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# Douglas County Sheriff

## Vehicle Pursuit Report

### Incident Details

<b>Date Received</b>	<b>Date of Occurrence</b>	<b>Time of Occurrence</b>
01/31/2021	01/31/2021	06:42
<b>Record ID Number</b>	<b>Case / Incident #</b>	<b>IA #</b>
6498	2021-00008655	21PUR-015
<b>Date/Time Entered</b>	<b>Entered By</b>	
01/31/2021 08:24	Sergeant Brian Wunderlich	
<b>Douglas County Sheriffs Office Assigned Investigator</b>	<b>IAPro Assigned Investigator</b>	
Sergeant Brian Wunderlich	Lieutenant Todd Tucker	

### Incident Summary

Name of involved member(s): Lt. [REDACTED] - Cpl. Mark Tracy

Specific Allegation: Pursuit

Disposition:

Synopsis:

On 013121 at 0642 hours, Corporal Mark Tracy observed a male inside a white Chevrolet Tahoe with the driver's side door open, as a 2008 Ford Explorer was parked in the street facing the opposite way next to the Tahoe. Cpl. Tracy turned his emergency lights on, and as he was reaching for his spot light, a shadow figure jumped from the Tahoe into the Ford Explorer and left at a high rate of speed.

Cpl. Tracy turned around and attempted to stop the 2008 Ford Explorer, (Co. Lic. Plate AGOE91), on Burgundy. At that time Cpl. Tracy said that there was a failure to yield, and there was a confusion between Cpl. Tracy calling in the plate, and dispatch transposing the plate. As the Explorer turned left off of Burgundy to north bound Broadway, Lt. [REDACTED] said that he saw the Ford Explorer north bound Broadway at Highlands Ranch Parkway at approximately 70 miles an hour. Cpl. Tracy was behind the Explorer however; Cpl. Tracy's siren was not functioning properly, and Lt. [REDACTED] then became the primary pursuit vehicle from Dad Clark and Broadway to east bound C470. There was a confusion on the confirmation of the explorer's license plate and if the vehicle was in fact just a suspicious vehicle or a stolen vehicle. Lt. [REDACTED] then terminated the pursuit simultaneously as dispatch aired the Explorer was stolen.

State of Colorado, County of Douglas  
Certified to be a full, true, and correct  
copy of the original in my custody  
Darren M. Weekly

Sheriff of Douglas County  
By EAgUILAR 1733 Digitally signed by EAgUILAR 1733  
Date: 2023.06.29 13:42:31 -0600  
10 Pages

It was later found that there were several Vehicle Trespasses in that area of Broadway.

Only Lt. [REDACTED] BWC was activated. Cpl. Tracy's electronics were not working appropriately, such as the volume on the siren, camera's not activating with the light bar turned on.

## Incident Location

### Addresses

641 Burgundy Street, Highlands Ranch, CO, 80126  
District 12

- Location of Occurrence: District 12

## Vehicle Pursuit Details

Reason Pursuit was Initiated	Time of Day of Pursuit	Duration in Minutes	Initial Violation
Stolen Vehicle	0601 - 1200	2	Stolen vehicle
Weather Condition	(mph)	Pursuit Distance	Type of Vehicle Pursued
Clear	70	1 to 2 miles	Automobile
Beginning Location	Ending Location	Agency Initiating Pursuit	Agency Ending Pursuit
District 2	District 2	Douglas County Sheriff	Douglas County Sheriff
Event that Concluded Pursuit	DUI Factors	Aerial Vehicle available	Aerial Vehicle used
Called off by Officer	None Suspected	No	No
Stop Device Used	Stop Device Type	In car camera available	In car camera used
No	[None Entered]	No	No
Video ID Number	DUI Arrest	Liability claim filed	Pursuit was terminated
[None Entered]	No	No	Yes
Pursuit Aborted By	Pursuit was justified	Accident Occurred	
Supervisor	No	No	
Type of Property Damage	Parties Injured	Suspect Vehicle Amount	Police Vehicle Amount (\$)

(\$)			
[None Entered]	[None Entered]	\$0.00	\$0.00
Parked Vehicle Amount (\$)	Property Damage Amount (\$)	Other Amount (\$)	
\$0.00	\$0.00	\$0.00	
Offender Sex	Offender Age	Offender Race	
Unknown	0	Unknown	

## Involved Members

**Lieutenant** [REDACTED]

**Assignment at time of incident:** Lieutenant Law Enforcement/Patrol/Days A **Video Footage:** [None Entered]

**Role:** [None Entered]

**Linked Allegations**

- Pursuit Guidelines and Procedures - Within Policy - 03/01/2021
  - No policy violation - 03/01/2021

**Injuries Sustained By Member**

No injury

**Corporal Mark Tracy**

**Assignment at time of incident:** Corporal Law Enforcement/Patrol/Days A **Video Footage:** [None Entered]

**Role:** [None Entered]

**Linked Allegations**

- Pursuit Guidelines and Procedures - Not Within Policy - 03/01/2021
  - Guradian Tracker Entry - 03/01/2021
- Verbal Reprimand - 03/03/2021

**Injuries Sustained By Member**

No injury

**Tasks**

Task Description	Date Due	Date Completed	Summary
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**Running Sheet Entries**

No running sheet entries to show

**Attachments**

Date Attached	Attachment Description	Attachment Types
01/31/2021	Cpl. Tracy's Report	pdf
01/31/2021	Lt. [REDACTED] BWC	
01/31/2021	Lt. [REDACTED] Supplement Report	pdf
01/31/2021	Sound Wave. Audio of Pursuit	wav
01/31/2021	CAD Notes	pdf
01/31/2021	Lt. [REDACTED] and Cpl. Tracy's GT	pdf

**Assignment History**

Date/Time Sent	From	To	Activity
02/01/2021 07:21	Lieutena T Tucker		Field status changed in IAPro from In chain to Released
02/01/2021 07:21	Lieutena T Tucker		Released back to IAPro

02/01/2021 07:22	Lieutena T Tucker		Field status changed in IAPro from Released to Field assigned
02/01/2021 07:22	Lieutena T Tucker	Deputy [REDACTED] [REDACTED]	IAPro assigned
02/03/2021 01:38	Deputy [REDACTED] [REDACTED]	Sergeant Brian Wunderlich	Incident re-assigned by Lieutenant [REDACTED] to Sergeant Brian Wunderlich for further work-up.
03/03/2021 15:48	Captain [REDACTED] [REDACTED]		Field status changed in IAPro from Completed - in holding bin to Released

## Chain of Command History

### Routing Number: 1

**From** [Snapshot Title Unavailable] Brian Wunderlich

**To** Lieutenant [REDACTED]

**Cc:**

**Date/Time Sent** 01/31/2021 10:58

**Instructions From** [ [Snapshot Title Unavailable] Brian Wunderlich ] **To** [ Lieutenant [REDACTED] ]

2021-00008655 Pursuit

**Comments/Response From** [ Lieutenant [REDACTED] ]

Routing was NOT handled in BlueTeam. The incident was forwarded into IAPro by IAPro user Sergeant Todd Tucker

### Routing Number: 2

**From** [Snapshot Title Unavailable] Todd Tucker

**To** [Snapshot Title Unavailable] [REDACTED]

**Cc:**

**Date/Time Sent** 02/01/2021 07:22

**Instructions From** [ [Snapshot Title Unavailable] Todd Tucker ] **To** [ [Snapshot Title Unavailable] [REDACTED] ]

Pursuit Number Assigned

**Comments/Response From [ [Snapshot Title Unavailable] ██████████ ]**

[Lieutenant ██████████ has re-assigned the incident to Sergeant Brian Wunderlich]

**Routing Number: 3**

**From [Snapshot Title Unavailable] ██████████**

**To** Sergeant Brian Wunderlich

**Cc:**

**Date/Time Sent** 02/03/2021 01:38

**Instructions From [ [Snapshot Title Unavailable] ██████████ ] To [ Sergeant Brian Wunderlich ]**

Sgt. Wunderlich,

Please review your synopsis. Also, attach Lt. ██████████ dash camera video footage.

**Comments/Response From [ Sergeant Brian Wunderlich ]**

[Forwarded by Sergeant Brian Wunderlich without completion notes]

**Routing Number: 4**

**From [Snapshot Title Unavailable] Brian Wunderlich**

**To** Lieutenant ██████████

**Cc:**

**Date/Time Sent** 02/03/2021 12:44

**Instructions From [ [Snapshot Title Unavailable] Brian Wunderlich ] To [ Lieutenant ██████████ ]**

Please review. I believe I corrected the issues.

**Comments/Response From [ Lieutenant ██████████ ]**

On January 31, 2021, I, Lt. ██████████ was assigned 21PUR-15 for review.

On Sunday, January 31, 2021, Corporal Mark Tracy observed a white Ford Explorer, CO registration AGOE91 parked facing north on Burgundy St. A 2004 white Chevy Z71 was parked next to the Ford Explorer facing South. Deputy Tracy activated his emergency overhead lights to investigate the suspicious circumstance. Deputy Tracy observed an individual enter the Ford Explorer and "drive-up" Burgundy St. towards Broadway St. The plate was aired to Douglas County Regional Dispatch. The Ford Explorer made a "late stop" at the stop sign from Burgundy St onto S. Broadway. Turning northbound the Ford Explorer began traveling north

on Broadway St. Deputy Tracy aired the Ford Explorer was failing to yield. Lt. [REDACTED] observed the Ford Explorer northbound on Broadway St. at Northridge. Lt. [REDACTED] aired the vehicle was traveling at speeds of 70 MPH, prima facia evidence that Ford Explorer was eluding marked Douglas County squad cars. The return on the registration had yet to be aired by Douglas County Regional Dispatch. The Ford Explorer merged onto C470 eastbound when Lt. [REDACTED] asked for charges on the vehicle. Deputy Tracy aired a suspicious vehicle. Lt. [REDACTED] immediately terminated the pursuit. At the time Lt. [REDACTED] was airing terminate, Deputy [REDACTED] aired the Ford Explorer was a stolen vehicle. It is indicated in CAD notes that Douglas County Regional Dispatch transposed the numeric 9 and 1 running the registration plate AGOE19 versus AGOE91.

#### Initiation:

The relative vehicle positioning of the Ford Explorer in the street and the furtive movement of the subject who moved from the Chevy parked on the street to the Ford Explorer that was parked adjacent meets the threshold of reasonable suspicion. Upon attempted contact, the operator of the Ford Explorer fled. Deputy Tracy was reasonable in stating the vehicle was failing to yield since no overt action to elude law enforcement was evident. When the vehicle turned northbound on to S. Broadway St. and accelerated to 70 MPH at Northridge, demonstrated an overt action to elude law enforcement initiating a pursuit. While probable cause wasn't fully developed, the transposing of the numbers by Douglas County Regional Dispatch delayed attaining probable cause to pursue the Ford Explorer. If the license plate was entered accurately, probable cause would have existed to pursue the Ford Explorer. Deputy [REDACTED] aired the vehicle was stolen upon entering the correct license plate into CCIC at the same moment Lt. [REDACTED] terminated the pursuit. When taking a black and white stance on the initiation of the pursuit, this pursuit would be out of policy. However, human error precluded the gathering of probable cause which would have been obtained prior to the pursuit. Eliminating the human error factor, the initiation of the pursuit is within policy.

#### Continuation:

The continuation of the pursuit is within DCSO policy. The pursuit of the Ford Explorer lasted less than 30 seconds. Based upon the totality of the circumstance, a reasonable amount of time was used to gather as many facts as possible. Once the facts were not present, the pursuit was terminated. Therefore, the continuation of the pursuit is reasonable and within DCSO policy.

#### Termination:

The termination of the pursuit is also within DCSO policy. Tactical means to end the pursuit were not in place. Additionally, probable cause the Ford Explorer was stolen wasn't derived until after the pursuit was terminated.

#### Conclusion:

Circumstances surrounding attaining probable cause of a stolen vehicle can be difficult to achieve. The circumstances in this situation were rapidly evolving. DCSO policy states probable cause is to exist prior to initiating a pursuit. Corporal Tracy did not initially pursue the vehicle assessing the Ford Explorer was failing to yield. Corporal Tracy aired an accurate Colorado registration plate, and the plate was transposed by dispatch. It would have been discovered, prior to pursuit initiation, probable cause existed the Ford

Explorer was stolen. A reasonable amount of time was allowed to gather facts establishing probable cause. Once it was determined probable cause has not been attained the pursuit was terminated. Based upon the totality of circumstance the initiation, continuation, and termination are within DCSO policy.

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**Routing Number: 5**

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**From** [Snapshot Title Unavailable] [REDACTED]

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**To** Captain Holly Nicholson-kluth

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**Cc:**

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**Date/Time Sent** 02/09/2021 23:37

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**Instructions From** [ [Snapshot Title Unavailable] [REDACTED] ] **To** [ Captain Holly Nicholson-kluth ]

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Captain,

I have reviewed this pursuit and provided an opinion.

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**Comments/Response From** [ Captain Holly Nicholson-kluth ]

[Forwarded by Captain Holly Nicholson-kluth]

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**Routing Number: 6**

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**From** [Snapshot Title Unavailable] Holly Nicholson-kluth

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**To** Chief Deputy Kevin Duffy

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**Cc:**

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**Date/Time Sent** 02/25/2021 11:10

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**Instructions From** [ [Snapshot Title Unavailable] Holly Nicholson-kluth ] **To** [ Chief Deputy Kevin Duffy ]

I was on the radio listening to this pursuit. There was confusion due to dispatch not coming back with the plate as stolen although another officer, Deputy [REDACTED] confirmed it was a steal. Lt. [REDACTED] had to ask dispatch if the plate had come back stolen to which they eventually said it was, but he had terminated the pursuit by then. There was a short period of time when there was a failure to yield, and then a short pursuit , 1 min 20 sec, while Cpl. Tracy waited for confirmation of the plate's clearance, but I believe this amount of time was appropriate, based on the airing of the plate as stolen by Deputy [REDACTED]. However, it appeared that this was not heard by either Lt. [REDACTED] or Cpl Tracy as when Lt. [REDACTED] asked what the charges were to justify the pursuit, Cpl Tracy stated "suspicious person" since dispatch had not yet cleared the plate, (they had transposed numbers and therefore did not return that the plate was stolen.) It was immediately terminated, again, this occurred about 1 and 1/2 minutes into the pursuit.

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**Comments/Response From** [ Chief Deputy Kevin Duffy ]

In reviewing the reports by both Cpl. Tracey & Lt. [REDACTED] I do not believe that Cpl. Tracey was following the pursuit policy and guidelines. I also felt that the documentation of the this incident was of very poor quality and sent the following to Captain Nicholson-Kluth. I am forwarding this onto to IA with no further action being asked of by IA other than this will serve as proper documentation that Cpl. Tracey is on record for not following the Pursuit Policy.

To Capt. Nicholson-Kluth:

I was going over this Blue Team and have some questions and input. I am going to send this through as no significant policy violation occurred, but that this was not within current Pursuit policy. I also feel that there was some issues I want to address. Your statement in Blue Team was:

I was on the radio listening to this pursuit. There was confusion due to dispatch not coming back with the plate as stolen although another officer, Deputy [REDACTED] confirmed it was a steal. Lt. [REDACTED] had to ask dispatch if the plate had come back stolen to which they eventually said it was, but he had terminated the pursuit by then. There was a short period of time when there was a failure to yield, and then a short pursuit , 1 min 20 sec, while Cpl. Tracy waited for confirmation of the plate's clearance, but I believe this amount of time was appropriate, based on the airing of the plate as stolen by Deputy [REDACTED] However, it appeared that this was not heard by either Lt. [REDACTED] or Cpl. Tracy as when Lt. [REDACTED] asked what the charges were to justify the pursuit, Cpl. Tracy stated "suspicious person" since dispatch had not yet cleared the plate, (they had transposed numbers and therefore did not return that the plate was stolen.) It was immediately terminated, again, this occurred about 1 and 1/2 minutes into the pursuit.

I agree that a pursuit was initiated that only last about 1min 20 sec, but a pursuit was initiated by Cpl. Tracey. My first issue that this is a very poorly written report by Cpl. Tracy that lacked a lot of details. I also have concerns about the Corporals justification to pursue and continuing to pursue, even though he knew his vehicle siren was not operating and his car camera and BWC didn't activate.

In regards to the quality of the report. On page 6 of his OR, he wrote that a "person" was seen standing at the back of the driver's side door of the Chevy. When Cpl. Tracey came up behind the vehicle the "person walked back to the Ford and began to pull forward." Nothing about him getting into the car, was the Ford already running or did he start it, did he get a better look at the suspect with any description? Minor details but the person goes from walking to the Ford to pulling forward. He then wrote that he "made a late stop at the sign." Not even sure I know what he means by a "late stop." Cpl. Tracey called out a "failure to yield", which we all know means he was in pursuit but he didn't have justification to call it that. He suspected the subject was committing a vehicle trespass (property crime) which is not justification to initiate a pursuit. He even stated as much in the report saying that when he aired the plate, he expected it to come back as stolen.

So know he is in a pursuit, his siren isn't working, and were off to the races. Lt. [REDACTED] joined in and the suspect vehicle ran a red light at Broadway and HR Pkwy. Dep. [REDACTED] aired that he had stop sticks so he was trying to set up a way to end the pursuit. When the pass [REDACTED] who wasn't ready for them, this is when Lt. [REDACTED] terminated the pursuit.

Cpl. Tracey completed his report saying, "During the pursuit, my sirens were not operating and my car camera and BWC did not activate." If he knows his siren and camera were not working "during the pursuit," he should have immediately terminated the pursuit himself. Very poor judgment/decision on his part.

He also deactivated this case because no suspect information was known. I know for a fact we have repeatedly asked Patrol NOT to deactivate felonies, just keep them open, the Detective deactivates the cases assigned to them. There may have been evidence (the original Chevy that had the drivers side door ajar) but nothing was written about any follow up on that car or attempt to locate evidence or take the car as evidence for processing. They just talked to the care owner who said his son is the primary driver of the car, was not answering the phone and the owner would talk to his son and they would send an email if anything was missing.

Lt. [REDACTED] report was very short. On page 5 he wrote that he heard Cpl. Tracy was "attempting to stop a suspicious vehicle he believed was involved in a vehicle trespass." (Again, a property crime and not justification for a pursuit). He heard that the car Cpl. Tracey was "following" was "failing to yield." He joined in the pursuit when he saw the car and Cpl. Tracy following with his lights activated. Nothing was mentioned about Cpl. Tracey not having his siren activated (or not activated). Lt. [REDACTED] activated his lights (no mention of a his siren) and began to follow Cpl. Tracey and the suspect vehicle. He was involved in the pursuit for a short period when he asked Cpl. Tracey to inform him of the charges and this is when he learned it was a "suspicious vehicle." He terminated the pursuit (good decision).

It is my belief that both reports lack clarity and detail (especially Cpl. Tracey's) and that a lot can happen in 1min 20sec, and we should not be too quick to excuse things.

I also saw the GT documentation that was done for both Cpl. Tracey and Lt. [REDACTED] recognizing them for a great job for teamwork that they both displayed in this situation. I agree, they demonstrated good teamwork, and that is to be recognized. However, I also feel that what I listed above should have been identified and dealt with as well.

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