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PURSUIT POLICIES: A NATIONAL PERSPECTIVE

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INTRODUCTION

One of the most controversial topics within law enforcement today deals with pursuits. One side contends anarchy will exist resulting in the roadways becoming rivers of death and destruction unless police are able to pursue; the other side demands an end to pursuits. They claim that the potential effects of something going wrong far exceed the need to pursue.

Every law enforcement agency hopes to gain voluntary compliance with traffic laws and to apprehend wanted criminals within the respective jurisdictions. However when a violator decides not to comply with lawful direction from an officer, the results may be a pursuit situation.

According to the National Highway Traffic Safety Administration, from 1989 to 1991, 924 people were killed in traffic accidents during police pursuits. Of those killed, 737 were in the vehicle being pursued, 173 were third party participants not involved in the pursuit and nine were police officers who died in the line of duty.¹

In 1990 alone, there were 50,000 pursuits resulting in 314 deaths and some 20,000 injuries, according to NHTSA statistics.² These losses do not include losses of property, the costs of court settlements or the awards given by juries against those officers and/or government agencies involved.

Loss of life, destruction of property, and legal actions brought against police departments should be a major consideration to those involved. This paper considers attitudes from the prospective of the officer and administration and what can be done to minimize the potential hazards. This paper will consider the policy of the Texas Department of Public Safety as well as policies from some other state agencies. It will examine legal aspects through case studies and will discuss possible alternatives to pursuit.

POLICY

Officer needs to know what their departments consider proper action regarding pursuits. The following survey is an attempt to show the range of considerations and how varied they can be. The policies that will be examined fall into one of three models:

1. Discretionary--allowing officers to make all major decisions relating to initiation, tactics, and termination.
2. Restrictive--placing certain restrictions on officer's judgement and decisions.
3. Discouraging--severely cautioning against or discouraging any pursuit, except in the most extreme circumstances.³

These policies are presented in outline form due to the sensitivity of the information.

It is interesting to note some of the similarities or common considerations in these policies.

1. Rules of engagement
2. Communications responsibilities
3. Supervisor responsibilities
4. Termination of pursuits
5. Inter and Intra jurisdictional pursuits
6. Review.

Departments, like the officers who work for them, take pride in the achievement or success to the point that there can be a great deal of pressure placed on officers to win in a pursuit situation. Some of these policies went so far as to claim that there would be no reprimand for officers who terminated a pursuit even if advised by their superiors to continue.

In most pursuit situations, it takes more than emergency lights and a siren to get the pursued vehicle to stop. Some of these policies discuss the following methods for stopping a vehicle; this does not mean that all are sanctioned by the various departments.

1. Roadblocks
2. Ramming
3. Roadspikes
4. Deadly Force.

Each state that participated in this survey commented on the sensitivity of the subject of pursuits. It appears all law enforcement agencies are struggling to come to grips with what the

courts are requiring and what law enforcement officers are sworn to do: to protect the rights, property and lives of citizens for whom they work and those who may pass through their jurisdictions.

It is difficult to develop a policy that encompass all the situations that can occur during a pursuit. In some way, it is as difficult to come up with a policy as a training agenda. Robert Westmoreland of Texas A&M University conducted a study of emergency driver training for municipal police departments in the state of Texas. Westmoreland notes that the State lacks a driver training center. The problem lies in the size and diversity of the state, the driving situations that exist for a trooper in heavily populated areas will be totally different for those in less populated areas. The driving conditions in the wide open areas of West Texas will differ than those in Central or East Texas. Conditions that exist for law enforcement officers in the Dallas Metroplex will not apply to those in Amarillo. Not only are the situations for each pursuit unique, so is the geography, the type of traffic, and the possible mental attitudes of the participants.

Even though state policies are given in their abbreviated form, hopefully, they show the diversity that exist in such policies.

ALABAMA⁵

I	Purpose
II	Policy
III	Justification of Pursuit
IV	Definitions
V	General Considerations
VI	Communications
VII	Supervisory Responsibility
VIII	Pursuit Into Another Troop or Jurisdiction
IX	Pursuit From Another Agency or Jurisdiction
X	Forcible Stops
XI	Termination of Pursuits

ALASKA⁶

I General Provisions

- A Definitions
- B Use In State Business
- C Hunting Prohibited
- D Security

II Vehicle Operations

- A Operation prudent and lawful
- B Seat belt use required
- C Limited Civilians
- D Actions before operation
- E Restriction of civilian operators on patrol vehicles
- F Pushing or pulling vehicles
- G Use of warning lights when stopped
- H Violation of traffic regulations during undercover operations

III Vehicle Emergency Response and Pursuits

- A Definitions
- B Use of lights and sirens
- C Balance necessity and danger
- D Special precautions at intersections
- E Notification of Dispatch of pursuit
- F Termination of emergency vehicle operations
- G Special restrictions on emergency vehicle operations
- H Report required for every vehicular pursuit

IV Roadblocks and Vehicle Immobilization Devices

- A Definitions
- B Roadblocks or immobilization devices as a use of force
- C Use of roadblocks authorized only to protect persons
- D Use of immobilization devices
- E Supervisory approval required when practical
- F Placement and utilization of roadblocks and immobilization devices

V Attachments

ARIZONA⁷

I Purpose

II Policy

III The Order

A Definitions

B Pursuit Responsibilities

C Pursuit Procedure and Limitations

D Pursuit Termination

E Reporting and Review

CALIFORNIA⁸

- I Purpose
- II General
- III Laws Relating to Emergency Vehicle Operator
- IV Policies Relating to Emergency Vehicle Operations
 - A Authorized emergency vehicle warning equipment operation
 - B Pursuits
 - 1 Policy
 - 2 Definitions
 - 3 General
 - a Planning, coordination and training
 - b Initiation of pursuit
 - c Aborting a pursuit
 - d Pursuit units
 - 4 Procedures
 - a Initiating unit
 - b Secondary unit
 - c Department aircraft
 - d Supervisory responsibility
 - e Communications
 - f Pursuit into another area or allied agency's jurisdiction
 - g Pursuits from other jurisdictions into CHP areas
 - h Forcible stops
 - C Reporting Procedure
- V Safety Considerations

COLORADO'

I Definitions

II Policy

- A Evaluation Process**
- B Communications**
- C Use of Emergency Equipment**
- D Supervisor**
- E Requesting Assistance**
- F Outside Agencies**
- G Roadblocks**
- H Deadly Force**
- I Within City Limits**
- J Relinquishing to Local Authorities**
- K Outside Jurisdictions**

III Rule

IV Procedure

- A Chase**
- B Method of stopping pursued vehicle**
- C Emergency operation limitations**

CONNECTICUT¹⁰

I General Guidelines

- A Rate of speed
- B Dangers Inherent to pursuit driving
- C Definition of Pursuit

II Initiation and Termination of Pursuit

- A Policy Statement
- B Initiating pursuit
- C Responsibilities of a supervisor or dispatcher
- D Considerations for disengaging from the pursuit

FLORIDA¹¹

- I Purpose
- II Policy
- III Definitions
- IV Emergency Response Procedures
 - A Out of State Emergency Response
- V Overtaking/Intercepting Procedures
- VI Pursuit Procedures
 - A Backup Unit
 - B Communications Responsibilities
 - C Supervisory Responsibilities
 - D Vehicle Operations, Tactics and Prohibitions
 - E Multi-agency Pursuits
 - F Out of State Pursuit Procedures
- VII Use of Equipment
- VIII Pursuit After Action Reports
- IX Administrative Review

GEORGIA¹²

- I Definitions
- II Vehicular Pursuits, General
- III Use of Equipment
- IV Restrictions
- V Procedure
 - A Communications
 - B Number of units involved
 - C Roadblocks and use of firearms
 - D Apprehension
 - E Termination
 - F Across State Lines
 - G Other Agencies
- VI Reports

ILLINOIS¹³

- I Purpose
- II Authority
- III Policy
- IV Objectives
- V Procedures
 - A Classification
 - B Pursuits
- VI Rules of Regulations

INDIANA¹⁴

I Purpose

II Policy

III Procedures

- A Legal Requirements
- B Driver Responsibilities
- C Justification
- D Limitations to Policy
- E Use of Caution
- F Limitations of Equipment
- G Unmarked Units
- H Administrative Personnel
- I Officers Discretion
- J Use with Nondepartment Personnel
- K Communications from Participants
- L Communications Responsibilities
- M Use of Deadly Force
- N Roadblock Limitations
- O Roadblock Procedures
- P Across State Lines
- Q Reports
- R Use of "Stop Sticks"

IOWA¹⁵

- I Purpose
- II Definitions
- III Policy
- IV Considerations
- V Primary Pursuing Officers Responsibilities
- VI Backup Officers Responsibilities
- VII Supervisor Responsibilities
- VIII Communications Responsibilities
- IX Stopping the Fleeing Violator
 - A Alternatives
 - B Use of Roadblocks
 - C Types of Roadblocks
 - D Use of Roadspike Devices
- X Legal Intervention
- XI Procedures to Follow After a Pursuit is Concluded
- XII Appendix

KANSAS¹⁶

- I Purpose
- II Policy
- III General Provisions
 - A Use of Unmarked Vehicles
 - B Use of Roadblocks
 - C Use of Deadly Force
- IV Considerations to Pursue
- V Responsibilities During a Pursuit
 - A Legal Requirements
 - B Communications
 - C Supervisor Responsibilities
- VI Termination of Pursuit
 - A Officers Responsibilities
 - B Supervisor Responsibilities
- VII Inter-Jurisdictional Pursuits
- VIII Other Jurisdictional Initiated Pursuits
- IX Pursuits Entering or Exiting Turnpike

KENTUCKY¹⁷

I Policy

II Procedure

- A Use of Lights
- B Use of Seat Belts
- C Communications
- D Restrictions
- E Termination
- F Deadly force
- G Charges to be Filed
- H Aircraft & Roadblocks
- I Definitions of Pursuits
- J Secondary Units

MAINE¹⁸

- I Purpose
- II Policy
- III Discussion
- IV Definitions
- V Regulation
- VI Procedure -- Evaluation of Circumstances
- VII Procedure -- Primary Pursuing Officers Responsibilities
- VIII Procedure -- Secondary Pursuing Officers Responsibilities
- IX Procedure -- Supervisor's Responsibilities
- X Procedure -- Police Communications Operator
- XI Procedure -- Pursuing Vehicles
- XII Procedure -- Termination Techniques
- XIII Procedure -- Mutual Aid/Assist to Other Agencies
- XIV Procedure -- Fresh Pursuit Across State Boundaries
- XV Procedure -- Pursuit Review and Critique
- XVI Procedure -- Reporting Requirements

MARYLAND¹⁹

Maryland is currently revising their policies at this time.

MASSACHUSETTS²⁰

- I Purpose
- II Definitions
- III Policy
- IV Procedures
 - A Special considerations
 - B Officer's Responsibilities
 - C Communication Responsibilities
 - D Assisting Officers Responsibilities
 - E Pursuit Tactics
 - F Jurisdictional Considerations
 - G After-action Reports
- V Reference

MICHIGAN²¹

I Vehicle Chases

- A Definition
- B Authority
- C Initiating a Chase
- D Chase Procedures
- E Termination of a Chase
- F Intentional Collisions

II Emergency Driving

III Roadblocks

IV Driving Procedures

V Use of Safety Devices

VI Driver Negligence

VII Plain Car Use

MISSISSIPPI²²

Mississippi is currently reviewing their pursuit policy at the time this report is being prepared.

MISSOURI²³

- I Purpose
- II Policy
- III Definitions
- IV Evaluation of Circumstances
- V Initiating and Primary Pursuit Officers
 - A Officers Initiating Pursuit
 - B Primary Pursuit Officers
- VI Secondary Pursuit Officers
- VII Pursuit Vehicles
- VIII Other Members
- IX Communication Personnel and Desk Officers
- X Supervision of Pursuits
- XI Aircraft Involvement
- XII Forcible Stops
- XIII Pursuits Initiated by Other Agencies
- XIV Pursuits into Municipalities
- XV Pursuits into Other States
- XVI Pursuits from Other States
- XVII Pursuits Reports

MONTANA²⁴

I General Policy

II Pursuits

- A Definitions
- B Decision to Pursue
- C Primary Considerations
- D Procedures
- E Pursuit Restrictions
- F Supervisory Responsibilities
- G Assisting Unit Responsibilities
- H Legal Intervention
 - 1 Intentional Contact
 - 2 Vehicle Disabling Devices
 - 3 Road Blocks
 - 4 Notification/Reports
- I Use of Firearms During Pursuit
- J Intra and Inter Jurisdictional Pursuits
- K Vehicle Pursuit Review

III Roadblocks

- A Policy
- B Roadblocks
 - 1 Definitions
 - 2 Coordination and Communication
 - 3 Considerations
 - 4 Firearms
 - 5 Mutual Assistance
- C Safety Spot Checks

NEBRASKA²⁵

I Purpose

II Policy

- A Considerations
- B Definitions
- C Procedure
- D Roadblocks
- E Alternative Apprehension Techniques
- F Other Law Enforcement Agencies
- G Loss of Pursued Vehicle
- H Termination of Pursuit
- I Discontinuing the Pursuit
- J Inter-Agency Pursuits
- K Out-of-State Pursuit
- L Training
- M Communication Responsibilities

NEW HAMPSHIRE²⁶

- I Discussion
- II Authority to Pursue
- III Definitions
- IV Deciding Whether to Pursue
- V Termination of Pursuits
- VI Role of Pursuing Member
- VII Vehicle Pursuit Restrictions
- VIII Role of Supervisor
- IX Communications Responsibilities
- X Inter-Agency Pursuits
- XI Out of State Pursuits
 - A Felonies
 - B DWI's
- XII Reporting Requirements
- XIII Vehicle Pursuits Review

NEW JERSEY²⁷

I Authority

II Introduction

III Mechanics

A Definition

B Speed

C Notification

D Emergency Lights and/or Siren

E Pursuing Vehicles

F Nature of Pursuits

G Stationary Roadblocks

NEW YORK²⁸

- I Introduction
- II Policy
- III Definitions
- IV Factors to Consider Prior to the Initiation of a Vehicular Pursuit
- V Pursuing Member's Responsibilities
- VI Termination of Pursuit
- VII Post Pursuit Discipline
- VIII Supervisor's Responsibilities
- IX Radio Control Point Responsibilities
- X Inter-Agency Pursuits
- XI Reporting Pursuits Incidents

NORTH CAROLINA²⁹

- I Policy Statement and Purpose
- II Statutory Law
 - A Speed Law
 - B Right of Way
- III Definitions
- IV Factors to be Considered Prior to Initiating Extraordinary Operation of a Patrol Vehicle
 - A Nature and Gravity of the Offense or Situation
 - 1 Criminal Offenders
 - 2 Collisions
 - 3 Call for Assistance
 - B External Physical Conditions
- V Chase Procedures
 - A Authorized Units
 - B Notification of Communications
 - C Number of Vehicles Directly Involved in the Pursuit
 - D Supervisor Responsibilities
 - E Use of Deadly Force
 - F Termination of Pursuits
 - G Forced Vehicle Stops
 - H Other Agencies or Jurisdictions
 - I Apprehension/Post-Chase Responsibilities
 - J Post-Chase Action Report
 - K Chase Critique and Review
- VI Traffic Enforcement Response
- VII Emergency Response
- VIII Mandatory Provisions
- IX Liability
- X Additional Policy

NORTH DAKOTA³⁰

I Title

II Purpose

III Policy

IV Procedure

A Guidelines

- 1 Notify Communications
- 2 Requesting Assistance
- 3 Communications Responsibilities
- 4 Primary Unit Responsibilities
- 5 Secondary Unit Responsibilities
- 6 Special Considerations
- 7 Supervisor Responsibilities

B Reports

OHIO³¹

I Purpose

II Policy

- A Policy Statement
- B Primary Considerations
- C Applicable Laws
- D Primary Pursuing Officers Responsibilities
- E Back-up Officer responsibilities
- F Supervisor's Responsibilities
- G Dispatcher Responsibilities
- H Stopping the Fleeing Violator
- I Types of Roadblocks
- J Use of Roadspike Devices
- K Intentional Contact
- L Use of Deadly Force
- M Pursuit Termination
- N Multiple Departments

III Special Provisions

OKLAHOMA³²

- I Standard Procedures for All Operations
- II Routine Operation
- III Emergency and Pursuit Operation
 - A Legal Considerations
 - B Responsibilities
 - C Legal Consequences
 - D Emergency Equipment
 - E Pursuit and Emergency Driving Techniques
 - F Responding to Emergencies
 - G Vehicular Pursuits
 - 1 Safety Considerations
 - 2 Restrictions
 - 3 Use of Equipment
 - 4 Attitude
 - 5 Considerations
 - 6 Violations Involved
 - 7 Identification of Vehicle and Occupants
 - 8 Notifications of Headquarters
 - 9 Assistance form Additional Units
 - 10 Control Of Pursuit
 - 11 Pursuit Tactics
 - 12 Stopping the Pursued Vehicle
 - 13 Use of Firearms
 - 14 Stopping Known Dangerous Criminals
 - 15 Pursuit Across State Line
 - 16 Loss of Pursued Vehicle
 - 17 Termination of Pursuit
 - 18 Discontinuing the Pursuit
 - 19 Supervisor's Responsibilities

OREGON³³

- I Policy
- II Related Laws/References
- III Rule
- IV Procedure
- V Use of Hollow Spike Stripes

PENNSYLVANIA³⁴

I Policy

II Initiation of Pursuit

- A Considerations
- B Notification to Communications
- C Restrictions
- D Assisting Other Agencies

III Operation During Pursuit

- A Legal Guidelines
- B Use of Firearms
- C Use of Roadblocks
- D Number of Vehicle Involved in Pursuit
- E Use of Aircraft
- F Unmarked Vehicles
- G Safety

IV Discontinuance of Pursuit

- A Risk
- B Required
 - 1 Identification of the parties involved
 - 2 Safety Risks
 - 3 Directed by supervision

RHODE ISLAND³⁵

- I Purpose**
- II Definitions**
- III Policy**
- IV Procedures**
- V Use of Lethal Force**
- VI Parties to Offense**
- VII Communication Responsibilities**
- VII Provisions**
- IX Applicability**

SOUTH CAROLINA³⁶

I Legal Requirements

II Pursuit Policy

- A Introduction**
- B Scope**
- C Employee Responsibilities**
- D Pursuit Definitions**
- E Pursuit Considerations**
- F Procedure**
 - 1 Use of Emergency Equipment**
 - 2 Number of Units Permitted**
 - 3 Primary Unit Responsibilities**
 - 4 Notification to Communications**
 - 5 No Deliberate Contact Between Vehicles**
 - 6 Following distance**
 - 7 Roadblocks**
 - 8 Use of Deadly Force**
- G Pursuit Termination**
- H Medical Assistance**
- I Pursuits -- Other Agencies or Jurisdictions**
- J Foot Pursuit**
- K Pursuit Summary and Review**

III Training Requirements

SOUTH DAKOTA³⁷

- I Purpose**
- II Basis**
- III Definitions**
- IV Emergency Vehicle Operations and Pursuit Tactics**
 - A General Guidelines**
 - 1 Following Distance**
 - 2 Field Supervisor**
 - 3 Driving Procedure**
 - 4 Awareness of Traffic Control Devices**
 - 5 Air Units**
 - B Pursuits**
 - 1 Justification**
 - 2 Notification**
 - 3 Supervisory Responsibilities**
 - C Termination of Pursuits**
 - D Interjurisdictional Pursuits**

TENNESSEE³⁸

- I Purpose
- II Policy
- III Definition
- IV State Law
- V When to Initiate a Pursuit
- VI Regulations Governing Pursuits
- VII When to Terminate Pursuits
- VIII Use of Roadblocks
- IX Other Agencies or Jurisdictions
- X Supervisory Responsibilities
- XI Communications Responsibilities
- XII Pursuit Reviews

TEXAS³⁹

I Legal Considerations

- A Uniform Act
- B Code of Criminal Procedure

II Policy

- A Safety Considerations
- B Termination of Pursuit
- C Legal Exemptions
- D Driving Requirements
- F Use of Emergency Equipment

VERMONT⁴⁰

I Purpose

II Policy

- A Notification to Supervisor
- B Supervisor Responsibilities
- C Termination by Supervisor
- D Communications
- E Number of Vehicles Involved
- F Primary Unit
- G Secondary Vehicles
- H Unmarked Units
- I Use of Equipment
- J Termination by Participants
- K Tactics for Stopping Pursued Vehicles
 - 1 Boxing-in
 - 2 Ramming
 - 3 Roadblocks
- L Yield to Other Traffic
- M Critique of Pursuit
- N State Law

III Use of Blue Light and Siren

IV Highway Roadblocks

V Use of Deadly Force

VIRGINIA⁴¹

- I Objective
- II Statutory Provisions
- III Definitions
- IV Emergency Response
- V Clocking/Overtaking/Intercepting Violators
- VI Pursuits
 - A Considerations
 - B Use of Equipment
 - C Notification of Communications
 - D Limits
 - E Vehicle Contacts
 - F Running Roadblocks
 - G Stationary Roadblocks
 - H Number of Vehicle Involved in Pursuits
 - I Requesting Assistance from Other Agencies
 - J Responding to Request form Other Agencies
 - K Bureau of Criminal Investigation Roles
 - L Jurisdictional Restraints
 - M Investigative Responsibilities
- VII Other Situations

WASHINGTON⁴²

I Vehicular Pursuits

II Guidelines

- A Considerations
 - 1 Number of Vehicles
 - 2 Use of Emergency Equipment
 - 3 Communications
 - 4 Safety Considerations
 - 5 Jurisdiction Requirements
 - 6 Motorcycle Units
 - 7 Unmarked Units
 - 8 Aircraft Support
- B Supervisor Responsibilities
- C Termination of Pursuit
- D Interstates Pursuits
- E Other Agency Pursuits
- F Investigation of Pursuits

III Roadblocks

WEST VIRGINIA⁴³

I Policy

II Procedure

III Pursuits

A Vehicle Pursuit

- 1 State Law
- 2 Consequences
- 3 Notification to Communications
- 4 Notification of Supervisor
- 5 Number of Vehicle Involved
- 6 Consideration for Termination of Pursuit
- 7 Ram Limitations
- 8 Use of Deadly Force
- 9 Across Jurisdictions
- 10 Communications Responsibilities
- 11 Supervisory Termination

B Foot Pursuit

WISCONSIN⁴⁴

- I Background
- II Definitions
- III Policy
 - A Pursuit
 - B General
 - C Termination of Pursuit
- IV Procedures
 - A Primary Pursuing Unit Responsibilities
 - B Operational Responsibilities
 - 1 Roadblocks, Blockades & Ramming
 - 2 Use of Firearms
 - 3 Number of Units
 - 4 Following Distance
 - 5 Unmarked Cruisers and Motorcycles
 - 6 Aerial Assistance
 - 7 Reports
 - C Communications Responsibilities
 - D Supervisory Responsibilities
- V References

WYOMING⁴⁵

- I Considerations
- II Legal Requirements
- III Communications
- IV Number of Vehicles Involved
- V Use of Deadly Force

DRIVER PURSUITS

One of the most stressful situations that officers find themselves in is a pursuit situation. They are in a position where their decisions can carry the same consequences as use of deadly force without deliberate intent on the officers' part. Some of the factors that will determine the successful outcome are the officers' experience, training and attitude.

Training helps officers gain experience. Inexperienced officers can test both a car's limits and their own driving abilities. But what level of training do officers need in order to be able to make the proper decisions during a pursuit? In most law enforcement agencies, during the probation period, senior officers can assure administration that the young officers are aware of their limits. Senior officers must be sure that younger officers do not assume a mental attitude that could influence their judgements in a pursuit situation.

The other consideration is the driver's attitude. The "adrenalin rush" can work to help officers but it can also be their worst enemy. During a pursuit situation, officers are keenly aware of what is going on around them and must rely on the experience to make the proper decisions. If officers allow the event to become a personal challenge to their ego or an opportunity to vent frustrations, the consequences may be devastating.

In Emergency Vehicle Operations: A Line Officer's Guide, by Beach, Morris and Smith, there is a discussion of the negative attitudes that officers can take with them into a pursuit situation. Officers may not be aware that these attitudes even exist, which make them that much more dangerous.

All Officers need confidence in their ability to do their job. Either overconfidence or lack of confidence can be disastrous. Overconfident officers may have an attitude of invincibility, that nothing negative can happen to them or anyone else during the pursuit. Such officers will take chances that may push them beyond their driving ability or past the car's ability to the point of recklessness.⁴⁶ On the other hand, officers who lack confidence maybe handicapped by not having the ability to make a decision. In any given pursuit situation, officers will have to make decisions about turning, braking accelerating or even whether to pursue. Failure to correctly make any decision can also be disastrous.⁴⁷

Another attitude that can have negative consequences is a self-righteous attitude, when officers think they are always right. Such officers may believe that traffic laws were made for everyone on the highway but them. They believe that traffic will move or yield right of way for the emergency light and/or siren. Combining this attitude with the overconfidence attitude creates an atmosphere where an accident can easily happen.⁴⁸

Impatient officers may bypass good driving practices believing the end justifies the means. These officers look at other traffic as adversaries.⁴⁹

Texas traffic laws provide drivers of emergency vehicles with exemptions to the traffic laws. However, the law does not relieve drivers from the duty to drive with due regard for the safety of all persons, nor shall the provisions protect drivers from the consequences of reckless disregard for the safety of others.⁵⁰ Officers involved in a pursuit must ask themselves what constitutes unreasonable risk to public safety. The goal of all police officers should be to pursue a suspect so that innocent persons, the pursued driver and the officers are not exposed to unnecessary danger.⁵¹

In the Specialized Performance Driving Instructor Course, there are some basic rules for pursuit driving.⁵²

1. Make full use of all emergency equipment.
2. Keep a safe distance from the pursued vehicle.
3. Do not jam on the brakes and lock the wheels when braking at high speed.
4. Scan each and every intersection before entering.
5. Pass other vehicles with efficiency and a paramount concern for safety.
6. Never block the road with your vehicle.
7. Never pull alongside the pursued vehicle.

8. Never discharge a firearm from a moving vehicle.
9. Do not join in a "parade" of police vehicles involved in a pursuit just to be personally involved.
10. Do not try to force the pursued vehicle off the road (ramming).

The same manual list considerations for calling off a pursuit:⁵³

1. The risk is no longer worth it.
2. Innocent people are being exposed to unnecessary danger.
3. Speeds are getting beyond the limit of your vehicle.
4. Weather conditions do not allow for the maximum use of your vehicle's abilities.
5. Pursuit becomes a personal ego challenge.
6. Vehicle mechanical malfunction.

LEGAL CONSIDERATIONS

Those who use the highway expect them to be safe. People do not expect to be involved in a traffic accident with a reckless, fleeing motorist, and the last thing that they expect is to be involved in a traffic accident involving the police. Society places a higher standard of conduct on police officers performing their duties. The Rodney King arrest by Los Angeles police raised national alarm over how any police department conducts its business. The same kind of negative reaction occurs when a police officer is involved in an accident that results in death or serious injury.

to the participants or to an innocent bystander.

Studies have been conducted to study the problem of pursuit. The first major study was conducted in 1967 by the Physicians for Automotive Safety (PAS). Data were gathered from newspaper clippings as well as from surveys from some state and local police agencies over a three month period.⁵⁴ Some of the findings:

Death occurred in one out of five pursuits.

Serious injury occurred in five out of ten pursuits.

Accidents evolved from seven out of ten pursuits.

Minor offenses precipitated four out of five pursuits.

More than 500 deaths a year are caused by pursuits.

The problem with the study is that only bad results received press attention. There was no documentation for those pursuits that did not end in tragedy.

However, the PAS study did get attention from the U.S. Department of Transportation. A DOT study resulted, lasting a period of forty-six months and involving four agencies. Estimations made from this study concluded that there were 50,000 to 500,000 pursuits in the United States each year. Of these pursuits 6,000 to 8,000 end in crashes in which 300 to 400 people are killed and close to 5,000 are injured.⁵⁵

The findings in both reports show a high ratio between the number of pursuits and the number of accidents involving pursuits. The

California Highway Patrol conducted a survey of pursuits over a six month period in 1982. During this time period, there were 683 reported pursuits. Some of the findings:

198 of the pursuits (29%) ended in accidents.

75 of the pursuits (11%) resulted in 99 injuries.

15 of the 99 injured were innocent third parties.

7 of the pursuits (1%) resulted in seven deaths, 2 of which were innocent third parties.

429 of the pursuits (63%) were the result of a traffic violation.

179 of the pursuits (26%) were for DWI related offenses.

75 of the pursuits (11%) were for felony related offenses.⁵⁶

This study was followed by a Michigan State University study of 424 pursuits. This study agreed with the CHP study in the 63% of the pursuits were the result of traffic offenses. Of these there were twelve deaths reported representing 2.8% of the pursuits.⁵⁷

Most police officers contend that pursuits are the result of a felony act or flight from a felony act. As a result of these studies law enforcement agencies can no longer argue they are usually pursuing fleeing felons. This takes pursuits from the more noble realm of apprehending major criminals to the level of another traffic violation. The question now becomes that of risk.

It had been a principal of Common Law that officers could use whatever force, including deadly force, in the apprehension of a felon. Tennessee v Garner⁵⁸ tested this principle. Garner was shot leaving a residential burglary after dark. The police officer who shot Garner had no reason to believe that the suspect was armed. Since not all felonies are punished by death, deadly force against a suspect who did not pose a threat to an officer or another individual was found to be unconstitutional. Some consider a police car the most deadly weapon in the police arsenal.

Another case that affected pursuits is Brower v County of Inyo (Cal).⁵⁹ In this case, while Brower was fleeing from the police in a stolen car, the police moved a truck tractor, semi-trailer across both lanes of travel behind a curve that Brower had to negotiate. The plaintiff alleged that the roadblock was excessive and unreasonable, and the court agreed. As a result, the use of deadly force to effect a stop is considered a violation of the Forth Amendment.

A case that involves administration is City of Canton v Harris.⁶⁰ Harris was placed in the city jail following her arrest for a traffic violation. She had a medical problem that was not recognized by the jailers who were not trained to do so. The court ruled that the city must show "deliberate indifference" to any potential danger or action that exists.

In Restrictive Policies for High-Speed Police Pursuits,⁶¹ these cases are cited to demonstrate factors that police agencies and officers need to consider.

Deliberate indifference to constitutional rights may be a standard few plaintiffs will ever meet. . . . The risk inherent in high speed pursuits are well known and cannot be taken lightly. As the facts of Brower v County of Inyo make clear, high-speed pursuit can turn out to be the use of deadly force, as did the use of firearms in Tennessee v Garner. Moreover, under Garner, a municipality may be liable for failing to have a policy limiting high-risk pursuits to circumstances justifying the risk. And under City of Canton, local governments may find themselves liable for failure to provide training that constrains this application to deadly force.

Nearly all policies describe the need to recognize potential risk and to act accordingly. While this may protect the administration and municipalities as it relates to civil liability, it may not protect the officers. The pressure put on well trained and highly motivated officers is boundless. No one intends to be involved in an accident resulting in injury or death because of a pursuit. But what happens if officers decide not to pursue an unsafe driver who runs over and kills someone else? Where is the officers responsibility? The position that an officer needs to pursue

within unspecified limits and assume sole responsibility for the results, is unfair. Society needs to recognize that pursuits are inherently dangerous and tragic results may occur. And officers must recognize that they do not have a carte blanche to run amok but use common sense in the performance of their duties.

ALTERNATIVES TO PURSUIT

If police officers are not allowed to pursue yet are expected to stop traffic violators, there must be some other means to achieve their goals. The following means are considered acceptable by some departments as alternatives to pursuits.

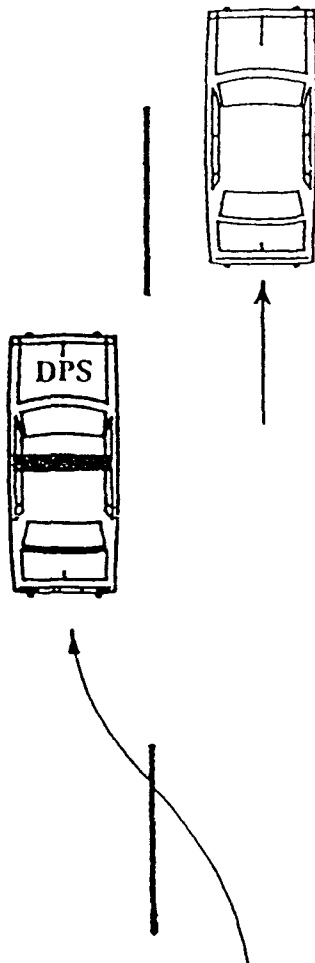
Roadblock are stationary devices set up in a roadway designed to stop the movement of traffic on the roadway. Brower v County of Inyo shows one of the major drawbacks to roadblocks: the problem of liability if something goes wrong. In Brower a truck tractor rig was pulled across the roadway in a curve so that the driver of the pursued vehicle had little or no notice of the impending event. The roadblock has to be so designed as to give the fleeing vehicle ample notice of the officers' intended design and then there must be an escape route for the violator. The fleeing car also presents a potential hazard to the officers manning the roadblock since any high speed vehicle presents a potential deadly threat. There is also the moving roadblock. The drawback to this technique is the number of vehicles required to perform the moving roadblock and the

potential for making unintentional contact with the fleeing vehicle.

Another alternative is ramming. What follows are diagrams of acceptable ramming techniques. For the purpose of anonymity, the states that subscribe to this technique are not named. At the very best, this is a very dangerous technique, not only for the fleeing vehicle and its passengers but for the officers as well.

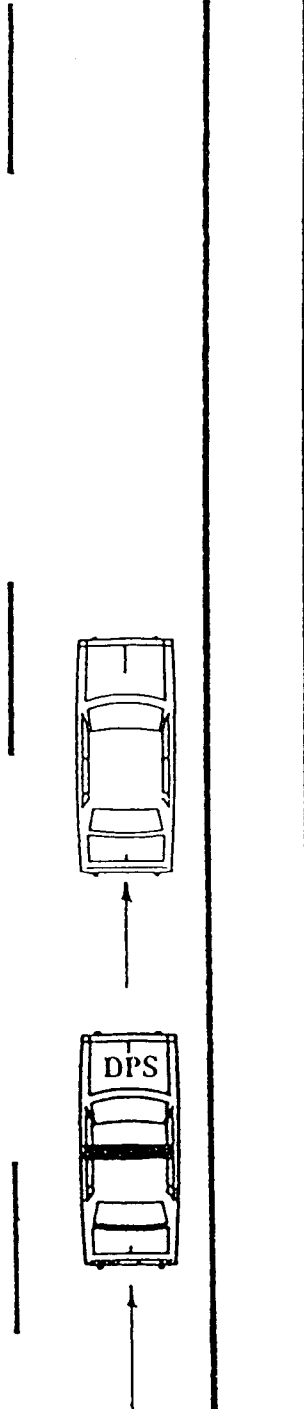
Comments:

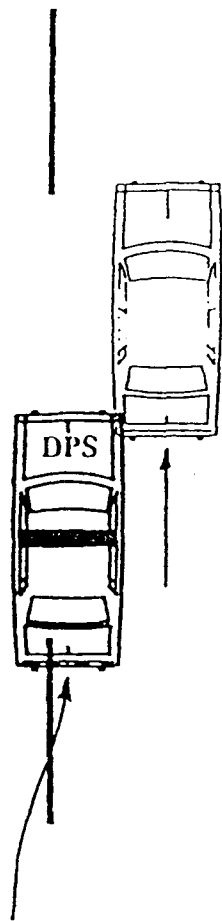
Once the decision to utilize legal intervention is made, the pursuing vehicle must overtake the violator's vehicle on the outside.



Comments:

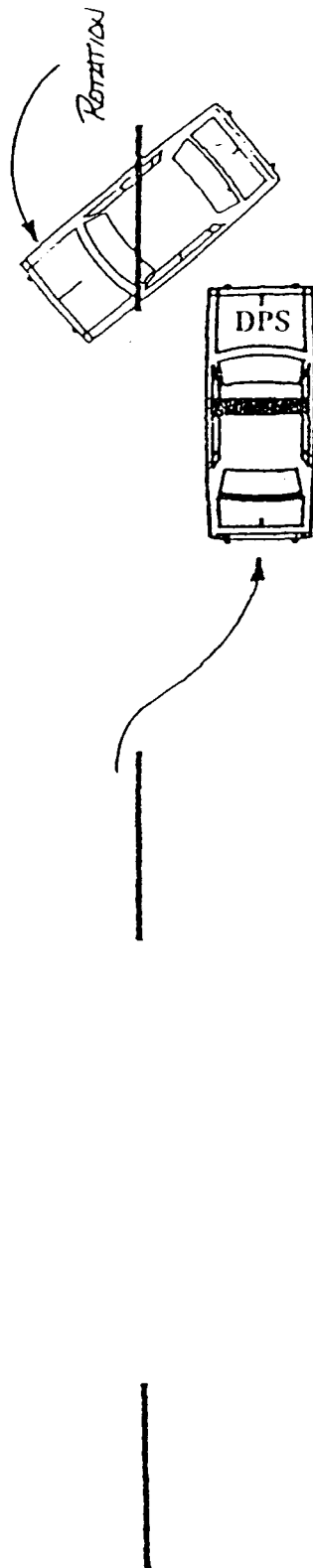
D. P. S. Vehicle in pursuit of
fleeing violator at 35 mph or less.





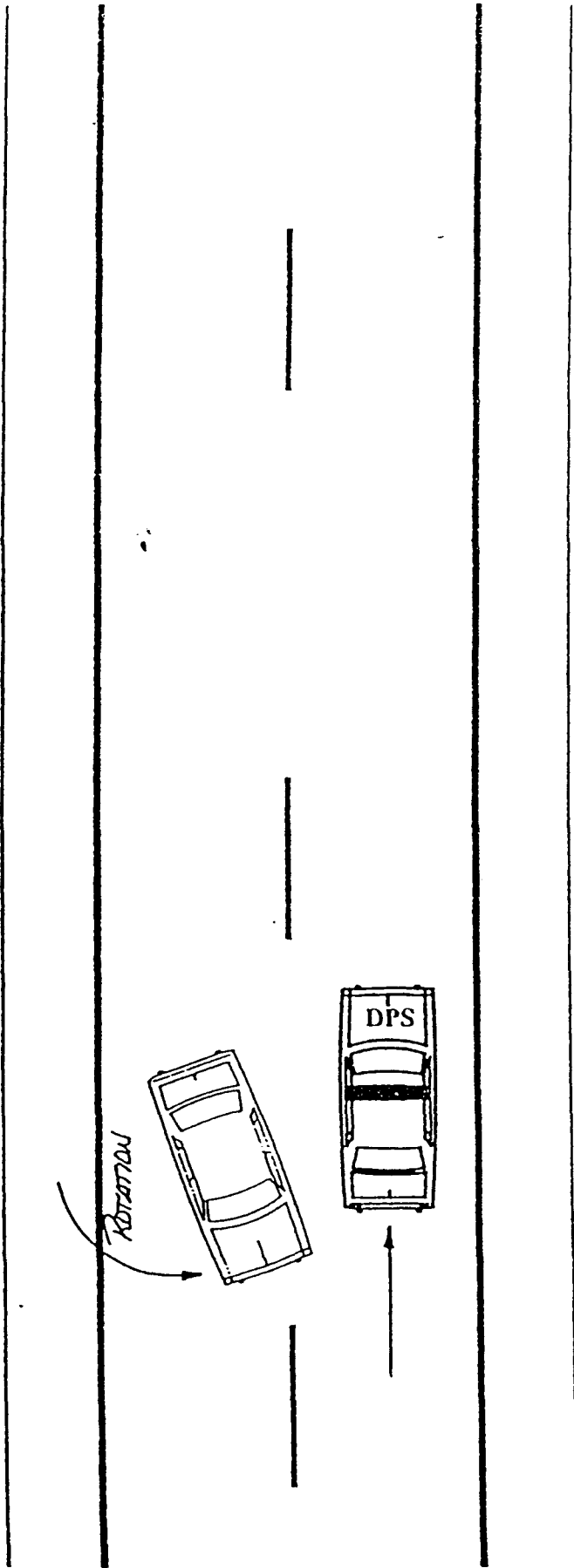
Comments:

When in position along the rear of the violator's car contact between the two (2) vehicles is made. The front of the pursuit vehicle (from front bumper to just in front of wheel well) is positioned adjacent to the rear (from rear bumper to rear of wheel well) of the violator's car.



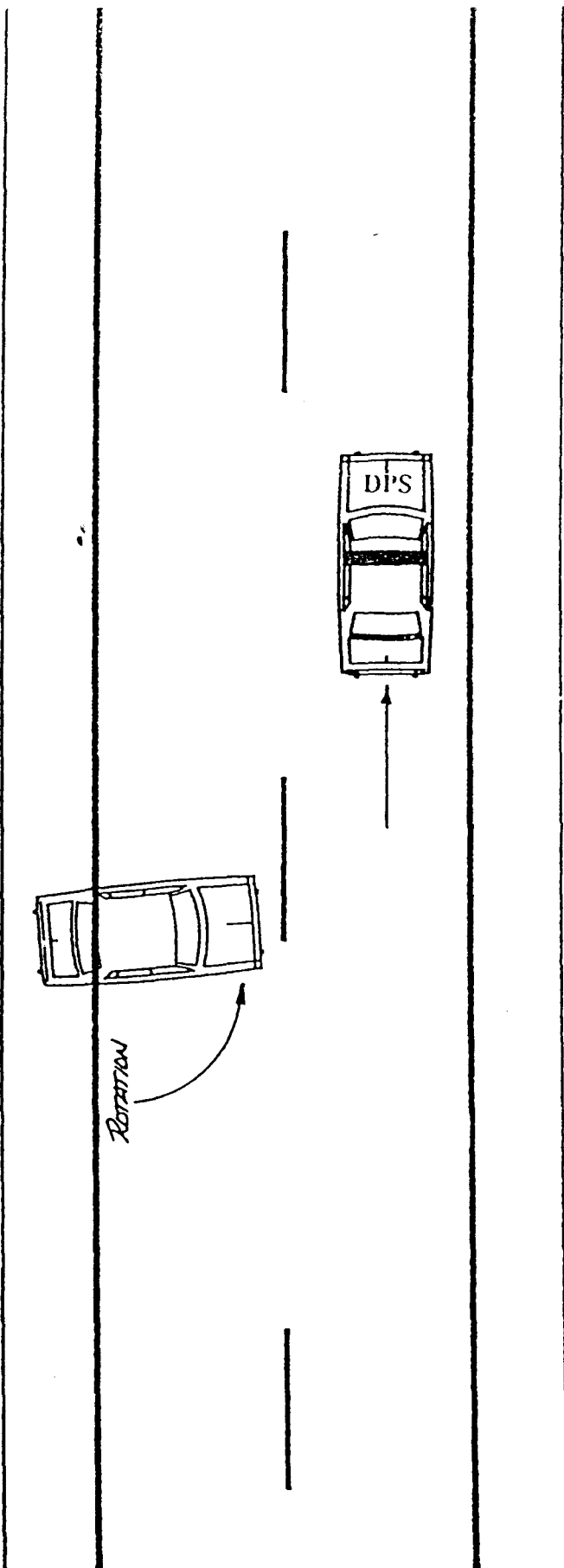
Comments:

The D. P. S. car continues to steer through the contact with the violator's car. The rotation around the center of mass is induced to the violator's car causing loss of control.



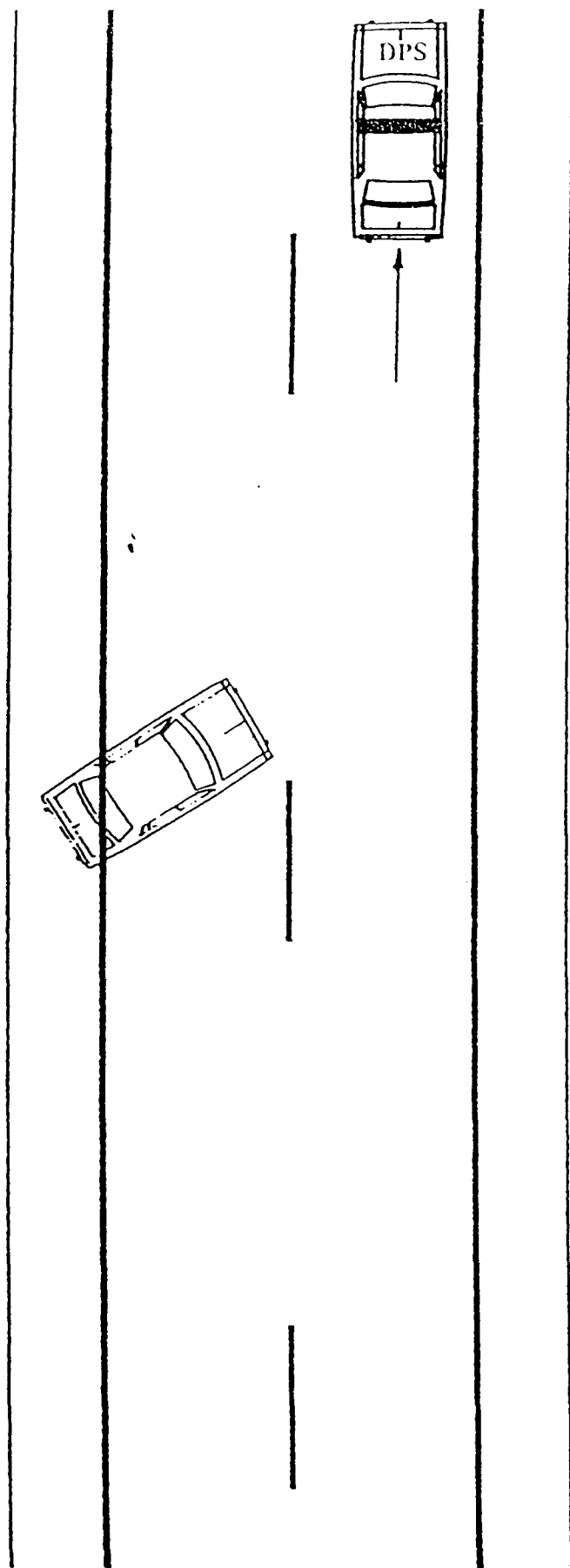
Comments:

As the violator's car continues its rotation, the D. P. S. vehicle contact between the two (2) vehicles is concluded.



Comments:

The D. P. S. vehicle now passes the violator's car as the violator's car slides to a stop.

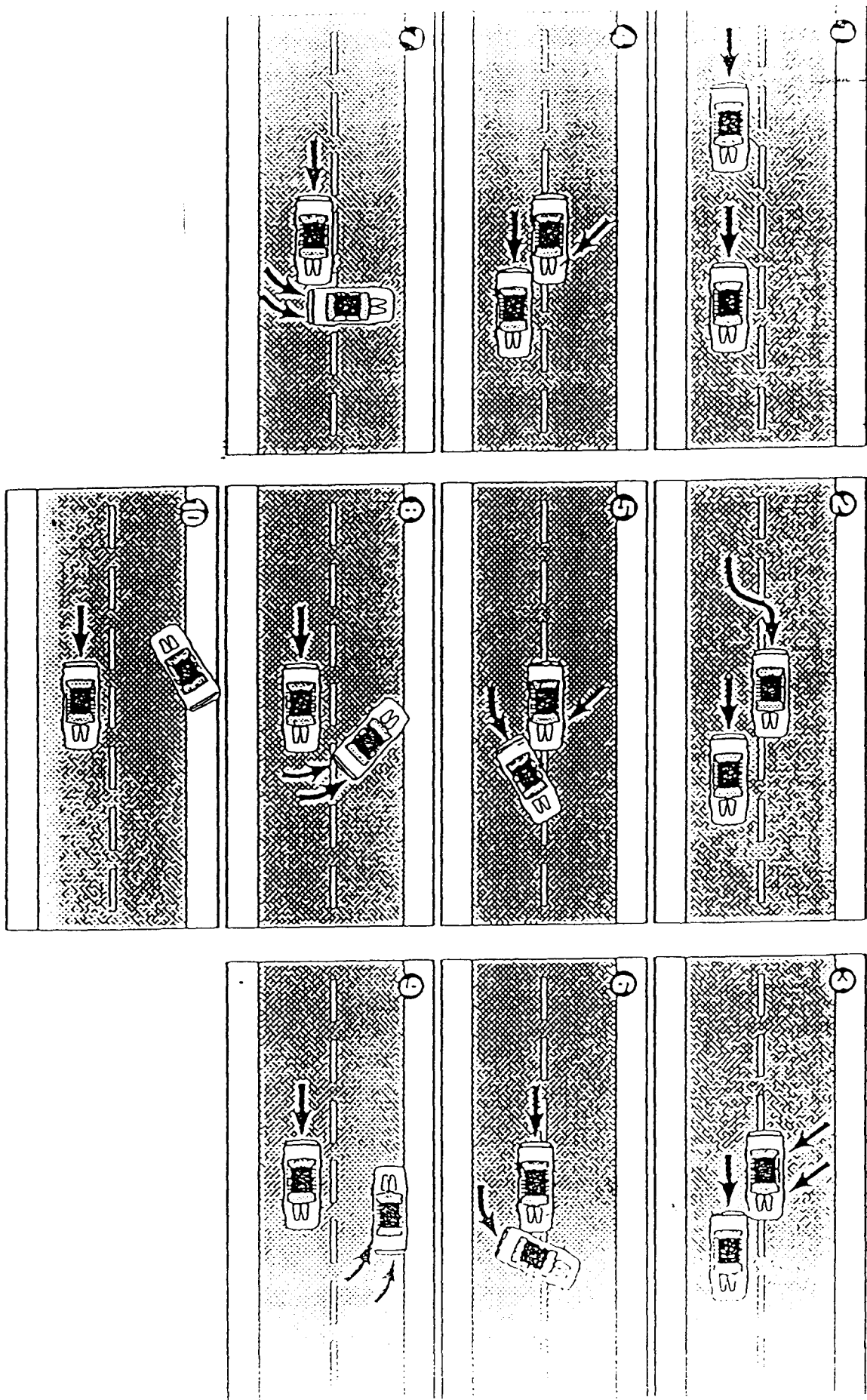


Comments:

Once stopped, the D. P. S. vehicle must be safely repositioned to allow for apprehension of the violator. If a second pursuit vehicle is involved, ample distance between pursuit vehicles must be maintained to allow the legal intervention maneuver to be completed.

Forced 180° Non-Compliance Vehicle Stop

62a



The roadspikes are becoming popular tool for some departments. This method requires that the fleeing vehicle drive over a designated part of the roadway where the spikes are located. Directing the violator to go to such a specific location presents unique challenges. Another problem lies in the different types of vehicles that maybe pursued. The spike system that works on a car may not be adequate for a pickup or truck because of thickness of the tire tread. Roadways with heavy traffic will likely result in other motorist being disabled; their dislike for becoming part of the scenery will likely be directed at the officers. Like the roadblock, the presentation of the disabling device puts officers in a hazardous position for traffic.

The potential threat that exists in a pursuit situation is real and deadly. It can easily be argued that in most pursuit situations, the safety of the officer as well as that of other motorists is at risk. The criteria established by the state for the use of deadly force can be met in most cases. Each of the alternatives noted here can to some degree, present the potential result of deadly force if a driver loses control of a vehicle. The use of firearms in bringing the pursuit to an end adds a deliberate intent on the officers part for a particular result. If officers shoot, and the driver is killed, what happens to the vehicle? Does this vehicle then present a greater threat? If it does not present a threat, does an officer have justification to shoot?

CONCLUSION

There is no easy answer to the problem of pursuit. The potential hazards are real. Pursuit policy needs to be recognized as a aid to the officers in conducting pursuits. Hopefully good policies will reduce the number of accidents and the cost, both in physical and monetary losses, involved.

A comprehensive policy is not practical because the situations or requirements for each jurisdiction are unique. What is consistent in all policies is the goal of making the highways safe for everyone who uses them.

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