

**THE BILL BLACKWOOD  
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When and If Vehicle Pursuits are Appropriate Actions for Law Enforcement Agencies

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## **ABSTRACT**

Police officers handle potential life threatening situations on a daily basis. These include high and low speed pursuits. Very few officers will go through a law enforcement career without being involved in high speed vehicle pursuits. And with the current legal atmosphere, every law enforcement pursuit is scrutinized for any possible litigation. A police pursuit can be considered use of deadly force. Officers and agencies are subject to legal actions through the federal and civil courts. These actions have the potential of awarding large sums to persons or families for injuries or deaths caused by officers during vehicle pursuits.

The purpose of this policy research project is to provide information to assist law enforcement executives in determining when and if police pursuits are acceptable. Studies of police pursuits are reviewed along with the policies of several law enforcement organizations to obtain information concerning the theory of pursuits and for potential policy comparison. This policy research project illustrates the need for a policy governing police pursuits and identifies the areas which should be addressed in this policy.

## **Introduction**

The purpose of this policy research project is to provide information to law enforcement executives concerning police pursuits and to assist them in determining if and when pursuits are acceptable actions for law enforcement agencies. If pursuits are acceptable, a policy governing this action should be developed. If an agency determines that pursuits are not acceptable, a policy restricting them should be developed. The following information should also assist the executive in the development of a policy governing pursuits.

Law enforcement officers are involved in many different situations each day. Some situations involve the enforcement of minor law violations, such as traffic violations, up to the most serious of crimes. During some of these enforcement actions, officers have the opportunity to be involved in vehicle pursuits. Pursuits can be at high or low speeds but all are dangerous to the officer, the driver being pursued and innocent third parties. As the potential for serious injury or death is present, law enforcement executives must make policy decisions concerning when pursuits are acceptable. Decisions must also be made concerning how to train officers in the safe operation of the police vehicle. Law enforcement executives are the intended audience of this research as it is these executives who make the decisions concerning pursuits.

This information used in this research comes from numerous journals, court decisions and law enforcement department policies and a review of four studies concerning police pursuits that provides statistics and violator characteristics. The intended outcome of this policy research project is to provide valuable information concerning police pursuits and show that each law enforcement organization should have a policy governing these actions.

## Historical, Legal and Theoretical Context

The movie and television industry depicts the police pursuit as a glamorous act. Police chase violators with reckless abandon in everything from the first automobiles to the latest high performance vehicles with little attention paid to the danger to the officers or the people being pursued. In shows such as Hill Street Blues and Miami Vice, very rarely does a pursuit end in injury or death (Alpert and Anderson 1986). These shows do not illustrate what happens when a pursuit turns deadly for the officer, driver being pursued or an innocent third person. If a real pursuit turns deadly, someone is likely going to take legal action against the officer, his agency and the governing entity. When this happens, although the officer will be named in the suit, the real target is the agency and the governing entity. That is where the money is. Law enforcement agencies became targets of suits as a result of a United States Supreme Court decision which allowed agencies to be sued in federal court for alleged misconduct in violation of Section 1983 of the Civil Rights Act, 42 U.S.C. (Alpert and Anderson 1986). As a result of another decision, municipalities can be sued under Section 1983 as a result of failure to train employees (City of Canton, Ohio v. Harris 1989). When in court for alleged misconduct, the courts take several things into consideration to determine police liability. These are: the reason for the pursuit, driving conditions, the type of police warning devices, excessive speed, demonstrations of due regard, use of deadly force, departmental policies and state law and appropriate supervision and training (Falcone 1994). According to Geoffrey Alpert:

Litigation focuses on four elements; (1) the duty owed by the officer to the injured party not to engage in certain conduct; (2) the fact that the officer's actions violated that duty; (3) the fact that the officer's negligent breach of that duty was the proximate cause of the injury; (4) the fact that the injured party suffered actual and preventable damages (Alpert 1988).

The majority of literature reviewed supports the conclusion that no matter how restrictive an agency is concerning this action, a comprehensive written policy, enhanced training and effective supervision are needed to reduce the risk of injury or death from police pursuits (Hannigan 1992). The state of Utah has a law requiring each department within the state to have a policy governing pursuits (Morris 1993).

The theory of pursuits and the question of whether or not the risks involved in chasing a fleeing driver are worth the benefits of apprehending him must be addressed. There are probably several definitions of a pursuit, but according to Geoffrey Alpert and Patrick Anderson:

A high speed pursuit can be defined as an active attempt by a law enforcement officer operating an emergency vehicle to apprehend alleged criminals in a moving motor vehicle, when the driver of the vehicle, in an attempt to avoid apprehension, significantly increases his or her speed or takes other evasive action (Alpert and Anderson 1986).

Serious crimes with relatively low pursuit speeds may be worth the danger but when an officer pursues a driver for a minor traffic violation at high speeds and the driver, officer or an innocent third party is injured or killed the question of allowing pursuits is not simple (Kennedy, Homant and Kennedy 1992). Earl Morris, of the Utah Department of Public Safety advises "Officers should chase only when essential to the preservation of peace and terminate it when the risks outweigh the need to continue the pursuit" (Morris 1993). According to Geoffrey Alpert:

The most important questions that concern police administrators and the public about pursuits are (1) what is the relative dangerousness of police pursuits; (2) what is their relative importance in fulfilling the police mission; and (3) how can property and personal losses be minimized while officers fulfill their mission (Alpert 1987).

The relative danger of a police pursuit is a strong concern and although emergency vehicles are exempt from certain traffic regulations in different states, the laws exempting the

police still require drivers to operate vehicles with due regard for the safety of others (Alpert 1988).

It is estimated that a 4,000 pound vehicle traveling 120 miles per hour has approximately two million pounds of energy (Bedkman 1983). With this amount of force, it is not surprising that in 1988, 58 law enforcement officers were killed as a result of police pursuits (Grimmond 1993). Also between 1989 and 1991, 919 people died in collisions that occurred during police pursuits. Of that number, 737 people were in the fleeing vehicle, 173 were innocent third parties and nine were police officers (Smith 1993).

### **Review of Literature or Practice**

A 1968 study completed by a group called the Physicians for Automotive Safety reported the following:

(1) one out of five pursuits end in death; (2) five out of ten pursuits end in serious injuries; (3) seven out of ten pursuits end in accidents; (4) one out of 25 killed is a law enforcement officer; (5) four out of five pursuits are for minor offenses; and (6) pursuits cause more than 500 deaths each year (Alpert and Fridell 1992).

Since that time several other studies estimate that each year between 50,000 and 500,000 pursuits occur in the United States resulting in 6,000 to 8,000 accidents. These crashes result in 300 to 400 fatalities and 2,500 to 5,000 injuries. The greatest number of pursuits start after the officer observes a traffic violation and the majority of pursuits occur at night (Beckman 1993). One study, conducted by the California Highway Patrol in 1983, reviewed 683 pursuits and illustrates several interesting points. The most important point is that almost 50 percent of felony pursuits and over 30 percent of non-felony pursuits resulted in accidents. This means that 29 percent of all the pursuits end in an accident. Eleven percent of these accidents ended in injuries. The

California Highway Patrol concluded that pursuit is worth the risk. The report stated:

Undoubtedly, innocent people may be injured or killed because an officer chooses to pursue a suspect, but this risk is necessary to avoid the even greater loss that would occur if law enforcement agencies were not allowed to aggressively pursue violators (Alpert 1988).

In 1984, a study of pursuits was initiated by the Dade Association of Chiefs of Police. The study revealed that 33 percent of all the pursuits reviewed ended in accidents and 17 percent ended in injuries. A model policy was developed from this study requiring strict supervision and officer accountability by mandatory reporting and review of all pursuits (Alpert and Dunham 1988). In 1991, a study to determine the characteristics of offenders involved in high speed pursuits was conducted. This study developed a profile of offenders including age, sex, occupation, etc. The most important information from this research for the purposes of this project is that high speed pursuits involve persons who are considered high risks on the road under everyday driving conditions (Brewer and McGrath 1991). According to Maurice Hannigan of the California Highway Patrol: "The potential for injury or death can be reduced with a comprehensive written policy, enhanced training and effective supervision" (Hannigan 1992).

A recent study of 170 police pursuit policies found four common deficiencies. These areas are: the failure to have a mission statement, underutilization of supervision, no guidelines on how to terminate a pursuit and no mandatory administrative review of all pursuits (Shuman and Kennedy 1989). In another study of policies, all policies were defered into one of three categories. These catagories are judgmental, restrictive and discouragement. Judgmental policies allow officers to make all major decisions concerning the pursuits. Restrictive policies place certain restrictions on the officer's judgement and decisions. Discouragement policies discourage



any pursuit except in the most serious cases (Alpert 1987).

To evaluate the current trend of law enforcement agencies concerning policy content, ten medium to large law enforcement agency policies were reviewed. The following table classifies each of the department's policies included in the research into Alpert's typology.

Classification of Police Department Pursuit Policies

Department	Judgmental	Restrictive	Discouragement
Corpus Christi, Tx.		X	
Beaumont, Tx.		X	
Amarillo, Tx.		X	
Texas Dept of Public Safety	X		
Atlanta, Ga.		X	
St. Petersburg, Fl.		X	
Lexington, Ky.		X	
Buffalo, N.Y.		X	
Indianapolis, In.		X	
Scottsdale, Az.		X	

This table indicates that the majority of department's reviewed have some restrictions on pursuits. St. Petersburg, Florida is the most restrictive as pursuits are not allowed except when the person has or is committing a violent felony (St. Petersburg, Fl. Police Dept. 1994). The Texas Department of Public Safety's policy leaves all decisions concerning a pursuit to the officer (Texas Department of Public Safety). This may be a result of several factors unique to a state police agency including confidence in the pursuit training, the lack of direct or constant supervision and the rural nature of enforcement.

The majority of policies reviewed also addressed the following major concerns: (1) when a pursuit can be initiated; (2) responsibilities of the officer; (3) responsibilities of the supervisor; (4) number of pursuit vehicles allowed; (5) the use of unmarked vehicles and motorcycles; (6) responsibilities of communications; (7) the use of roadblocks, ramming and boxing; and (8) termination of pursuits.

### **Discussion of Relevant Issues**

The key issues of this project are the decision to allow pursuits by law enforcement agencies, policy development and training. The decision to allow pursuits is the first decision. If pursuits are not allowed, a policy should state so. If allowed, policy development should provide in-depth information addressing when pursuits can and should be initiated, when they should be terminated, supervisor responsibilities and training. The type of police vehicle should also be addressed. This would include the police motorcycle and unmarked police vehicles. According to Erik Beckman:

The issues normally included in a pursuit policy include: (1) when to initiate a pursuit; (2) number of units permitted; (3) responsibilities of primary and secondary units; (4) driving tactics; (5) helicopter assistance; (6) communications; (7) capture; (8) discontinuance of pursuit; (9) supervisor responsibilities; (10) firearms use; (11) offense categories; (12) blocking, ramming, boxing, roadblocks; (13) absolute speed limits; (14) interjurisdictional considerations; (15) conditions of vehicle; (16) hazards to users of highway; and (17) reporting and post-pursuit analysis (Beckman 1983).

Training is a very important part of policy development as the police vehicle can be described as a deadly weapon and the pursuit is a use of deadly force (Alpert and Anderson 1986). Just as officers are certified with their duty weapons, they should also be certified in the use of a police vehicle. Officers should also have continuous training to ensure that they maintain the technical defensive driving skills and the high speed skills (Alpert 1987). Even with this need

identified, some agencies do not train their personnel. For example, all police agencies in Oklahoma have the option of sending their officers to a free 24 hour training course but 50 percent do not take advantage of the training (Smith 1993).

There are several ideas concerning alternatives to the police pursuit. If there is time, aircraft such as helicopters could be used to keep the fleeing vehicle under observation and keep the officers in vehicles advised of the location. This could possibly allow the officers in vehicles to terminate their part of the pursuit and rely on the helicopter to keep up with the pursued vehicle. There is also the possible option of officers not pursuing but keeping the vehicle in sight and relying on radios to keep up with the pursued vehicle. There is a device with hollow spikes which can be placed on the road to flatten the fleeing vehicle's tires. This could stop the pursuit if officers in front of the chase can deploy the device (Smith 1993).

There are several constraints which have a negative impact on pursuits and must be considered when developing a policy and training for pursuit driving. The age of the police vehicle fleet has a direct bearing upon pursuits. Vehicles which are old and not maintained could have tragic consequences for an officer pursuing at high speeds. The type of roads also has a bearing if the vehicles are not maintained. Rough bumpy roads may cause the officer to lose control if suspension is in need of repair. The ideal situation would be for law enforcement agencies to keep a current fleet of vehicles and have an adequate maintenance program.

The age of the officers also has an impact on training and policy development. If the average age of the officers is young, the agency should realize that the officers do not have the experience to handle these situations without training along with emphasis placed on safety. Some younger officers may be more aggressive than more mature officers. Information can also

be obtained by reviewing the fleet accidents of an agency and completing a comparison with the age of the officers. An accident and age comparison of the officers may show some interesting information concerning the officers.

One opportunity for agencies is to have access to a complete vehicle driving range. Some agencies have access to excellent facilities such as those at the East Texas Police Academy in Kilgore, Texas. This academy offers driver training and a very complete driving range with plenty of room for mistakes. Officers learn the basics of handling police vehicles in different situations which increases the officer's confidence and ability in all kinds of conditions. Officers may also be trained as instructors to decrease the cost of the training.

The cost of a human life is immeasurable. Pursuits are one of the most dangerous actions that a law enforcement officer can become involved in. With the potential of the officer being injured or killed along with the pursued driver and innocent third parties, the officer must be aware of the dangers and trained how to handle the situation. Increased training to ensure officers are competent may be expensive, depending on the location of a complete driving range. But this training, along with an in-depth policy and supervisor intervention, will help reduce the potential for deaths and injuries (Hannigan 1992). With fewer accidents and injuries as a result of pursuits, the cost for the training and policy development is time and money well spent.

### **Conclusion/Recommendations**

This policy research project is presented for the purpose of providing relevant information to law enforcement executives in determining when and if police pursuits are acceptable for the law enforcement agency. This project provides information concerning the theory of pursuits, information from prior studies and a review of ten current law enforcement

agency policies. This is essential to the decision making process concerning pursuits and policy development.

Police officers can be involved in situations on any day which lead to vehicle pursuits. Guidance is needed to ensure that officers know what is acceptable in a pursuit situation. Officers should know if pursuits are acceptable and if initiated, what circumstances require the termination of the pursuit. The officers should also know that a supervisor will be involved and has responsibilities in the pursuit. The supervisors will also know what involvement is required in a pursuit and should be held responsible for ensuring that the policy is enforced. The pursuit policy should also help reduce the liability for the officer, agency and governing body as there is a potential of large awards to the injured and the families of persons killed.

All information reviewed for this project strongly suggests that police pursuits are very dangerous and possibly costly both in money and human suffering and the best way to help reduce the possibility of injury or death is to have an in-depth policy. With this in mind, it is recommended that an in-depth comprehensive policy be developed and all officers complete training in the operation of a police vehicle before being assigned to the street. With this policy and training, law enforcement officers will be more confident when a pursuit is initiated.

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