

## Police Pursuit

### BACKGROUND

This claim involved a police pursuit and two municipal police departments:

- The evading party was driving a 2001 BMW SUV owned by another party when he failed to stop at a stop sign.
- An officer attempted to stop the BMW for the traffic violation when the driver decided not to stop. The officer then activated his lights and sirens and called into dispatch that he was in pursuit of a BMW that failed to stop at a stop sign.
- Shortly thereafter, a police sergeant from the same town joined the pursuit, near an intersection of a major roadway. The pursuit extended into a bordering town.
- A second police officer from the same town entered as the #3 car in the pursuit.
- The bordering town did not provide any resources and did not engage in the pursuit, since the reason for the pursuit was a minor motor vehicle infraction.
- The BMW driver subsequently failed to make a left turn and struck a tenant-occupied house, crashing through the first floor of the structure and striking the injured the claimant while he slept in bed.
- The BMW driver fled the scene but was subsequently arrested.
- The pursuit lasted approximately thirteen (13) minutes in duration.
- The claimant was found pinned under the vehicle, where he remained for approximately 90 minutes while the fire department performed emergency extrication procedures.
- Per affidavit, the BMW operator had permission use to drive the vehicle but it carried no liability coverage.

### AT-FAULT PARTY INVESTIGATION

- The BMW operator was at fault for the crash, which violated C.G.S. 14-223(b) Engaging in Pursuit; 14-222 Reckless Driving; 53a-49 Criminal Attempt to Commit Assault on a Police Officer; 53a-167 Interfering; and 14-301 Failure to Obey a Stop Sign.
- The BMW operator was held in lieu of a \$1M bond.
- The BMW driver had an extensive criminal record, having been previously arrested approximately 17 times since 1996.

### PURSUIING POLICE DEPARTMENT INVESTIGATION

The State Police conducted the investigation and completed the police report with the following findings:

The pursuing police department

- **Officer 1** – Per the department’s Standard Operating Order 4.07, was found negligent - for failure to comply with any lawful orders, general orders, and directives, either oral or written.
- **Sergeant 1** – Per the department’s Standard Operating Order 4.01, was found negligent - for failure to properly supervise subordinates and take appropriate disciplinary action. Per 4.07, negligent for failure to comply with any lawful orders, general orders, and directives – either oral or written.
- **Dispatcher 1** – Per the department’s Standard Operating Order 4.07, was found negligent - for failure to comply with any lawful orders, general orders, and directives – either oral or written.
- **Officer 2** – No violation of policy found. His role as a back-up unit to Officer 1 was determined to have been a necessity and not a violation of the department’s pursuit policy.

### BORDERING TOWN POLICE DEPARTMENT

- No units pursued the vehicle after discovering the pursuit stemmed from a motor vehicle violation.

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### **DAMAGES/INJURY**

Claimant suffered second and third degree burns to his lower back, buttocks, and right thigh. He also sustained soft tissues injuries to multiple body parts, including a minimally displaced nasal bone fracture. The claimant subsequently underwent extensive skin grafting procedures on various areas, leaving him with permanent scarring. He lost approximately three months from work while recuperating from his injuries.

### **CIRMA LIABILITY ASSESSMENT**

The BMW operator bears responsibility for this injury as does the pursuing police department for violating their pursuit policy. Without any other appropriate insurance coverage, the pursuing town's police department bears negligence as Joint and Several Liability (JSL) applies. Additionally, neither the injured claimant nor property owner bear any responsibility for this incident. Liability was assessed at 40% to the pursuing town and 60% to the BMW driver.

Unfortunately, the presiding court venue would have potentially contained a jury pool that generally awards verdicts which are similar to those awarded by juries for similar cases in other districts, so settlement was entertained.

### **OUTCOME**

The case was successfully settled prior to trial for \$575,000.

### **KEY POINTS**

The police department should continue to conduct ongoing police training relative to their specific pursuit policies, which should be regularly enforced at basic and recertification training programs. Additionally, the police departments should continue to provide defensive driver training for their officers.

**Questions? Ask your Supervisor or contact your CIRMA Risk Management Consultant at (203) 946-3700.**