

**The Bill Blackwood  
Law Enforcement Management Institute of Texas**

---

---

**The Need for More Universal Emergency Driving Restrictions for all  
Law Enforcement Agencies**

---

---

**A Leadership White Paper  
Submitted in Partial Fulfillment  
Required for Graduation from the  
Leadership Command College**

---

---

**By  
Doug Wrenn**

**Abilene Police Department  
Abilene, Texas  
July 2013**

## **ABSTRACT**

The job of a police officer is inherently dangerous in many ways. Their daily duties require them to deal with career criminals or interact with citizens who are usually in a state of crisis. Despite the dangers of these interpersonal interactions, historically, the most dangerous thing the officers do is drive their police cars. When police pursuits are taken into consideration, the dangers behind the wheel increase considerably.

This paper will demonstrate the dangers of police pursuits and the need for agencies to adopt a restrictive pursuit policy for high speed pursuits. Through the use of studies by the International Association of Chiefs of Police and another from Australia, it will become evident that the safe conclusion to a police pursuit is not within law enforcement's control. The only thing that law enforcement controls is the decision to begin and/or continue a pursuit. To complicate matters, the maturity of some pursuing officer may be lacking to the degree that they may not correctly decide to discontinue a pursuit until it is too late (Daniels, 2003).

The consequences of a poor decision can be substantial. It can affect not only the suspect's safety and/or the pursuing officer's safety, but also the safety of innocent bystanders. Because of the exceptional risk factors involved in police pursuits, it was concluded that more restrictive pursuit policies should be placed on high speed pursuits in law enforcement. The dangers to innocent citizens are just too significant to ignore, especially when taking into account the minor crimes for which most police pursuits are initiated.

## TABLE OF CONTENTS

	Page
Abstract	
Introduction . . . . .	1
Position . . . . .	3
Counter Position . . . . .	7
Conclusion . . . . .	10
References . . . . .	14

## INTRODUCTION

The problem or issue to be examined is the lack of adequate restrictions placed on high speed vehicle pursuits. The relevance to law enforcement is due to the great dangers involved in the use of vehicles as a law enforcement tool. Police vehicles are used on a daily basis and, like all other vehicles, have the velocity, mass and cumulative force to become instant deadly weapons.

Since the birth of a profession originally created to ensure the safety of the public and to apprehend offenders of crimes, law enforcement has changed significantly. Ensuring an equitable blend of safety for law abiding citizens, while successfully apprehending offenders or ensuring quick responses to calls for service, has been a worthy challenge for law enforcement. The original method of apprehension or response was by foot and then on horseback. In the early 20<sup>th</sup> century, with the advent of the automobile, more and more people began traveling on four wheels and at greater speeds. Just as one could expect, as all of the law abiding citizens upgraded to motorized vehicles, so did the criminals. This gradually required law enforcement to use motor vehicles as a method in which to enforce laws and apprehend criminals, sometimes resulting in a vehicle pursuit.

Obviously, all three means by which law enforcement pursue the offenders have their share of dangers; however, the one with the greatest potential impacts on law abiding citizens is the motor vehicle pursuit. Though pursuits by horseback rarely occur today, foot chases are quite common. Foot pursuits can lead to officer or suspect injuries but rarely impacts onlookers or passersby's. In contrast, motor vehicle pursuits have the potential to impact many other motorists.

Every day in this country, millions take their lives into their own hands as they travel in motor vehicles. With 840,000 injuries and 1,700 fatalities every year, driving a motor vehicle is perhaps the most dangerous thing people do on a daily basis (National Highway Traffic Safety Administration, 2012). This is ever so true for the law enforcement profession, which loses more of its officers in the line of duty to some form of vehicle accident than by any other cause of death (Officer Down Memorial, n.d.). It is apparent how this danger is aggravated when a motor vehicle is used in a high stress situation at high speeds.

Most modern and professional police agencies are aware of the litigiousness of their actions or inactions. Larger agencies have the advantage of experience to know that proper vehicle pursuit policies and training are necessary to avoid litigation. However, not all agencies are so restrictive or provide as much oversight on vehicle pursuits. This may partly be due to the fact that some states do not specifically constrain or restrict law enforcement agencies' pursuit policies. As an example, Texas law only states that the operator of an authorized emergency vehicle must drive with due regard for the safety of all persons ("Operation," 2009). This type of state law technically restricts the use of an emergency vehicle; however, it is not restrictive enough.

A restrictive pursuit policy would have a stipulation in place that a pursuit could not be initiated unless certain crimes were committed. Common restrictive policies may limit pursuits to those cases in which a violent felony has occurred. Police agencies that practice and train on restrictive policies decrease the likelihood of lawsuits being brought against them. By contrast, a discretionary policy would give the officer the

basic guidance on how and when they could initiate the pursuit and discretion about how to conduct and terminate the pursuit (Cooley & Gravery, 2006). This loose form of policy is also what has allowed officers to go beyond the prudent scope of their authority and has resulted in high speed pursuits over mere traffic violations. Each state should pass legislation to ensure that every police agency has a restrictive pursuit policy. With the proactive policing models becoming the norm, opportunities for pursuits to occur are not likely to be decreasing anytime soon. In fact, it is believed that pursuits will continue to rise, which makes this topic even more relevant today (Lum & Fachner, 2008).

## **POSITION**

Getting involved in a police pursuit is one of the most dangerous things an officer does (Falk, 2006). In 2010, 66 out of 163 officers were killed in the line of duty due to some form of vehicle collision (Officer Down Memorial, n.d.). This number is generally greater every year than those deaths related to officers being killed by firearms. There is little doubt that a vehicle pursuit compounds the dangers of motor vehicle use. Not only does it pose a risk to the officers but also to the suspect and, more importantly, the citizens. In 2008, the International Association of Chiefs of Police did a study of numerous agencies to determine police pursuit results as it relates to accident rates. They began with 7,734 pursuit reports and the results showed that 23.5% of the pursuits ended in a collision of some form. This accounted for 900 injuries. Of these injuries, 14% were injuries to the police officers involved, 21% to bystanders, and 65% to the suspects (Lum & Fachner, 2008). This key statistic shows that the very citizens officers are duty-bound to protect are the second most likely group to be injured.

To further validate that the pursuit data from the IACP is relevant and accurate, one need only look at other jurisdictions and even other countries. Australia deals with similar issues as it relates to pursuit driving. The Australian Capital Territory did a very similar study with a sampling out of Wales that showed pursuits ending in a collision 23% of the time (Cameron, 2007).

One thing that remains unknown is how many injuries occur every year from pursuits. Accurate numbers from the National Highway Safety Administration (NHTSA) are lacking. The absence of a mandatory reporting system hampers attempts by the NHTSA to track pursuit injuries and fatalities. The possible outcome would result in the collection of half of the actual data needed to link injury collisions with pursuits. According to Hill (2002), "Typically, only 90 percent of states report pursuit fatality data to NHTSA" (p. 15). Therefore, departments must rely on studies such as those done by the IACP and the Australian Capital Territory to better understand the implications on public safety as they consider a more restrictive pursuit policy.

One study showed that pursuit related collisions resulted in injuries to and fatalities of approximately 40% of the suspect drivers. The ramifications are clear that more often than not, the officer, a passenger of the fleeing vehicle, or an uninvolved citizen is injured or harmed (Cameron, 2007). In another study, no distinction was given to the suspect comparative to the passengers in the fleeing vehicle. Therefore the suspects were listed as harmed in 65% of the pursuits with collisions (Lum & Fachner, 2008). However, this percentage would decrease when considering the number of suspect vehicle passengers that are included in this statistic.

The pursuit paradigm for law enforcement agencies lies in weighing the risks versus success of initiating or continuing a pursuit. If it is known that approximately 23% of the time a collision will occur, then agencies must develop a culture within their ranks in which officers are trained to apply reasonableness standards to determine if that 23% chance is worth the pursuit. On the outset, it could be difficult to persuade some when the outcome of a pursuit is usually statistically positive; however, Waddington (2010) stated, "I would view the issue of whether police should pursue non-compliant vehicles in a fundamentally different light: not in terms of its outcomes at all but in terms of its inherent legitimacy" (p. 121).

This legitimacy relates to the original reason for the initiation of the pursuit. The majority of pursuits are initiated for minor traffic violations and non-violent felonies. The IACP study showed that traffic violations accounted for 42.3% of all pursuits initiated (Lum & Fachner, 2008). Many citizens support law enforcement's endeavor to pursue violators but that support begins to decrease proportionally to the level of the crime. The public does not want to be put in harm's way unnecessarily. Hill (2002) reported that when asked if police are justified in pursuing violators, the sample replied that they support the pursuit 58% of the time. However, when the public is informed that the pursuit endangered the citizens traveling on the public roads, the support decreased by one-half to 29% (Hill, 2002). Gauging public perception becomes a critical element for agencies to understand their role in their own communities and what the standards and expectations are for each organization.

Another point of contention about the dangers of pursuits is law enforcement's lack of ability to control the outcome. The pursuing officer wants mere compliance from



the suspect and for their surrender, before a collision occurs. Technology has allowed for some innovations that have been of some assistance to law enforcement but they are not without their drawbacks.

The stop stick device allows for an officer to deploy a tire deflation tool up ahead of the pursuit with the anticipation that the suspect will not be able to maneuver around the device. Once driven over, hollow probes penetrate the vehicle's tires resulting in controlled deflation. The disadvantage to this method is it does place an officer in danger when setting up for the deployment of the device. Additionally, the suspect may be desperate enough to continue driving on deflated tires thus giving them less control and increasing the dangers to the public (Daniels, 2003).

Officers can also be trained in the PIT maneuver. In this technique, an officer uses their car to strike the rear quarter panel of the fleeing car, which throws the car into an unrecoverable spin. The advantage is that one officer can utilize this technique without assistance. However, this method merely stops the chased vehicle momentarily and it does not aid in apprehending the suspect unless the suspect gives up (Daniels, 2003). The suspect may simply begin driving erratically again after regaining control. Also, what must still be considered are the use of force implications on the part of the officer when they choose to use this technique. The courts have debated what constitutes a seizure or deadly force and according to Alpert and Smith, "officers are not allowed to use deadly force against a fleeing suspect unless authorized under a *Garner* analysis" (Alpert & Smith, 2008, p.14).

So, with these limitations, an officer's ability to safely end a pursuit on their own terms is indeed limited. To chase vehicles for minor traffic violations with the

expectation that the officer has a tool or technique to end the pursuit safely is not realistic or wise. Police agencies should consider this limitation and reevaluate their policy or position. Due to the limitations of safely terminating a pursuit, Hill (2002), concluded that “agencies rarely can justify endangering the public to pursue a violator” (p.16).

## **COUNTER POSITION**

One common concern stated by pursuit proponents is that the criminal element will eventually realize a more restrictive pursuit policy exists and use it to their advantage to elude the authorities in reckless fashion, knowing that they cannot be chased. Some of these arguments may be true for some part of the criminal element population; however, the reality is that most of the individuals that flee from the police are young and perhaps still immature. One study showed that over half of all pursuits involve someone younger than 25 years of age (Lum & Fachner, 2008, p.67). It can be argued that most individuals in this age range, who fled by vehicle before, will continue to flee regardless of the policy or the consequences. Along these lines, a study also found that the majority of officers involved in pursuits were also young (Cameron, 2007). Therefore, the decision making process for the officer to determine the risk versus the positive outcome or gain of continuing a pursuit is clouded by their level of experience or maturity as an officer. Implementing a more restrictive policy will limit the poor decisions made by officers who allow their egos to override their good judgment. Officers with little training or experience are less likely to know when they are over their heads until it is too late (Daniels, 2003).

As it pertains to the suspects driving with impunity once they realize they cannot be chased, very little concrete evidence exists either way. However, one study asked convicted criminals how they reacted to pursuing officers and their decision to drive recklessly. The study did suggest that the majority of criminals involved in pursuits would slow down to their normal driving behavior the moment the officer discontinued the pursuit and that they felt it was safe to do so (Cooley & Gravery, 2006). In this case, the word “safe” implies they felt they would no longer get caught. This makes sense when the criminal no longer wants to draw attention to their vehicle and be seen again by law enforcement.

Court cases pertaining to pursuits that end poorly are now handing down verdicts that are favorable to the officers and departments. This would imply that the pendulum has swung back in the direction of pursuits being favored by the judicial system; however, this may give departments a false sense of security. When examining all of the states, liability arising from pursuits exists. Most courts must show that the officer acted with deliberate indifference or reckless disregard. Some states limit liability lawsuits only where the pursuing officer has been involved in a crash or directly caused a collision (Cooley & Gravery, 2006).

One case in particular garnered much attention in law enforcement. *Scott v. Harris* involved Victor Harris, who was being pursued for speeding. Deputy Timothy Scott became involved in the pursuit as an assisting officer, not aware of the original reason for the pursuit. Scott obtained permission from a supervisor to perform a PIT maneuver on Harris’ vehicle and in doing so caused Harris’ vehicle to lose control, flip and roll down an embankment. As result of the crash Harris became a quadriplegic and

sued based upon his fourth amendment rights being violated. Benoit (2007), noted that the “the Supreme Court refused to accept the argument made by Harris that the public could be protected by having the police terminate the pursuit” (p.30). The court of appeals concluded “that a police officer’s attempt to terminate a dangerous high-speed car chase that threatens the lives of bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at risk” (*Scott v Harris*, 2007). The Fourth Amendment sets forth an objective reasonableness standard for the use of force that one must meet to justify their use of force to stop a fleeing vehicle (Benoit, 2007).

To further explain why a restrictive pursuit policy is applicable even with favorable court decisions, one must understand that the ultimate goal in a litigious profession such as law enforcement is to avoid the lawsuit from the start. Police agencies that adopt a restrictive pursuit policy create a more difficult environment for plaintiff attorneys to make a causation argument for liability (Cooley & Gravery, 2006). This hinders the plaintiff’s ability to cast criticism of a department’s policy or lack thereof to the jury and focus attention on the faceless bureaucracy of the police department. In essence, the plaintiff’s paid experts will find it more difficult to criticize the department for not being proactive in policy writing in order to insure the safety of the public (Cooley & Gravery, 2006). It can also be argued that had a restrictive pursuit policy been in place then the pursuit that ended in tragedy may not have ever been initiated.

With a police department’s mission on ensuring public safety, one of the other arguments that can be made against these favorable court cases is whether the end still justified the means. A study in Queensland explored the criminal outcome of pursuits

and the examination of the charges filed. This study revealed that very few apprehended drivers were charged with crimes more serious than what was known at the time the pursuit was initiated (Hoffmann, 2003). Consequently, with the numerous pursuits being initiated for minor violations having the result, often times, of misdemeanor charges and the only felony offense being that of fleeing the initial traffic stop, police departments must think in terms of need versus risk. Even those cases in which a department successfully defends its actions and is not liable for damages, justification of the pursuit isn't assured. For example, when one considers the amount of illicit drugs that are sold every day by criminals, who are never caught, it validates that a crippling vehicle collision is not worth a pursuit to foil one drug related offender. It becomes even more obvious that the risk is too great when an innocent bystander is harmed. Officers may not find themselves personally liable but they will have to live with the consequences and outcomes of their decision to pursue a suspect. Should the pursuit end in tragedy they must deal with it for the rest of their life. More often than not, the consequences are not considered until it is too late and that critical incident has already occurred.

## **CONCLUSION**

Police pursuits have been a concern for police agencies for some time now. Pursuits are consistently being challenged as to the need versus risk within policing. It is statistically clear that pursuits are, more times than not, safe; however, so long as there are no restrictions placed upon agencies, then one can expect tragedies to occur. It is nearly assured that approximately one in four pursuits will end in a collision of some kind. The public supports the police and their efforts to apprehend criminals but their

support wanes when the pursuits are initiated for minor offenses, such as traffic violations. Research shows that most pursuits begin with a simple traffic violation and this usually does not reach the level of seriousness that the average citizen demands. Law enforcement does not set the standards by which we live, the public, the tax payers and those that create the need for a police department make that decision for us.

One thing that law enforcement officers need to be aware of is the fact that the criminal is the only one in control of a pursuit. Measures used by law enforcement to stop pursuits can be effective but each has its own inherent danger. Officers must recognize these dangers at all times when continuing a pursuit. As Witczak states, "All too often officers get into a pursuit, the adrenalin starts pumping and they lose track of the purpose of the pursuit, as well as their safety and the safety of the general public" (Witczak, 2003, p. 131). Sometimes, the best course of action is for the pursuit to simply never have occurred. With younger officers, a restrictive policy already in place will simplify their jobs in this regard.

Driving a motor vehicle is one of the most hazardous things an officer does on a daily basis. Pursuits magnify this already dangerous task. The fact that 63 officers lost their lives to some form of vehicle accident in the line of duty in 2010 is telling (Officer Down Memorial, n.d.). Only until tragedy occurs does the validation of the pursuit seem to be considered. That is why having a restrictive policy in place will ensure that if tragedy does occur, the department and fellow officers will have a better understanding of their role and the consequences of their actions.

The fact that court cases are ruling in favor of the police departments serves as a certain protection as it relates to financial obligations from poor outcomes. This

protection still does not take away the tragic event. Should the proverbial family of four fall victim to a fatal accident during the course of a pursuit, stemming from a turn signal violation or even an attempt to stop a stolen vehicle, no court victory will ever be enough for a police department to survive the public disenchantment. In motor vehicle collisions it only takes a split second for a legitimate chase to have tragic consequences. It requires split second decision making skills and, at times, a lot of luck. A restrictive policy would be one that dictates the parameters of a pursuit, which would limit pursuits only to apprehend violent felons. This will help provide some mitigation to the negative ramifications should a pursuit end badly. Having a restrictive pursuit policy in place may also protect the department from being sued at all. The fact that the agency does not take unnecessary risks in certain pursuit situations, and keeps the innocent citizens' safety as their highest priority, would provide some insulation from potential litigation.

One author suggested three steps to creating and implementing a pursuit policy. First, the department must keep their pursuit policy up to date. Every department should have a plan to reevaluate their pursuit policy periodically to insure that it remains current and appropriate. The department should train on this policy annually to insure every officer understands the policy fully. The department should also review pursuit incidents to insure compliance with this policy (Specht, 2006). One of the more restrictive policies in place was also very simplistic, as it only allowed for pursuits to apprehend those criminals who committed violent felonies. Even under this type of policy, the officers must know that with their choice to pursue, they accept a higher degree of responsibility should something go wrong (Daniels, 2003).

Law enforcement does not operate in a social, economic, or political vacuum. The role of an officer is complicated by many factors that include technological issues in the car, a growing concern about police abuse and “watch dog” groups. Law enforcement agencies need to understand that they must police themselves or they will soon become policed. The ultimate goal for law enforcement is to apprehend criminals while also insuring the safety of the public. The balancing act between these two interests will no doubt remain debatable. A law enforcement agency that truly understands the dangers involved in pursuits and understands and respects the communities’ concerns about pursuits will be more willing to adopt a restrictive policy.



## REFERENCES

- Alpert, G. P., & Smith, W. C. (2008, June). Police pursuits after Scott v Harris: Far from ideal? Ideas in American policing. *Police Foundation, 10*, 1-16.
- Benoit, C. A., J.D. (2007, October). Vehicle pursuits and the fourth amendment: A roadmap for police. *FBI Law Enforcement Bulletin, 76(10)*, 22-32.
- Cameron, A. (2007, July 31). Independent review of the AFP urgent driving and police pursuit guideline review. Retrieved from  
[http://www.justice.act.gov.au/resources/attachments/Independent\\_Review\\_of\\_Pursuit\\_Guideline\\_Review\\_31\\_July\\_20071.pdf](http://www.justice.act.gov.au/resources/attachments/Independent_Review_of_Pursuit_Guideline_Review_31_July_20071.pdf)
- Cooley, A. & Gravery, B. (2006, October). Police pursuit and high-speed driving lawsuits. *The Police Chief, 73(10)*,  
[http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display\\_arc\\_h&article\\_id=1018&issue\\_id=102006](http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arc_h&article_id=1018&issue_id=102006)
- Daniels, W. (2003, July). Brainpower not horsepower: Teaching officers when and how to end pursuits. *Law and Order, 51(7)*, 85-89.
- Falk, K. (2006, October). To chase. *Law Enforcement Technology, 43*.
- Hill, J. (2002, July). High speed police pursuits, dangers, dynamics, and risk reduction. *FBI Law Enforcement Bulletin, 71(7)*, 15.
- Hoffmann, G. (2003). *Police pursuits: A law enforcement and public safety issue for Queensland*, 1-30. Brisbane, Queensland: Queensland Crime and Misconduct Commission.

- Lum, C., & Fachner, G. (2008, December 22). *Police pursuits in the age of innovation and reform*. Retrieved from <http://www.theiacp.org/PublicationsGuides/TopicalIndex/tabid/216/Default.aspx?id=1030&v=1>
- National Highway Traffic Safety Administration. (2012, August). *Fatality analysis reporting system (FARS), 2010*. Retrieved from <http://www-nrd.nhtsa.dot.gov/Pubs/811646.pdf>
- Officer Down Memorial Page. (n.d.) *Honoring Officers Killed in the Year 2010*. Retrieved from <http://www.odmp.org/search/year?year=2010>
- Scott v Harris*, 127 S. Ct. 1778 (2007).
- Specht, J. (2006, March). Slow pursuits lead to fast and safe apprehensions. *The Police Chief*, 73(3). Retrieved from [http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display\\_arc\\_h&article\\_id=842&issue\\_id=32006](http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arc_h&article_id=842&issue_id=32006).
- Operation and Movement of Vehicles, Tex Transportation Code, Title 7, 545 §156 (2009)
- Waddington, P. A. J. (2010). Police pursuits: A case study of “critical friendship”? *Policing*, 4(2), 119-126.
- Witczak, T. (2003, July). Proactive police pursuits. *Law and Order*, 51(7), 131-133.