



## VEHICULAR PURSUIT

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### I. GENERAL CONSIDERATIONS AND GUIDELINES

As a general statement, high speed pursuit is not recommended **or favored** by this agency. Many of these pursuits are inherently dangerous and therefore create a **significant** risk of injury to the pursuing officer(s), the occupant(s) of the pursued vehicle, and the public at large. **The safety of all far outweighs the potential advantage of apprehending a fleeing vehicle by such means. Delay, no matter how distasteful, is more appropriate when the operator/violator is known to the police or poses no immediate threat to the safety of the police or the public.**

The primary purpose of this policy is to secure a balance between the need to protect the lives of the public, and the occupants of the pursued vehicle, and the obligation of police officers to enforce laws and apprehend violators.

**Under certain circumstances, however, continuous high speed pursuit may be authorized. When such a pursuit is undertaken, the purpose should be to apprehend quickly and safely. However, Officers should not endanger the safety of others for the sake of rapid apprehension. Due regard for the safety of others is of the utmost importance. Generally, a pursuit is authorized if the police officer has reasonable grounds to arrest the person(s) being pursued for a serious felony involving the use or threat of physical force.**

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This policy also recognizes that vehicular pursuits do not automatically occur when officers activate their emergency warning equipment in an attempt to effectuate a lawful motor vehicle stop or when following and observing a motor vehicle.<sup>1</sup>

Motorists occasionally may not immediately see or hear an officer's emergency warning equipment, or may not realize that they are the target of the officers' efforts.

Officers may be required to follow a motorist with emergency warning equipment activated for a significant distance before that motorist actually stops the vehicle.

Consequently, an officer's lawful attempt to stop a motorist is not considered a vehicular pursuit subject to the requirements and restrictions of this policy unless and until such time as the officer reasonably believes (i.e. has "reasonable suspicion) that the motorist is intentionally ignoring the officer or actively attempting to elude the officer. (Keep in mind that, under Massachusetts Constitution, a pursuit constitutes a "seizure" and must be justified by reasonable suspicion. This state's courts have ruled that as soon as an officer activates a cruiser's blue lights or siren, the seizure has occurred.) Events subsequent to police pursuit, including efforts to elude or flee from the police, cannot be used to supply the requisite reasonable suspicion to justify a prior investigatory stop.<sup>2</sup>

Since numerous unique situations arise in law enforcement, it is impossible for this policy to anticipate all possible vehicular pursuit circumstances. Therefore, in unusual situations an officer should use common sense and consult with a supervisor whenever possible.

## **II. POLICY**

In recognition of the dangers the pursuit of fleeing suspects presents to the public, officers, and suspects involved in the pursuit, this policy establishes guidelines to assist officers in the safe performance of their duties while enforcing the laws of the state. **It is important to note that no Officer or Supervisor should be criticized or disciplined for a decision not to engage in a vehicle pursuit, based on the risk involved, even in circumstances where the policy would permit the commencement or continuation of a pursuit.**

## **III. DEFINITIONS**

- A. *Authorized Police Vehicle*: A police department issued motor vehicle equipped with operable emergency warning equipment.
- B. *Primary Unit*: An authorized police vehicle that is the first vehicle behind the pursued vehicle.
- C. *Secondary Unit*: An authorized police vehicle that is actively involved in the pursuit behind the primary unit as backup.
- D. *Supervisor*: The officer-in-charge or other person-in-charge.
- E. *Vehicular Pursuit*: An active attempt by an officer in an authorized police vehicle, with emergency warning equipment activated, to apprehend one or more occupants of another moving vehicle, when the officer reasonably believes that the driver of the other moving vehicle is resisting apprehension by increasing the vehicle's speed, intentionally ignoring the officer, or otherwise attempting to elude the officer.
- F. *Densely Populated Area*: An established area of a city or town that is thickly settled and/or composed of a business district marked by compactness, with pedestrian and vehicular traffic.

## **IV. PROCEDURE**

### **A. Pursuit Decisions**

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1. For an officer to be authorized to engage in a vehicular pursuit, the officer should consider the following factors when practicable:  
 [41.2.2(a)]

**THE RISK TO PUBLIC SAFETY  
IN THE ABSENCE OF PURSUIT**

- severity of crime/offense believed to have been committed by one or more occupants of the pursued vehicle;
- the nature and degree of the threat to public safety should the vehicle not be stopped;
- alternatives to the pursuit;
- whether the identities of the occupants are known to the point where later apprehension is possible and applicable.

**VS.** **THE FORESEEABLE RISK  
TO PUBLIC SAFETY ARISING  
FROM THE PURSUIT**

- population density (including volume of pedestrian traffic);
- nature of the area (residential, commercial, school zone, and the volume type, speed and direction of vehicular traffic);
- officer's familiarity with the area;
- road and weather conditions;
- time of day;
- speeds involved;
- driving skills of the officer and the performance capabilities of the pursuit vehicle and the vehicle being pursued;
- operational status of emergency warning equipment;
- quality of radio communications;
- the presence of other persons in the pursued vehicle.

An officer may, within the posted speed, engage in a pursuit of any motor vehicle operating in conformance with posted speed limit and other traffic laws, under any circumstance justifying a lawful motor vehicle stop.

No officer shall engage in a vehicular pursuit that requires the officer to exceed the posted or applicable speed limit or that involves a target vehicle operating in violation of the posted or applicable speed limit or other traffic laws unless the officer reasonably believes:

- That the continued operation of the vehicle the officer intends to stop poses a **substantial** risk of physical harm to the officer, the public, or others;

- That the occupant(s) of the vehicle the officer intends to stop pose(s) a **substantial** risk of physical harm to the public or others; or
- That the occupant(s) of the vehicle is/are wanted for the commission of **serious** felonious acts that threaten, have threatened, or will threaten the health, life, or safety of a person or persons.

**Absent of extreme circumstances, and with the permission of a Supervisor, vehicle pursuits are prohibited in the following situations:**

- **Officers shall not engage in a high speed pursuit for motor vehicle violations.**
- No officer shall initiate or continue a pursuit on a divided highway opposite the direction of the flow of vehicular traffic.
- Unless authorized by a supervisor, no officer (other than the officers in the primary and secondary units) shall engage in the main pursuit or pursue on parallel streets.
- No officer shall participate in a pursuit with a civilian present in the authorized police vehicle.
- No officer operating a motorcycle will participate in a vehicular pursuit. *[41.2.2(d)]*
- ***During severe weather conditions.***
- ***When the police vehicle does not have working emergency lights and siren.***
- ***No officer shall participate in a pursuit of a motorcycle or off road vehicles.***

## **B. Pursuit Operations**

1. Upon engaging in a pursuit, the primary unit and, if involved, secondary unit shall activate all emergency warning equipment to include lights, flashers and sirens.

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2. The primary unit shall notify the dispatcher or communications center of the location, direction and nature of the pursuit, the description of the pursued vehicle, the reason for the pursuit and, if practicable, the estimated speeds of the vehicles. The officer should keep the dispatcher or communications center updated on the pursuit at regular intervals.
3. When engaged in a pursuit, officers shall exercise due care for the safety of the public and shall comply with all of the provisions of G.L. c. 89, **sections 7 and 7B**, and **G.L. c. 90, section 16 (see attached)**, (Operation of Emergency Vehicles), as follows:
  - a. The driver of any police department vehicle shall be subject to the provisions of any statute, rule, regulation, ordinance or bylaw relating to the operation or parking of vehicles, including stopping for a school bus with red lights flashing which has stopped to allow passengers to alight or board, except:
    - The driver may exceed the speed limit if [s]he exercises caution and due regard under the circumstances for the safety of persons and property; and
    - The driver may drive through an intersection contrary to traffic signs or signals if [s]he first brings the vehicle to a full stop and then proceeds with caution and due regard for the safety of persons and property.
4. An authorized unmarked police vehicle shall relinquish primary unit status immediately upon becoming aware of the participation of an authorized marked police vehicle.  
[41.2.2(d)]

#### **D. POLICE VEHICLES [41.2.2(d)]**

- a. Any authorized police vehicle may initiate a pursuit.
- b. Unmarked vehicles must relinquish the pursuit to marked vehicles when such marked vehicles join the pursuit.
- c. Specialty vehicles will relinquish the pursuit to marked police sedans when they join in the pursuit.

- d. No officer operating a motorcycle will participate in a vehicular pursuit.
- e. **The wearing of Seat Belts shall be mandatory at all times (See Department Policy 4.32 Police Vehicles, Seat Belts {41.3.3}).**

## **The Responsibilities and Limitations of the Primary and Secondary Units**

### **1. Primary Unit [41.2.2(b)]**

- a. Subject to the direction of a supervisor, the officer operating the primary unit is vested with the authority to decide and direct the pursuit actions.
- b. The officer operating the primary unit shall continually reevaluate and assess the pursuit. The officer shall terminate the pursuit, even in the absence of an order to terminate by a supervisor, when that officer reasonably believes that the foreseeable risks to the officer, the public or others arising from a continued pursuit is greater than the threat to public safety should the pursued vehicle be allowed to escape.
- c. Upon receipt of a notice to terminate the pursuit from a supervisor, the primary unit shall discontinue the pursuit.
- d. The pursuing officer shall notify the dispatcher or communications center when it is likely that a pursuit will continue into a neighboring jurisdiction.

### **2. Secondary Unit [41.2.2(c)]**

- a. Once the pursuit is engaged, the secondary unit shall maintain a safe distance behind the primary unit, but should remain close enough to provide aid and assume radio communications, allowing the primary unit to concentrate on driving.
- b. Upon receipt of a notice to terminate the pursuit from the primary unit and/or a supervisor, the secondary unit shall discontinue the pursuit.

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**E. Responsibilities of Dispatcher [41.2.2(e)]**

1. Upon being informed of a pursuit in progress, the dispatcher shall:
  - a. Immediately inform the supervisor or officer-in-charge; if no supervisor is available, the dispatcher shall activate the Vehicular Pursuit Emergency Protocol;
  - b. Receive and record all incoming information on the pursued vehicle;
  - c. Advise all other units that a pursuit is in progress, providing all relevant information;
  - d. Perform relevant record and motor vehicle checks as expeditiously as possible;
  - e. Coordinate assistance of other officers under the direction of the supervisor;
  - f. Notify affected law enforcement agencies over appropriate communications systems and seek their assistance if the pursuit is proceeding into another jurisdiction.
  - g. Notify all affected agencies when a pursuit has been terminated or if apprehension has been made; and
2. The dispatcher shall minimize radio traffic to allow the pursuing vehicles to communicate

**F. Responsibilities of the Supervisor [41.2.2(f)]**

1. Upon becoming aware of the pursuit, the supervisor, if any, shall evaluate the totality of the circumstances and decide, as quickly as possible, whether or not the pursuit should continue pursuant to the criteria of this policy.
2. If the supervisor concludes that a pursuit should continue, [s]he shall monitor incoming information and coordinate activities as needed to ensure that proper procedures are followed.
3. A supervisor may authorize officers (in authorized police vehicles) in addition to the primary and secondary units, to

engage in the pursuit and/or a parallel pursuit, in exceptional circumstances or if the supervisor reasonably believes that there is a substantial likelihood of serious physical injury or death should additional officers not participate.

4. The supervisor shall continually reevaluate the need to continue the pursuit.
5. The supervisor is vested with the authority to terminate the pursuit, at any time, especially when [s]he believes that the foreseeable risks to the pursuing officers and to the public, arising from the continued pursuit, are greater than the foreseeable threat to public safety should the pursued vehicle be allowed to escape. *[41.2.2(h)]*
6. The supervisor may authorize the resumption of a pursuit when [s]he believes that circumstances have changed, thereby warranting the resumption of the pursuit in accordance with the criteria of this policy.
7. When feasible and authorized, a supervisor should respond to the location where a vehicle has been stopped following a pursuit.

## **G. Intervention Tactics**

1. **Tire Deflation Devices:** A department authorized device (such as a "stop-stick") intended to be placed in the roadway to cause a slow deflation of one or more tires of a motor vehicle passing over it. Tire deflation devices (Stop Stick by Stop Tech) shall be used as an intervention tactic by the Southborough Police Department in accordance to the manufacturer's suggestions. Tire deflation devices should be used, when practicable, where there is an agreement between the primary unit and the officer who will deploy the device. All officers will undergo training in the proper deployment of the device prior to utilizing them. Continual training shall be at least once a year and shall include a segment on determining the best locations for deployment.

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2. **Boxing-In:** An active attempt to terminate a pursuit by surrounding the pursued vehicle with the primary, secondary, or other units which are then slowed to a stop.

Vehicles being pursued shall not be passed or overtaken by the police unit as the maneuver is tactically ill-advised and often precipitates aggressive maneuvering by the suspect vehicle.

3. **Heading Off:** An active attempt to terminate a pursuit by the primary unit pulling ahead of the pursued vehicle in a manner to force the pursued vehicle to come to a stop or risk collision with the primary unit.

Vehicles being pursued shall not be passed or overtaken by the police unit as the maneuver is tactically ill-advised and often precipitates aggressive maneuvering by the suspect vehicle.

4. **Roadblocks:** An active attempt to terminate a pursuit through the use of a restriction or obstruction in the roadway that is intended to prevent free passage of motor vehicles on a roadway. [41.2.2(g), 61.3.4]

Roadblocks shall not be utilized by the department.

5. **Vehicle Contact Action:** Vehicle contact action is an active attempt by the primary unit and/or other pursuit vehicles to terminate a pursuit through the use of deliberate contact between the moving police vehicle and the moving pursued vehicle.

Deliberate contact between a pursued vehicle and a police vehicle is prohibited.

6. **Use of Firearms:**

Discharging a firearm at a moving vehicle by an officer is prohibited except to defend said officer or another when the occupant of the pursued vehicle is employing deadly force, which the officer reasonably perceives as an immediate threat of death or physical injury and the officer reasonably believes that [s]he will not endanger innocent persons.

NOTE: Shooting at a fleeing vehicle or a vehicle that is going away from the officer and is no longer an immediate threat is prohibited. Under such circumstances, officers should be aware of the potential inability of a bullet to penetrate metal or glass surfaces of an automobile and the likelihood of ricocheting bullets causing injury to innocent persons.

## **H. Inter-Jurisdictional Pursuits [41.2.2(i)]**

1. Pursuit may continue into another jurisdiction when done in conformance with applicable Massachusetts General Laws, department policies, and inter-jurisdictional agreements.
  - a. Outside the Commonwealth: On fresh and continued pursuit, a police officer may pursue and arrest a person who has committed a **serious** felony into any neighboring state.<sup>3</sup>
  - b. Within the Commonwealth: A police officer may make an arrest outside his/her jurisdiction on fresh and continued pursuit provided:
    - The offense is one for which the officer would have the right of arrest without a warrant within his/her jurisdiction;
    - The offense was committed in the officer's presence; and
    - The offense was committed within the officer's jurisdiction.<sup>4</sup>

NOTE: If this department has a Mutual Aid Agreement with another municipality, such agreement may address situations under which officers from one department may

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pursue motorists into the other community; if so, the terms of the agreement may grant additional rights beyond those in the state's "fresh and continued pursuit" statute.

2. When this department has initiated a pursuit, timely notification of a pursuit in progress shall be provided to any other jurisdiction into which the pursuit enters. Merely notifying another jurisdiction that a pursuit is in progress is not a request to join the pursuit. The department shall advise if assistance is necessary. Whenever the pursuing officers are unfamiliar with the roadways and terrain of the jurisdiction into which the pursuit has entered, or whenever radio communication is lost, the pursuing officers shall, when possible, seek the assistance of, and be prepared to relinquish the pursuit to, the other agency.

3. *Pursuits Initiated by Other Departments: Intra-jurisdictional:*

**SOUTHBOROUGH OFFICERS SHALL NOT BECOME PART OF  
OR INVOLVED IN PURSUITS INITIATED BY ANOTHER  
DEPARTMENT OR AGENCY OTHER THAN AS A BACKUP AND TO  
PROVIDE FOR A PERIMETER FOR THE SAFETY OF OTHER  
POLICE OFFICERS AND THE PUBLIC. OFFICERS MAY,  
HOWEVER, SELECT A SAFE LOCATION AND DEPLOY STOP  
STICKS IN ACCORDANCE WITH DEPARTMENT POLICY,**

## **I. Termination of a Pursuit [41.2.2(g)]**

### **1. Termination:**

- a. When a decision is made to terminate a pursuit, the primary and secondary units shall immediately reduce their speeds to within the posted speed limits and shall deactivate their emergency warning equipment.
- b. It is recognized that upon terminating a pursuit, the pursuing units are not required to bring their vehicles to a stop and/or head in the opposite direction of the former target vehicle. The primary and secondary units may continue to operate their vehicles in the same direction as the previously pursued vehicle, so long as they maintain a safe distance and their actions do not constitute an active attempt to continue the pursuit.

**2. *Resumption of a Terminated Pursuit***

- a. Once a pursuit has been terminated, the primary, secondary, and other units aware of the pursuit may not re-engage the pursuit without authorization from a supervisor.

**J. *After-Action Reporting [41.2.2(i)]*****1. Reporting [41.2.2(i)]**

- a. Whenever an officer engages in a pursuit, [s]he shall file written reports on the appropriate forms detailing the circumstances.
- b. The supervisor shall file the appropriate report as well. These reports shall be evaluated by a superior officer to determine if there has been compliance with departmental policies and regulations. *[41.2.2(i)]*

**2. EVALUATION AND ANALYSIS**

- a. After action reports shall be evaluated by a superior officer not involved in the pursuit to determine if there has been compliance with departmental policies and regulations. *[41.2.2(i)]*
- b. The department shall annually analyze pursuit activities for the purpose of identifying any improvements in this pursuit procedure and shall implement modifications to this procedure if warranted. A review of incidents involving vehicle pursuits may reveal patterns or trends that indicate training needs and/or policy modifications. *[41.2.3; 41.2.2(j)]*
  - 1) Number of pursuits;
  - 2) Date and time (shift);
  - 3) Original offense;
  - 4) Reason for terminating the pursuit;
  - 5) Whether spike strips were used;
  - 6) Injuries;
  - 7) Property damage;

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- 8) Whether emergency lights and siren were used;
- 9) Whether a supervisor took control of the pursuit;
- 10) Supervisor: years on the job;
- 11) Primary Officer: years on the job;
- 12) Average length and distance of the pursuit;
- 13) Whether the pursuit left this agency's jurisdiction;
- 14) Suspect information;
- 15) Whether the pursuit appeared to comply with agency policy; and,
- 16) Training issues identified

2. The departments shall maintain for three years the original or a copy of the radio transmission recordings of pursuits involving personal injury or death.

## **K. Training**

1. The department shall provide training on this pursuit policy.

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<sup>1</sup> *Commonwealth v. Starr*, 55 Mass. App. Ct. 590, 773 N.E.2d 981 (2002).

<sup>2</sup> *Commonwealth v. DaSilva*, 56 Mass. Ct. App. Ct. 220, 775 NE2d 1269 (2002).

<sup>3</sup> M.G.L. c. 276, s. 10A.

<sup>4</sup> M.G.L. c.41, s. 98A.