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Providing Post Academy Driver Training

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## **Abstract**

Currently, the DeSoto Police Department does not provide in-service driver training beyond what is taught in the police academy. State mandated training which driver training is not, yields the most time and department resources. Officers are afforded the basics of pursuit driving, though most agencies provide little or no post academy driver training. And, for many law enforcement agencies large and small, pursuit training sites and resources are limited.

For the departments that do provide post academy training, it was hypothesized that such training would reduce accidents and department liability. The liability associated with a failure to train is clear and in a litigious environment a necessity in protecting the profession and the society it serves.

The DeSoto Police Department tracks and reviews all of its pursuits for policy and guideline criterion. The review period for this research project was from 1999 to 2001. Upon review, it was discovered that the DeSoto Police Department had engaged in 32 pursuits. No accidents were reported as a result of or caused by a pursuit. Four (4) accidents were identified as a "police response" to calls. The majority of accidents and/or property damage reports were the result of slow speed and backing situations.

A survey was conducted of comparable size agencies on whether they engage in periodic driver training. Remarkably, the results were 50 % did and 50 % didn't. Overwhelmingly, all the agencies surveyed could not report specifically, that providing or not providing driver training reduced fleet vehicle accidents. Additionally, it was discovered that providing this training does not necessarily reduce a department's liability. Therefore, the survey did not conclude that providing driver training would reduce accidents and accident liability. Although, there is plenty of case law and civil judgements against law enforcement that would suggest otherwise. The liability associated with this controversial law enforcement issue alone is justification to provide post academy driver training.

## TABLE OF CONTENTS

	<b>Page</b>
<b>Abstract</b>	
<b>Introduction.....</b>	<b>1</b>
<b>Review of Literature .....</b>	<b>4</b>
<b>Methodology .....</b>	<b>7</b>
<b>Findings.....</b>	<b>9</b>
<b>Conclusion/Discussion .....</b>	<b>15</b>
<b>References .....</b>	<b>17</b>
<b>Appendices .....</b>	<b>18</b>

## INTRODUCTION

1

Police high-speed pursuits are one of the most controversial issues within law enforcement. Rightfully so, pursuits do receive the most attention because the end result in some cases, is death or serious bodily injury. Unlike firearms training, where officers are mandated to qualify on an annual or biannual basis to stay proficient, there appears to be very little on going/in-service driver training. Currently, the DeSoto Police Department does not provide in-service driver training beyond what is taught in the Police academy. State mandated training for which, driver training is not, yields the most time and department resources. There is expectation and "job requirement" in most cases that police officers know how to drive a motor vehicle. Officers are afforded the basics of pursuit driving, though most agencies provide little or no post academy driver training. For many law enforcement agencies large and small, pursuit training sites and resources are limited.

In a litigious environment, law enforcement liability is an important area. Police administrators seek ways to reduce risk exposures through policies and procedures, supervision, and training. Officers spend a lot of their time in vehicles and auto accidents/property damage and worker compensation claims are a frequent cause of liability (Home, 2001).

Law enforcement training in general is a vast and expanding discipline, prioritizing training dollars that best meet the needs of the department is difficult. Additionally, advances in technology in regards to police vehicles have proven to be very beneficial for law enforcement i.e.: equipment, computers, and vehicle performance.

Although, this is a positive effect for law enforcement in performing police service, driver training now is even more complex.

Officers are required to operate different police vehicles with different handling characteristics under high and low stress situation. The Department has a responsibility to train officers and may be held civilly liable. "Recent court decisions have stated that a failure to train may show deliberate indifference to the rights of the citizens of the community" (Beach, 1993, p11).

According to Schofield (1988), in considering liability factors, a driving program stressing driving skills, awareness, and knowledge of vehicle capabilities should be implemented. Department differences, specifically the lack of resources and training facilities are not a valid defense.

To examine this issue, information will be gathered from multiple sources. This project will first focus on reviewing the DeSoto Police Department accidents for the last three years (1999 to 2001). This information will be obtained from the City of DeSoto Police Department and the Texas Municipal League (TML), who insures the City of DeSoto. The second part of the project will focus on departments that provide periodic driver training and if such training, reduces accidents. It hypothesized, that the research will support the need for a periodic driver-training program and that such training will have a positive effect on reducing department liability and accidents.

The information in this document is taken from literature reviews, independent studies, Federal and State court decisions, interviews, and documents published by the United States Government. The intended audience of this research project is the administration of the DeSoto Police Department. The intended outcome is that the research will support the need for a periodic driver training- program.

## **REVIEW OF LITERATURE**

Police pursuits are a serious issue, which has received serious focus and attention from citizens, police administrators, city managers, and legal advisors. It is an issue of liability that deserves the same degree of attention as deadly force (Jackson, 1997).

According to Alpert (1986 as cited in Schofield), a motor vehicle can constitute the deadliest weapon in a police department's arsenal and that "when a police officer engages in a high-speed chase in a high powered car, that vehicle becomes a potential deadly weapon" (p.23). The hazards inherent in a vehicular pursuit to officers, suspects, and other motorists must be balanced against the need for immediate apprehension.

As the community members come to know their officers better, they also develop a fairly good understanding of the strengths and weaknesses of their officers. One of the most visible and publicized activities of the police is driving, especially emergency vehicle operation in pursuits. It is important to provide a message to the public that their officers are as competent and well-managed in this critical activity as they are in the more traditional areas of firearms, arrest procedures, etc (IADLEST, 1989, p.10).

According to Schofield (1988), the basis for most pursuit-related liability is negligence. The focus is whether the police acted prudently and reasonable under the circumstances. Texas State Law, Traffic Code (TRC 546.005-Duty of Care) provides exceptions for police officers while operating an emergency vehicle. The "exception doesn't relieve the operator from: (1) duty to operate the vehicle with appropriate due regard for safety of all persons; or (2) the consequences of reckless disregard for the safety of others.

"Negligence is defined as doing that which an ordinarily prudent person would not do under the same or similar circumstance or failing to do that which an ordinarily person would do under the same or similar circumstances". Gross -Negligence involves the same definition as negligence but adds a requirement that the conduct involved constitutes a willful disregard for the rights and safety of others" (Sermino as cited in Henshaw, 1991, p.2).

From the realm of Constitutional law, two cases that have been used the most and cited in many police related use of force and pursuit civil litigation, is Tennessee v. Garner, 471 US. (1985) & Canton v. Harris, 489 Us. 378 (1989). In Tennessee v. Garner, 471 Us. (1985) a statute provided that if an officer has given intent to arrest a criminal suspect and the suspect forcibly resists, the officer may use all means necessary to affect the arrest. Acting under this statute, a Memphis police officer shot and killed a burglary suspect (Garner), who fled on foot after being told to halt. The officer used deadly force after being "reasonably sure" the suspect was unarmed. The District court held that the statute and the officer's actions were constitutional. The Court of Appeals reversed the lower court decision and held: The Tennessee statute is unconstitutional as it authorizes the use of deadly force against an unarmed fleeing suspect. The court ruled that such force cannot be used unless it is necessary to prevent escape and the officer has probable cause to believe that the suspect poses a significant threat of death or serious bodily injury to others. Additionally, the court ruled that the use of deadly force is a seizure subject to the Fourth Amendment's reasonable requirement. To determine whether such a seizure is



reasonable, the extent of the intrusion on the suspects rights under the amendment must be balanced against the governmental interests in effective law enforcement.

In Canton v. Harris. 489 Us. 378 (1989) the respondent fell down several times while in police custody. The police summoned no medical assistance while in police custody and after her release, she was diagnosed as suffering from several emotional ailments requiring hospitalization and subsequent outpatient treatment. Subsequently, the respondent filed suit against the City of Canton, to hold City liable, under 42 U.S.C. 1983 for violation under her right, under due process clause of the Fourteenth Amendment, to receive medical attention while in police custody. This case bears directly on the liability issue. The court held that the failure to train officer's in a particular duty, where the need of training is obvious, and a lack of training is likely to result in violation of constitutional rights, makes a government entity liable. The court had ruled that the city had shown a "deliberate indifference" to a potential danger and or action that existed due to a failure to train (Boyd as cited in Franklin, 1995, p.4).

Both of these cases are cited and utilized as the basis of many liability cases against law enforcement. Society and the courts have demanded that law enforcement balance need for apprehension versus the risk to the public. Law enforcement has had to look at alternatives in pursuit and emergency vehicle operations without hampering its role. The liability within law enforcement is endless, but the need for on-going training i.e.: use of force, emergency vehicle operation, and the protection of constitutional rights is the core from which, police liability is defined and governments held accountable.

## **METHODOLOGY**

The research question this paper deals with is whether or not periodic driver training program will reduce fleet accidents and department liability. It was hypothesized that a periodic driver training in emergency vehicle operations would reduce accidents and department liability. Currently, the DeSoto Police Department does not provide driver training beyond what is taught in the police academy. In order to evaluate the issue, a review was made of all fleet accidents between 1999 to 2001. The criterion for evaluation was limited to routine operation, response to calls, and pursuits. Accidents or property damage not caused by the direct operation of the police vehicle was eliminated from the research.

When a fleet accident or property damage occurs, the officer is required to notify a supervisor and submit a "property damage" report. In addition to, if the employee is injured as a result of the accident, an "injured employee" report is completed. These reports along with other required reports (State accident forms, offense/incident reports, etc.) are forwarded to division commanders, Chief, and City risk management. Reports are kept on file internally by the department of police internal affairs. Upon review of internal affair files, it was discovered that twenty-seven (27) accidents/property damage reports had been reported between 1999 to 2001. These reports were compared with city risk management records. Accident/property damage reports requiring claim disposition were handled by risk management. Upon review, under the research criterion, eleven (11) accidents/property damage reports were studied.

There were no fleet accidents or property damage reports as a result of pursuits during this research period. A review was conducted of all police pursuits during the same time period. When an officer engages in a high-speed pursuit, the effected officer and back-up officers are required to complete a "pursuit report". The report is then forwarded to the supervisor, commanders, and the Chief for review. The review is conducted to see if the pursuit was conducted within department guidelines. There was no record of policy violations listed for the review period but there was a growing concern on pursuits that were initiated for traffic and/or miscellaneous reasons. Upon review it was discovered that the DeSoto Police Department had been involved in 32 police pursuits.

A review was conducted of all property damage and worker compensation claims reported to the Texas Municipal League (TML) - Risk Management. TML is the insurance carrier for the City of DeSoto. Three (3) areas of concern were reviewed: Auto liability damages, auto physical damage, and workers compensation claims. A survey was then conducted of 20 police agencies of comparable size to see if they provide periodic driver training to their officers. The survey attempted to find if there was a direct correlation between post academy driver training, if given, and the reduction of fleet accidents and liability as a result of such training. This information was then analyzed to determine if there was such a training need for the DeSoto Police Department or if academy training and policy is sufficient in reducing fleet accidents and liability. The information will be re analyzed and specific recommendations will be made to the DeSoto Police Department.

## FINDINGS

Upon review of accidents/property damage reports between 1999 to 2001, eleven (11) accidents met the research criterion. Six (6) of the accidents occurred during routine patrol. Four (4) of the accidents occurred during police response to calls, and no accidents were reported during a police pursuit. Though internal records did not report an accident or injuries as a result of a pursuit, insurance records Texas Municipal League (TML) reported an auto physical and workers compensation claim paid as a result of a pursuit. The date the claim was paid was 04/15/99. The report did not list the actual pursuit date, therefore, the pursuit may have occurred in 1998 which, would not be included in this research. Not all accidents/property damage reports resulted in an actual claim to the city insurance provider therefore, internal records versus insurance records will differ.

The Texas Municipal League Intergovernmental Risk Pool (TML-IRP) provided insurance liability information in regards to three (3) areas of concern: Auto liability claims, auto physical damage claims, and worker compensation claims. TML records indicate the following claims and totals.

<b>10/01/98 to 09/30/99</b>	<b>10/ 01/ 99 to 09/30/2000</b>	<b>10/01/2000 to 09/ 04/01</b>
Auto liability	Auto liability	Auto liability
(5) \$ 1,726.00	(5) \$ 34,208.00	(2) \$ 11,408.00
Automobile Damage	Automobile Damage	Automobile Damage
(4) \$ 4,385.00	(4) \$ 6,316.00	(1) \$ 1,475.00

Worker Compensation (2) \$ 248.00	Worker Compensation (1) \$ 75,118.00	Worker Compensation (0) no claims
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**Total department liability by claims paid:**

<u>1999</u>	<u>2000</u>	<u>2001</u>
\$ 6,359.00	\$ 115,642.00	12,883.00

**Total monetary liability under research criterion for 1999 to 2001:**

\$ 134,884.00

(See TML report-appendix A)

A review was conducted of all pursuits during the same time period (1999 to 2001). As reported earlier, there was no accidents or property damage listed as a result of and or during a pursuit, though the DeSoto Police Department had engaged in 32 pursuits during this review period.

- 1999: Six (6) chases ensued. Two were classified as felony chases, two were misdemeanors, and two were for traffic related offenses.
- 2000: Ten (10) chases ensued. All ten chases were based on misdemeanor charges.
- 2001: Sixteen (16) chases ensued. Eleven were classified as felony chases, five were classified as misdemeanors.

**(See internal memos-vehicle chase reviews-appendix B)**

Each yearly chase review recommended that we (DeSoto Police Department) review and monitor court cases involving police pursuits and suggested in some cases, eliminating pursuits for "traffic offenses only" (See Internal memos, 1999,2000,2001).

A survey was conducted of twenty (20) police agencies of comparable size to DeSoto, to see if they engage in periodic driver training. The survey asked whether the department engages in such training, and if so, the type of training (classroom, or obstacle track, or both). How often the training was conducted, or whether the training was given as a result of an accident/training need. Is there measurable data available to conclude that such training is beneficial or reduces department fleet accidents? (See Figure 1).

**Law Enforcement Agency  
Driver Training Survey**

Department Name	Date	Provide post training		Type	How often	Seen a reduction in fleet accidents
		Yes	No			
Lancaster PO	1/13/2003		X	N/A	N/A	N/A
Cedar Hill	1/13/2003	X		A	2 yrs	N/A
Glenn Heights	1/14/2003		X	N/A	N/A	N/A
Midlothian	1/14/2003		X	N/A	N/A	N/A
Shenandoah	1/14/2003		X	N/A	N/A	N/A
Lake Jackson	1/14/2003	X		B	1 yr	N/A
Benbrook	1/14/2003	X		C	1 yr	N/A
Angleton	1/14/2003	X		B	1 yr	Yes
Azle	1/14/2003		X	N/A	N/A	N/A
Rowlett	1/14/2003		X	N/A	N/A	N/A
Waco	1/16/2003	X		A	1yr	N/A
Cedar Park	1/16/2003		X	N/A	N/A	N/A
DFW DPS	1/21/2003	X		B	2 yrs	N/A
Duncanville	1/21/2003		X	N/A	N/A	N/A
White Settlement	1/21/2003		X	N/A	N/A	N/A
Humble	1/21/2003	X		B	2 yrs	N/A
Marshall	1/23/2003		X	N/A	N/A	N/A
Carrollton	1/22/2003	X		A	1 yr	N/A
San Marcus	1/23/2003	X		A	1yr	N/A
Sugarland	1/22/2003	X		B	2 yr.	N/A
Types of training		Department totals		Comments:		
Pursuit & Low speed =	<b>A</b>	Yes	No			
Low speed / high speed=	<b>B</b>	<b>10</b>	<b>10</b>			
Classroom only =	<b>C</b>					

Figure 1. Law Enforcement agencies surveyed.

The results of the survey were compiled and analyzed for the results. Remarkably, of the agencies surveyed, the results were 50% that did and 50% that didn't. The agencies who reported that they provided post academy training, Four (4) agencies provided both pursuit and low speed/high stress training (Type A training). Three (3) of these four agencies provided this training to each officer once a year and one agency provided this training every two years, per officer.

Five (5) agencies reported that they provided low speed/high stress (type B Training). Three (3) of the 5 agencies provided this training to each officer every two years. Two (2) of the agencies surveyed provided this type of training once a year, per officer. One (1) agency provided classroom training only (type C training) once year per officer. This agency reported an increase in fleet accidents with new recruit officers.

The agencies surveyed, who do provide post academy training had no specific statistics and/or records available to see if there was a reduction of or decrease in accidents or liability as a result of this training. Some training coordinators offered positive opinions and some did not know.

The ten (10) agencies that didn't provide post academy training, offered the following reasons: Logistical resources, monetary resources i.e.: over-time, vehicle availability, maintenance, and the lack of certified instructor's. Four (4) of the agencies surveyed are looking at different programs and two (2) are sending officer's to instructor school. One agency will send an officer to the local junior college to take a defensive driving course after the first accident. One agency will send available officer's to citywide



defensive driving class (classroom only) when available. The remaining four (4) agencies provide no post academy training at all.

One trend that was discovered during this research was that two of the departments that were surveyed, belonged to a consortium of agencies, who split the cost of training and resources to provide driving training to their officer's. This consortium of agencies has a number of instructors, equipment, and logistical resources to benefit all the agencies involved. This trend of combining training resources between agencies will hopefully continue and expand to other areas of the state.

## CONCLUSION

The findings of this research are very telling in the fact that police officer's have to drive and operate very sophisticated equipment inside their vehicle everyday. Law enforcement training academies afford the basics of pursuit training and the liabilities attached, but the training involved afterwards is time consuming and expensive. The liability alone discovered in this research is justification for post academy training but the financial burden and a logistical resource of many law enforcement agencies is reality.

Never the less, as cited previously, *According to Schofield (1988), in considering liability factors, a driving program stressing driving skills, awareness, and knowledge of vehicle capabilities should be implemented. Department differences, specifically the lack of resources and training facilities are not a valid defense.* Liability is a factor of life, and the steps and preparation one takes to limit that liability is not only beneficial for the one (agency) it affects, but the one (officer) who, delivers and serves the one (citizen) who receives the service.

According to City of DeSoto risk-management statistics, fleet accidents were not attributed to pursuits but were slow speed and backing situations. In the last four years, there has been a push to provide for lower speed/high stress training as opposed to pursuit/high speed training. Although, recent high-profile pursuits in California which have resulted in death and serious bodily injury, have caused a backlash of criticism and pressure on law enforcement to restrict officer's from chasing fleeing suspects and

violators (LAPD Chief Mulling Ban on Police Pursuits. Associated Press, December 17, 2002).

The DeSoto Police Department has sporadically provided some classroom training through our insurance carrier in the last 12 years but nothing along the lines of a practical and comprehensive hands on police driving course. Like other departments that do not provide post academy driver training, the lack of logistical and economic resources prevails. Additionally, State mandated and job specialization training receives the most time and attention. The DeSoto Police Department, like others, is looking at ways to increase driver training with the resources available.

The survey did not conclude that providing a periodic training would reduce accidents and accident liability. Although, there is plenty of case law and civil judgments awarded by law enforcement, in regards to civil liability that would suggest otherwise- "Los Angeles had 781 police pursuits in 2001, up from 587 the previous year. More than 135 injuries resulted". The article concluded, "The chases also have been costly to the city". " Liability claims resulting from police pursuits cost the city about 1.5 million from July 2000 to September 2002" (LAPD Chief Mulling Ban on Police Pursuits. Associated Press, December 17, 2002).

The fact that pursuit/emergency vehicle operation has become a necessity in today's law enforcement community cannot be denied. The public, which already scrutinizes police pursuits versus the decision to pursue, has become more and more reticent to condone police pursuits except as an absolute last resort. Departments, realizing this, should make the necessary training available to their officers now, instead of waiting until an incident occurs.

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