

Risk Management in Vehicular Pursuits

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Thesis Statement: The justification for high speed pursuits to apprehend criminals is being increasingly scrutinized by our society. This trend is most evident in the media, the courts and among law enforcement agencies nationwide. There are several factors an agency should consider in its development of a policy regarding pursuit driving to minimize liability, protect the public and apprehend the offender.

It is obvious to most citizens in our society that attention to high-speed pursuits involving police and criminals has increased substantially in the last decade. The television show “Cops” has been aired nightly during the week for several years and often features pursuits. Recently, a series dedicated to pursuits has aired. “World’s Scariest Police Chases” features footage of real chases, usually with the most dramatic conclusions. Documentaries have been broadcast in which all aspects of police pursuits have been debated. The courts are increasingly holding agencies liable for their role in these pursuits when tragedy occurs. As a result of this attention, many agencies are implementing more restrictive policies based on the concept of balancing risk versus reward. The courts have not forgotten the offender as it is now a felony to flee in a vehicle in most states, whereas it was formerly a simple misdemeanor. The purpose of this study is to provide those concerned with insight regarding current trends in policy development with respect to police pursuits. The policy serves as a universal information source or “sheet of music” for all to refer to. Department members will understand what actions are appropriate in pursuit scenarios, the governing body will understand how the ultimate goal of public safety is furthered while minimizing liability, and the public will be advised on what measures are being taken to protect them.

To decide what police actions are appropriate, we must understand the dynamics of pursuit situations. The roles, motives and goals of the participants should be defined and consideration must be given to the physical variables involved. Participants include the fleeing offender(s), pursuing officers, supervisors, other agencies and bystanders. Physical variables include, but are not limited to; the weather, time of day, location, road conditions, capabilities of the vehicles involved, communications and other resources at the agency's disposal. Consideration of all these factors should be combined with a risk versus reward philosophy in the development of policy.

The suspect initiates the pursuit when he or she decides to disregard an officer's order to stop and takes evasive action. The motive to do so may or may not be clear, depending on the circumstances. They range from the known felon fleeing apprehension for a violent crime to the angry motorist who decides that they simply do not want a traffic citation, and any set of circumstances in between. Their ultimate goal is safety and freedom. The offender will face a number of possible conclusions to the course of action they initiated when they made the decision to flee. The offender will eventually surrender, return to a safe speed or become involved in an accident (Alpert, 1997). Occasionally, the pursuit is concluded by police using some tactic or device to disable the suspect's vehicle, or the suspect may run out of fuel.

Initial police involvement is limited to one patrol car in most cases. If the pursuit lasts beyond a very few minutes, multiple units will soon join the chase or at least converge on the area. The exception to this rule occurs in rural or otherwise isolated areas where the initiating officer's nearest backup may be several miles away. The number of police cars involved range from three in a textbook scenario; initiating unit, backup unit and a supervisor, to twenty or more. The classic example of a huge pursuit

fleet was in the O.J. Simpson pursuit in California. The officer's initial motive is to detain the offender for whatever reason, again ranging from a violent felony to a simple traffic violation. It is only the police driver who is subject to direct control during the course of the police pursuit (Alpert 1997). Thus, the outcome of the pursuit is the officer's responsibility to a great extent. When a suspect takes flight, most officers' "prey drive" kicks in and they instinctively want to chase the offender. This instinctive behavior is usually accompanied by a surge of adrenaline. I felt this way in the first few pursuits I was involved in. Based on my own experiences during fifteen to twenty pursuits in my eight years of law enforcement and discussions with peers, this emotion is almost universal. I have noticed that this instinct usually abates with experience, but varies among individual officers. While experiencing this "rush", the officer must take the time to evaluate the risks in the situation and take appropriate action to avoid a tragic conclusion. Life or death decisions such as these are often made in a split second. The officer and the supervisor must determine the value of continuing the pursuit and the risk of the pursuit to the officer, innocent bystanders, passengers and pedestrians (Alpert 1997). Since the officer has primary control of the pursuit, it logically follows that his actions are the focus of policy to reduce the risk to public safety and minimize liability.

The bystander is always an unknown variable and may be present in any number. Bystanders include passengers in the vehicles involved, other drivers and their passengers, pedestrians and occupants of buildings in the path of the pursuit. Frequently, the bystander is completely unaware of the pursuit until it has passed them. When they do see or hear it coming, they often cannot or do not react to avoid becoming involved. In rare cases, they attempt to assist police through a misguided sense of civic duty by trying to stop the suspect's vehicle with their own. The circumstances range from the

relatively safe scenario of the deserted rural highway with no other traffic to the school zone with small children in a crosswalk. Since the bystander cannot effectively take appropriate action to protect himself, it is the officer's responsibility to do so. While even a hardened criminal fleeing arrest would probably try to avoid running down helpless children, it would be foolish to trust him to do so, assuming it was within his capability.

Physical variables present in a pursuit situation are limited to those present in any environment a vehicle can be found in. The weather plays a crucial role in an officer's decision to pursue. Obviously, it would be safer to conduct a pursuit on a clear, dry summer day than on a icy road in the rain at night. Vehicles require a much greater stopping distance on wet roads than dry due to less traction. Daytime pursuits afford a much better view of the surroundings, especially at a distance ahead of the pursuit. At night, the environment is effectively limited to the range of one's headlights or whatever ambient light may be present. This has the direct effect of reducing reaction time to avoid collisions with other vehicles, pedestrians or fixed objects. Location must be considered. Normally, this factor is already considered before a pursuit. The officer is usually familiar with the area he is patrolling and knows it might be safer to pursue a suspect down a deserted rural highway than through a school zone or neighborhood in a city.

The officer should be familiar with the capabilities of his patrol vehicle. Many agencies are forced to use their vehicles until they literally fall apart due to tight budgets. One doesn't have to look very hard at a police fleet to find some of these cars still in service. Cars with two hundred thousand miles of hard use on them are not uncommon. Most of these cars are driven twenty four hours a day by several officers. Worn out

suspensions, loose front ends and bad brakes are common police vehicle features. Tires are not considered worn out until you can see the air in them. On the opposite end of the spectrum, many state agencies or large metropolitan departments can afford to cycle these vehicles out of their fleets and obtain new ones. In addition, the officer must assess the capabilities of the suspect's vehicle. Is the suspect driving a jalopy that may not make it to the next stop sign, or is he driving a Ferrari, which might easily outrun the patrol car? Some suspect vehicles are more dangerous simply by design. A few years ago, San Diego area officers chased a suspect in a stolen Marine battle tank, which crushed several vehicles in its path. An officer might think twice about pursuing a tanker hauling gasoline, for example. While it becomes obvious that such dangerous offenders must be stopped, serious consideration must be given to the tactics used in these special situations. One cannot deflate the tires on a tank, and one might not want to use one of the electronic disabling devices on a fuel tanker.

The communications capability of involved agencies and officers plays a key role in coordinating efforts to stop the suspect. When an officer leaves the effective range of his radio, he is isolated from his entire support infrastructure. His dispatcher, supervisor and fellow officers have only a last known location to respond to. Agencies should ensure they can communicate with each other before being faced with a crisis. Neighboring jurisdictions are wise to develop interagency agreements before they are needed which delineate protocol in a crisis situation.

Resources must be evaluated, especially by supervisors in the pursuit, and by agency heads when developing policy. An agency with only two cars can ill afford to risk one compared to a state agency with hundreds of units at its disposal. The supervisor must also decide how these resources are allocated and deployed in the crisis. He is

faced with many questions demanding immediate answers. Does he leave the city unprotected while his entire shift pursues one suspect? Is there a sufficient number of officers to handle the pursuit? What means are available to terminate the pursuit? Are any of the agency's cars equipped with devices to disable a suspect's car? If so, has thought been given to where and how they are deployed?

There is a current trend among law enforcement agencies nationwide to curtail pursuits in the interest of public safety, however there is still much disparity to be found among department policies. Pursuit policies range from a total prohibition against vehicle pursuits to the unwritten policy allowing total discretion by the officer. Under the previous administration of my department, there was no written policy and procedures manual. What policy applied in a given situation depended on which officer was involved and the mood of our police chief. I asked my former chief one day what our pursuit policy was and he replied, "Bring back meat." Fortunately, this "Wild West" approach to law enforcement is the exception rather than the rule. More progressive administrations are aware of the application of vicarious liability against them and have taken action to ensure that their officers exercise discretion with the ultimate goal of public safety in mind.

The purpose of pursuit is to apprehend a suspect within the mission of police- to protect lives. Tactics and activities undertaken must consider apprehension secondary to public safety (Alpert 1997). As police officers, we must ask ourselves, "Is catching this person worth risking our lives and the lives of the public just to make the arrest?" I frequently allude to another story from my agency's past when discussing this subject. One of our patrolmen had stopped a violator he knew had a suspended driver's license. After the officer made contact with the man and got his license, the man sped away in his

vehicle. Instead of letting the man go and getting an arrest warrant, the officer pursued him. The pursuit ended quickly with both cars a total loss and both the officer and the offender in the hospital. Our six man agency now had one officer on sick leave and had only three patrol cars instead of four. This pursuit was clearly unjustified and created a serious burden on the ability of our department to continue serving the community. On the other hand, a police agency could probably justify chasing suspects such as the heavily armed Hollywood bank robbers of early 1997, even if civilians were injured or killed. The danger to the general public if the robbers escaped clearly outweighed the danger to a few bystanders by their apprehension in this case.

When discussing this perspective with my officers and officers of other agencies, one of them invariably offers the following hypothetical, yet realistic scenario: The officer falls in behind an obviously intoxicated motorist whose manner of driving obviously poses a danger to others. As the officer attempts to stop the offender, he accelerates and attempts to evade arrest. The officers assert that allowing the drunk driver to escape will pose a serious threat to the public and he should be pursued. While drunk driving is not a violent felony, no one would argue that it is a serious offense with all too often deadly consequences for other motorists. However, after lengthy consideration of this viewpoint, I would argue that most drunk drivers do arrive at their destination without incident. Causing an already impaired driver to increase his speed and attempt evasive maneuvers increases the likelihood that he will cause a collision, potentially involving innocent parties. Isn't this the result we are trying to avoid by enforcing drunk driving laws in the first place? I argue that a more prudent response would be to disengage the pursuit and attempt to coordinate a safer, more discreet tactic to stop the offender.

In an October 2000 article submitted to Law Enforcement Technology, Ronnie L. Paynter offers statistics from the National Law Enforcement and Corrections Technology Center. Their research showed that collisions occurred in nearly one third of pursuits, injuries occurred in thirteen percent and fatalities occurred in slightly over one percent. Their figures attributed fifteen percent of the injuries to innocent parties. The International Association of Chiefs of Police (IACP) advocates a strict pursuit policy for police chases and puts forth the idea that restricting pursuits is a good policy, given the inherent risks that these chases pose (Paynter 2000). Police administrations are responding to this ideology by enacting more restrictive policies, seeking training in pursuit driving and are embracing technology to reduce the number of pursuits and hopefully lessen their tragic consequences.

While these policies lessen the pursuit problem, there still are situations that may require police intervention. In these scenarios, technology can help (Paynter 2000). An acceptable device to be employed by police must safely disable a vehicle while allowing the driver to maintain control of it as it slows to a stop. The old methods of shooting out the suspect's tires, ramming his vehicle with a patrol car or employing a "rolling roadblock" of patrol cars are notoriously unreliable and very dangerous to everyone involved. Once the suspect loses control of his vehicle, it becomes difficult to predict where and how it will stop. Stationary roadblocks have been held to be considered deadly force by the courts unless the suspect is left with an escape route and thus ineffectively rely on intimidation alone to convince a suspect to stop.

The dangers of shooting at a suspect's vehicle are very obvious. Even if the officer doing the shooting is an expert shot, the odds of him hitting a small moving target such as a tire or radiator while riding in or driving a moving vehicle himself are very

slim. Assuming he is able to score a hit that deflates a tire, the suspect will in almost every case lose control of the vehicle as the tire rapidly deflates or “blows out”. The danger is further compounded by the fact that each of the bullets fired will end up hitting something. If not the suspect’s car, then what or whom? Fortunately, such incidents are much rarer today than in previous years.

Ramming a suspect vehicle is extremely dangerous. At best, it is a controlled collision in which the officer is just as likely to disable his own vehicle as he is the suspect’s. He is also just as likely to lose control of his vehicle. Some departments, particularly state highway patrols, train their officers to push a suspect’s vehicle off the road using the “pit” maneuver. The officer positions the front of his vehicle to one side and to the rear of the suspect and bumps him off the roadway with unpredictable results.

The rolling roadblock tactic is also common. The suspect’s vehicle is surrounded on all sides by patrol cars at very close distances. The officers then gradually slow down, forcing the boxed in suspect to do the same. This is very dangerous to the officers, as the suspect can and frequently does ram the patrol cars and escapes, at least momentarily. If the suspect has a firearm, this technique provides the suspect with several police officers to shoot at as well. This might be a good tactic if the police chief happens to run a body shop or funeral home on the side, but I see few other advantages.

As agencies look for ways to bring pursuits to a safe and expeditious conclusion, tire deflation devices, or spike strips as they are commonly called, have begun to demonstrate their value. Deployed in various ways by agencies throughout the world, the devices have given police departments another option when it comes to the potentially deadly tactical considerations in pursuit management (Stockton 1999). Tire deflation devices are carried in an officer’s vehicle and are deployed in the fleeing vehicle’s path

by the officer, after coordination with pursuing units. The devices typically have replaceable spikes that allow the air in the tire to escape either through or around them after puncturing and embedding in the tire. The tires slowly deflate and the vehicle coasts to a safe stop. Disabling the vehicle in this manner allows the driver to maintain steering and braking control over the car. He may still be able to drive a short distance, but will no longer be able to do so at high speeds. I have been in pursuits that were terminated by spike systems and they invariably performed as designed. It is interesting to note that in each of these incidents, some overzealous officers were either unaware the spike system was being deployed or neglected to back off and found some of their own tires flattened like the suspect's. Fortunately, the only casualties were bruised egos and a few tires. This serves to illustrate the need for coordination, communication and training among agencies. The spike systems are relatively inexpensive and almost any department can purchase them since federal grant money to assist law enforcement is not difficult to obtain. They are increasingly becoming standard issue equipment nationwide.

Only recently has a new tool become available to law enforcement: electronic vehicle disabling devices. With the automotive equivalent of a stun gun, law enforcement could bring a "stunning end" to the high-speed chase (Paynter 2000). There are currently three such devices on the market. In principal, they destroy the operating capability of the car by targeting key electrical components, particularly those that are computerized or computer controlled. By disabling the electrical system, the car's engine shuts down. The car's mechanical ability to steer and brake remains, allowing the driver to coast to a safe stop. Two of these systems are employed like a spike system; by placing them in the roadway ahead of the targeted vehicle, while the third is fired by rocket from the patrol car to the suspect's car.

The vehicle mounted device is probably the most advantageous as it requires much less coordination and is operated by the pursuing officer only. The pursuing officer positions himself behind the suspect at a few car lengths distance and fires the device. As the device passes under the suspect's car, it disables the electrical system. The disadvantage to this device is expense. An agency would realistically have to equip all of its patrol cars with the system to ensure its availability in a pursuit, or at a minimum, equip at least the patrol supervisors' units. The stationary devices are activated remotely or automatically as the suspect passes over them, presenting the same coordination and communication variables present in employing spike systems.

While high-tech electronic gadgets may someday offer the ultimate solution, the current group of mechanical tire deflating devices appears to offer the most practical approach for most agencies (Stockton 1999). It is obvious that if an agency chooses to conduct vehicle pursuits, they should definitely include equipment to safely terminate them in their patrol cars.

As a solution to the dilemma administrators face with respect to risk management, I can only offer the course of action I have taken with my department. All law enforcement agencies typically have a policy and procedures manual. If they do not, they certainly should, unless they get an excellent rate on legal insurance and representation. When I was appointed as Interim Chief of Police at the Mayflower Police Department in Arkansas in July, 1999, my first action was to temporarily adopt the Model Policy and Procedures Manual for Police Departments compiled by the University of Arkansas Criminal Justice Institute. This manual includes a pursuit driving policy. Agencies in other states will likely have similar resources at their disposal, either from learning institutions or other agencies.

After addressing the immediate need for some policy to be in place, I began to research how the policy should be revised to fit the specific needs of our department. Soon after I was appointed Chief of Police in September 1999, I enacted a revised pursuit policy that remains in effect. Our department serves a small city between two larger cities, Conway and Little Rock, Arkansas. We have a major interstate and two state highways that pass through our city and we have been involved in a relatively high number of pursuits in the past. Given our limited resources and minimal presence, I sought to enact a more restrictive policy.

Under our current policy, officers may only pursue violent felony suspects. Our pursuits are conducted in the same manner as before with respect to tactics. As we rarely have more than one officer on duty at any given time, it doesn't make sense to purchase a spike system. The only realistic alternative would be the electronic disabling device that is deployed by the pursuing officer. At this time, it is cost prohibitive. Furthermore, if we do begin a pursuit, it will enter a neighboring jurisdiction within a minute or two and we will rely on other agencies for assistance. Our neighboring agencies all issue tire deflation devices and have successfully deployed them in the past.

In conclusion, it is obvious that the administration has much to consider in determining the course of action it takes regarding pursuits. A policy must be first be researched and implemented. Needs regarding equipment and training must be assessed and procured, and the results of each pursuit must be evaluated afterward to ensure the policy, officers and equipment work as planned. Taking these steps should ensure greater public safety, our ultimate goal.

References

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