior of fleeing drivers to determine the effectiveness of using aerial surveillance.

It appears that the training of the officers has been successful which is reflected in the high voluntary compliance with the expectation of self-termination when the officers are faced with a "pursue/don't pursue" situation. In the fall of 2021 a 'refresher" course was established that was presented to the sworn staff to reinforce the importance of policy adherence. This is now an annual requirement during the department's annual in-house training.

Respectfully submitted,

Lt. Jeff Solemsaas