



# Law Enforcement Pursuits in Georgia: Review and Recommendations

Submitted by the Ad Hoc Committee  
on Law Enforcement Pursuits

Adopted by the Georgia Association of Chiefs of Police  
Executive Board

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529th



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July 12, 2006

Mr. Bryan Golden  
President  
Georgia Association of Chiefs of Police  
3500 Duluth Park Lane, Suite 700  
Duluth, Georgia 30096

Dear President Golden:

In September 2005 you appointed an Ad hoc Committee "to review police pursuits." The Committee's purpose was to review the issue of police pursuits and provide guidance to Georgia law enforcement executives for the development of sound, legal and common-sense pursuit policies. The Committee's "White Paper" concerning the issues of police pursuit addresses: statistical data regarding police pursuits; Georgia case and statutory law regarding pursuits; pursuit policy considerations; the Precision Immobilization Technique (PIT) maneuver; and technological alternatives to pursuits.


On behalf of the Committee, I present the attached "White Paper" and various appendixes. The Ad hoc Committee or its subgroups of the Committee met nine times to discuss current law, policy issues, technological issues, and the Georgia Institute of Technology Research Project on the Precision Immobilization Technique. I believe the attached work fulfills your charge to the Committee.

The Ad hoc Committee also requests that the Georgia Association of Chiefs of Police consider the following recommendations that extend beyond the scope of this Committee's purpose and charge. A part of these recommendations will require a change in Georgia law, additional funding for training, and a commitment by the Georgia Association of Chiefs of Police. However, the Committee believes these recommendations are important to the future of Georgia's law enforcement community.

1. That the GACP State Certification Program be modified to include a standard that requires the collection of pursuit data on a form developed and approved by the State Certification Committee.
2. That GACP become the depository of pursuit data submitted by State Certified Law Enforcement Agencies.
3. That the Georgia Assembly be encouraged to support an increase in additional training funds for a police pursuit practical training initiative in the Basic Mandate Academy. This would include building appropriate facilities and ensuring an adequate staff of instructors and equipment.
4. That GACP contact Georgia Interlocal Risk Management Agency and make this research available, encouraging them to offer discounts to police agencies that develop procedures and policies consistent with the information developed in the "White Paper."

In conclusion, the Committee appreciates the opportunity to address the serious and timely issue of police pursuit in a manner that will provide policymakers with a framework to develop appropriate procedures in managing the challenges of this difficult issue.

Sincerely,



Louis M. Dekmar

Chairman

Ad Hoc Committee on Police Pursuit

# Ad Hoc Committee on Law Enforcement Pursuits

## Ad Hoc Committee Chairman

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## Ad Hoc Committee Members

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Chief Woody Blue, Milledgeville Police Department

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Chief Frank Simons, Valdosta Police Department

## I. Introduction

Police pursuits are an area that is increasingly scrutinized by the public. Police pursuits can result in the apprehension of forcible felons or traffic violators who have created a danger to the public. Pursuits also can result in the death or injury to innocent bystanders and the police officers who are pursuing the suspect. Law enforcement agencies across the country are faced with the dilemma of when to engage in pursuits. The Georgia Supreme Court has succinctly articulated this dilemma in a recent case:

“While ‘it is desirable . . . that the officer overtake[s] and apprehend[s] the criminal, . . . it is equally as important that innocent persons, whether or not connected with the emergency to be met, not be maimed or killed in the operation.’ ”<sup>1</sup>

In response to this dilemma, on September 19, 2005 at a Georgia Association of Chiefs of Police Executive Board Meeting, President Chief Bryan Golden charged LaGrange Police Chief Louis M. Dekmar with chairing an Ad Hoc Committee (hereinafter “the Committee”) to review police pursuits.<sup>2</sup> The Committee’s purpose was to review the issue of police pursuits and provide guidance to Georgia’s law enforcement executives for the development of sound, legal and common-sense pursuit policies. In an effort to gather information from several different perspectives, the Committee was comprised of law enforcement professionals, trainers, academic advisers, and attorneys.

To this end, the Committee or subgroups of the Committee met nine times to discuss current law, policy issues, technology issues, and the Georgia Institute of Technology research project on the Precision Immobilization Technique (PIT). This paper is the result of these meetings and the input of all members. It will focus specifically on (1) statistical data regarding police pursuits; (2) the law regarding pursuits in Georgia; (3) policy considerations in preparing a pursuit policy; (4) the PIT Maneuver; and (5) technological alternatives to pursuits. At the conclusion of the paper, the Committee will make recommendations to Georgia’s law enforcement community regarding police pursuits.

## II. Statistical Data Regarding Police Pursuits

As the purpose of this paper is to provide guidance to policymakers writing pursuit policies, the Committee wanted to obtain data regarding pursuits. There is no national or statewide database regarding pursuits. In order to learn about pursuits in Georgia, the Committee first polled Georgia Association of Chiefs of Police member agencies and requested their data regarding pursuits. The Committee also reviewed the nationwide literature regarding pursuits. This research is very limited.

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<sup>1</sup> *City of Winder v. McDougald*, 276 Ga. 866, 867 (2003) (quoting *Archer v. Johnson*, 90 Ga. App. 418, 424 (1954)).

<sup>2</sup> Georgia Association of Chiefs of Police, Executive Board Meeting Minutes 3 (September 19, 2005).

The scant research that has been compiled in the area of police pursuits has been published primarily by Dr. Geoffrey Alpert, Professor of Criminal Justice at the University of South Carolina. In an interview conducted by Mr. Jim Phillips of PursuitWatch, Dr. Alpert says:

Jim Phillips: You mentioned that there is no national pursuit data. Would you support legislation that required the mandatory collection of that data on a national basis?

Dr. Alpert: Several attempts have failed to have police agencies collect and report pursuit data voluntarily. Attempts at legislative reform have failed in congress. My sense is that if agencies are unwilling to voluntarily collect and report data, then they should be required to do so. There are a dozen states that have reporting systems and the IACP has a repository. I do not hold much hope, as there is no national reporting system for the use of firearms.”<sup>3</sup>

As Dr. Alpert states, there is no nationwide database for police pursuits. There is no information on the number of pursuits per year, the number of accidents due to pursuits or the number of injuries due to pursuits.

There is information regarding fatalities associated with police pursuits available from data collected by the National Highway Traffic Safety Administration (NHTSA) that has been reported in the literature. In a 2002 article by John Hill, he discussed these statistics:

The National Highway Traffic Safety Administration (NHTSA) reported that 314 people were killed during pursuits in 1998. Of this total, 2 were police officers and 198 were individuals being chased. The remaining 114 were either occupants of unrelated vehicles or pedestrians. The total was higher in each of the 4 previous years.<sup>4</sup>

Looking at the 1998 statistics in terms of percentages, 63% of those killed were the suspect, 36% were bystanders and 1% was the pursuing officer.

Hill also stated that, “one organization estimates that about 2,500 persons die each year as a result of police pursuits and that another 55,000 are injured.”<sup>5</sup> Even PursuitWatch, a Website

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<sup>3</sup> Phillips, James, “*PursuitWatch Interview with Dr. Geoffrey Alpert*” (2003) retrieved from <http://pursuitwatch.org/index.shtml> on June 16, 2006.

<sup>4</sup> Hill, John, *High-speed Police Pursuits: Dangers, Dynamics, and Risk Reduction*, FBI LAW ENFORCEMENT BULLETIN, 15 (July 2002).

<sup>5</sup> Hill at 15 (citing newspaper article as support for statement but no reference as to name of organization).

founded by a father whose daughter was killed as a result of a police pursuit, does not claim that many deaths. According to “PursuitWatch Data,” there are 14,000 injuries and 700 pursuit deaths each year.<sup>6</sup> These numbers are simply extrapolations and not based upon actual reports because there is no reporting system other than for fatalities.

The Committee requested current data from the NHTSA and has prepared a chart of this information.<sup>7</sup> The chart lists the fatality data from 1994 to 2004.

Fatalities in Crashes Involving Law Enforcement in Pursuit 1994 – 2004												
Deaths Year	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Total
Suspects	284	249	267	193	201	212	190	223	248	229	214	2510
Occupant of Other Vehicle	93	117	106	100	105	99	103	121	121	106	108	1182
Non-Occupant	12	10	9	11	14	5	10	22	11	13	12	129
Officers	3	10	5	1	2	3	7	4	6	6	9	56
<b>Total</b>	<b>392</b>	<b>386</b>	<b>390</b>	<b>305</b>	<b>322</b>	<b>319</b>	<b>310</b>	<b>370</b>	<b>386</b>	<b>354</b>	<b>343</b>	<b>3877</b>

Based upon this data from 1994 to 2004, the average number of fatalities due to police pursuits across the United States is 352.5 per year. According to Hill, this NHTSA system is not a mandatory reporting system. “Typically only 90 percent of states report pursuit fatality data to NHTSA.”<sup>8</sup> After reviewing the data provided by the NHTSA, the Committee was unable to determine whether certain states were not providing data. The Committee would, however, agree with Dr. Alpert’s statement from 1997 that: “Nationally, very little is known about police pursuit driving.”<sup>9</sup>

<sup>6</sup> Phillips, James, *Police Pursuits – A National Epidemic* (Dec. 7, 2003) retrieved from <http://pursuitwatch.org/stories/epidemic.htm> on June 6, 2006.

<sup>7</sup> The NCSA’s Information Services Branch prepared reports of Fatalities in Crashes Involving Law Enforcement in Pursuit for the years 1994 to 2004 on September 13, 2005. Each year’s report is broken down by individual states. There is no indication from the report if there are states that are not providing data as stated by Hill. Hill at 15.

<sup>8</sup> Hill at 15.

<sup>9</sup> Kennedy, Dennis J. and Geoffrey P. Alpert, *A National Survey of Pursuits and the Use of Police Force: Data from Law Enforcement Agencies*, 25 J. CRIM. JUSTICE 315 (1997).

The Committee also requested pursuit data from Georgia Association of Chiefs of Police member agencies. The Committee received data from 15 Georgia law enforcement agencies that reported vehicle pursuits in 2005.<sup>10</sup>

These agencies reported a total of 419 vehicle pursuits in 2005. Of these pursuits, 110 pursuits (26%) resulted in an accident. While some agencies broke this information down further into accidents with injuries and those without, others did not. Using only the information from those agencies that provided further information regarding injuries, there were 28 accidents with injuries, one fatality, and 51 accidents involved no injuries.<sup>11</sup>

Of these pursuits, the reason for initiating the pursuit (if known) is listed below:

<u>Nature of Offense</u>	<u>Number</u>
Traffic Offenses	228
Driving Under the Influence	5
Hit and Run	1
Aggravated Assaults	3
Wanted Person	1
Armed Robberies	2
Drug-related	1
Felony Offenses	50
Other incidents	68

There were 235 (56%) arrests resulting from the related pursuits. A number of intervention methods were utilized in some of these arrests. There also were 80 pursuits which were terminated by the officer or supervisor.

There is no standardized method of reporting police pursuits. Yet, the literature is in agreement as to the need for a nationwide database for police pursuits.<sup>12</sup> The results of this limited survey

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<sup>10</sup> The agencies that responded are as follows: Fulton County Police Department, LaGrange Police Department, Georgia Tech Police Department, Cobb County Police Department, Gwinnett County Police Department, DeKalb County Police Department, Covington Police Department, College Park Police Department, Forsyth County Sheriff's Office, Duluth Police Department, Dawson County Sheriff's Office, Savannah-Chatham Board of Education Police Department, Marietta Police Department, Baldwin County Sheriff's Office and Columbus Police Department. This data did not include information from the Georgia State Patrol.

<sup>11</sup> No agency provided any information regarding the use of the PIT maneuver.

<sup>12</sup> See e.g. National Institute of Justice, *Pursuit Management Task Force: Research Preview 3 United States Department of Justice* (Aug. 1998) ("A national model for collection of pursuit statistics should be developed for the purpose of encouraging and facilitating research and to expand the body of knowledge relating to pursuits.").



reveal the need for a standardized reporting method in order to collect accurate data on police pursuits. See Appendix A for charts regarding this analysis.

The lack of a police pursuit database compiled from Georgia pursuits leaves policymakers with a void. Without accurate data, law enforcement is left to the tried, but sometimes untrue, method of trial and error. The number of assumptions that policymakers make, even when supported by anecdotal stories from personal experiences, probably leaves law enforcement with a very imperfect picture of the whole issue of pursuit. Although some agencies do a great job in an after action review of each chase, many do not. Even those who review each pursuit use different reporting systems that make the data unusable in the aggregate.

In an effort to obtain accurate, timely information, the Committee has created a single, user friendly report that can be used to collect pursuit information from Georgia agencies. The draft of such a collection tool is attached to this report as Appendix B. This proposed data collection sheet is a simple, concise form that gives sufficient data to start a data collection bank. Nothing on the form would suggest the name of the officer, nor suspect, except in generic demographics. Similar to the Uniform Crime Reporting System, it would provide concrete information to law enforcement, as well as the citizens of the State of Georgia. In terms of implementation, the Committee will leave it to the Georgia General Assembly and the Georgia Association of Chiefs of Police to determine the best method to implement such a collection tool.

### III. Legal Cases in Georgia

In order to write a pursuit policy, it is first necessary to understand the legal requirements for a lawful pursuit. The law does not require that officers pursue violators of the law because it is the officer's discretionary decision whether to arrest the violator. Georgia law, however, does recognize that law enforcement officers will need to pursue fleeing violators of the law and sets forth the officer's duty during such a pursuit. This section will review Georgia statutory and case law regarding the following: (1) the definition of an emergency vehicle, including the required equipment; (2) the circumstances that authorize the operation of an emergency vehicle; (3) the specific statutory exceptions to the requirements of the Title 40 of the Georgia Code regarding motor vehicles; and (4) the duty to drive with due regard for the safety of all persons. Lastly, this section will address the types of lawsuits that may arise out of a pursuit case, as well as defenses that may be available in these lawsuits.

#### A. Emergency Vehicle Operation in Georgia

Georgia law makes specific provisions for the operation of a law enforcement vehicle during the "pursuit of an actual or suspected violator of the law."<sup>13</sup> O.C.G.A. § 40-1-1 defines an "authorized law enforcement vehicle" as a "motor vehicle belonging to a federal, state, or local

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<sup>13</sup> O.C.G.A. § 40-6-6(a).

law enforcement agency.”<sup>14</sup> When an authorized law enforcement vehicle is in pursuit of a violator, the driver may:

- (1) Park or stand, irrespective of the provisions of this chapter;
- (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
- (3) Exceed the maximum speed limits so long as he or she does not endanger life or property; and
- (4) Disregard regulations governing direction of movement or turning in specified directions.<sup>15</sup>

In order to use these exceptions to Title 40 of the Georgia Code regarding motor vehicles, the driver of the law enforcement vehicle must utilize “an audible signal and a flashing or revolving blue light.”<sup>16</sup>

Most significantly, however, these provisions do not “relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons.”<sup>17</sup> Additionally, O.C.G.A. § 40-6-6(d)(2) addresses the situation where the “fleeing suspect . . . injures or kills any person during the pursuit” and provides that:

the law enforcement officer’s pursuit shall not be the proximate cause or a contributing proximate cause of the damage, injury or death caused by the fleeing suspect unless the law enforcement officer acted with reckless disregard for proper law enforcement procedures in the officer’s decision to initiate or continue the pursuit.<sup>18</sup>

This provision provides the officer with a defense to a lawsuit by the innocent person who is injured by the fleeing suspect. This defense will be lost, however, if the officer has acted “with reckless disregard for proper law enforcement procedures.” Most likely, the “proper law enforcement procedure” will be the agency’s pursuit policy.<sup>19</sup> Hence the agency’s pursuit policy will become relevant evidence in the lawsuit and the issue will be whether the pursuit was in compliance with the agency’s pursuit policy. If the pursuit was not, then the officer loses the

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<sup>14</sup> O.C.G.A. § 40-1-1(5).

<sup>15</sup> O.C.G.A. § 40-6-6(b).

<sup>16</sup> O.C.G.A. § 40-6-6(c).

<sup>17</sup> O.C.G.A. § 40-6-6(d)(1) (emphasis added).

<sup>18</sup> O.C.G.A. § 40-6-6(d)(2) (emphasis added).

<sup>19</sup> See *City of Winder v. McDougald*, 254 Ga. App. 537 (2002) (holding that O.C.G.A. 40-6-6(d) did not apply to case because suspect did not fit within definition of person and denying summary judgment because expert witness testified that pursuit did not comply with agency policy), *rev’d by City of Winder v. McDougald*, 276 Ga. 866 (2003). The Georgia Supreme Court reversed the judgment of the Court of Appeals and concluded that O.C.G.A. 40-6-6(d) did apply so summary judgment should have been granted to the city.

protection of O.C.G.A. § 40-6-6(d)(2) and may face liability if the suspect hits an innocent person.

In conclusion, it is the duty of the law enforcement officer to drive with “due regard” for the safety of all persons and also not to act with reckless disregard of the agency’s pursuit policy.

## B. Lawsuits Arising Out of Pursuits

In cases involving pursuits, there are two types of lawsuits that may arise. The first type is a state law tort action for negligence. The second type of lawsuit is brought pursuant to a federal law, 42 U.S.C. § 1983, and alleges a violation of the individual’s constitutional rights, usually either the Fourth or the Fourteenth Amendment. This section will explain some typical lawsuits in these areas and also address the defenses available in each type.

### 1. Negligence Lawsuits

Most lawsuits arising out of a pursuit are negligence claims. Negligence is the “failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation.”<sup>20</sup> For example, if a police officer accidentally hits another vehicle during a pursuit and injures the driver of vehicle, the driver may file a negligence claim against the officer. The other common scenario is when the fleeing violator accidentally hits another vehicle while he is being pursued by an officer. In these cases, the collision is not intentional.

A negligence claim arises when there is a duty, a breach of the duty, damages or injury and a causal connection between the breach and the injury. This causal connection is referred to as proximate cause. As discussed, the duty of the officer is to drive with due regard for the safety of the public and not to recklessly disregard proper law enforcement procedures. If the officer breaches that duty and someone is injured as a result of that breach, then there may be a successful claim. The following cases will illustrate these principles.

#### a. *Sammor v. Mayor & Alderman of Savannah*

In *Sammor v. Mayor & Alderman of Savannah*<sup>21</sup> decided in 1985, the Georgia Court of Appeals determined that the officer’s actions did not constitute the proximate cause of the plaintiff’s injuries.<sup>22</sup> The case arose out of a pursuit by a Savannah police officer. During the pursuit, the suspect vehicle struck the plaintiffs’ vehicle from behind and caused injuries. The suspect died as a result of the accident.

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<sup>20</sup> BLACK’S LAW DICTIONARY 1056 (7th ed. 1999).

<sup>21</sup> 176 Ga. App. 176 (1985).

<sup>22</sup> *Sammor*, 176 Ga. App. at 177-78.

The pursuit was initiated by the officer, who was operating a motorcycle unit, when he first observed the suspect vehicle traveling at 70 to 80 miles per hour through a city intersection. The officer activated his lights and siren and notified police headquarters to dispatch ambulances to two different intersections ahead because the officer “knew” an accident was going to occur due to the high speed of the suspect vehicle and the heavy traffic congestion.<sup>23</sup> The officer testified that “he had no intention or expectation of actually overtaking [the suspect] vehicle, the purpose of his pursuit being merely to attempt to keep the vehicle in sight, and to alert other drivers with his siren.”<sup>24</sup> The suspect did in fact have an accident at one of the intersections.

The court ruled that the suspect vehicle was already traveling at the high rate of speed prior to contact with the officer and the accident occurred only two blocks from contact with the officer and therefore, the officer was not the proximate cause of the accident.<sup>25</sup> Accordingly, the trial court was correct in granting summary judgment for the officer.

b. *Mixon v. City of Warner Robbins*

In *Mixon v. City of Warner Robbins*<sup>26</sup> decided in 1994, the Georgia Supreme Court held that the evidence would authorize a jury to find that the officer had failed to “act in accordance with his duty under O.C.G.A. 40-6-6(d) to pursue[the suspect] with due regard for the safety of other drivers.”<sup>27</sup> In that case, a Warner Robbins police officer observed a suspect vehicle run a stop sign in a residential area. The officer initiated a pursuit and the suspect refused to stop. The officer pursued closely behind the suspect vehicle and the suspect ran a second stop sign and collided with another vehicle driven by the plaintiff, who was killed in the accident.

As the court explained, the evidence showed the following:

[the officer] observed [the suspect] slow to three-to-five miles per hour before proceeding through a stop sign in a residential area. Thus, even though [the suspect] had committed a traffic violation and apprehension was warranted, the traffic violation had been minor and the risk of serious injury to other drivers had been slight. . . . When [the officer] began his pursuit, [the suspect] did not accede to the show of authority, but increased his speed. In his effort to evade apprehension, [the suspect] ultimately accelerated his vehicle to 55-60 miles per hour, almost twice the posted speed limit. Despite the fact that [the suspect’s] original traffic violation had been minor and that his response to [the officer’s] pursuit had been to increase his speed and thereby heighten the risk to other drivers, [the officer] nevertheless maintained his pursuit and was ‘right up on [the

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<sup>23</sup> *Sammor*, 176 Ga. App. at 176.

<sup>24</sup> *Sammor*, 176 Ga. App. at 176.

<sup>25</sup> *Sammor*, 176 Ga. App. at 177-78.

<sup>26</sup> 264 Ga. 385 (1994), *superseded by statute as stated in City of Winder v. McDougald*, 276 Ga. 866 (2003).

<sup>27</sup> *Mixon*, 264 Ga. at 391.

suspect's] bumper' only seconds before [the suspect] crashed into Mrs. Mixon's vehicle.'<sup>28</sup>

Based upon this evidence, a jury could find that the officer had “failed to balance the risk to the safety of other drivers when he persisted in his efforts to arrest [the suspect] for a minor traffic offense even after [the suspect] escalated his flight into a high-speed chase in a residential area.”<sup>29</sup> The Georgia Supreme Court ruled that there would be a jury trial in the case on the question of whether the officer acted with due regard for the safety of others.<sup>30</sup>

c. *Wilson v. City of Atlanta*

In *Wilson v. City of Atlanta*<sup>31</sup> decided in 1996, the Georgia Supreme Court concluded that the officer did not drive with reckless disregard for the safety of the public during the pursuit. An Atlanta Police Department officer heard a “fight/snatch thief” report over his radio, which gave the license plate number and description of the occupants in the vehicle.<sup>32</sup> The officer observed the suspect vehicle approximately twenty minutes later and followed the vehicle at normal speeds until it “ ‘dramatically increased’ its speed as it approached an intersection.”<sup>33</sup> The officer activated his blue lights and siren and radioed an emergency call, which activated other units and a helicopter. During the chase, the officer observed the suspect vehicle fail to stop for red lights and stop signs and drive the wrong way down a one-way street. While the traffic was medium to light, the officer pursued, but slowed as he passed through intersections. When traffic became medium to heavy, he discontinued the pursuit and resumed normal speed while maintaining visual contact.<sup>34</sup>

After discontinuing the pursuit, he observed the suspect vehicle swerve left of the double yellow centerline and crash head on into the plaintiff's vehicle. The officer testified that “at all times during [the] pursuit . . . he balanced the risk to the safety of other drivers and acted accordingly.”<sup>35</sup> During the entire pursuit, he never “followed the suspects so closely that his “vehicle was right up on the suspects' vehicle's bumper.’ ”

The court found that the officer was responding to a call of violent criminal activity and had received a fairly positive identification of the vehicle and description of occupants before he observed the suspect vehicle.<sup>36</sup> The officer initiated a pursuit, but it did not escalate into a high-

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<sup>28</sup> *Mixon*, 264 Ga. at 390.

<sup>29</sup> *Mixon*, 264 Ga. at 391.

<sup>30</sup> *Mixon*, 264 Ga. at 391.

<sup>31</sup> 223 Ga. App. 144 (1996).

<sup>32</sup> *Wilson*, 223 Ga. App. at 146.

<sup>33</sup> *Wilson*, 223 Ga. App. at 147.

<sup>34</sup> *Wilson*, 223 Ga. App. at 147.

<sup>35</sup> *Wilson*, 223 Ga. App. at 147.

<sup>36</sup> *Wilson*, 223 Ga. App. at 147.

speed pursuit for several blocks. Only when the suspect vehicle's speed dramatically increased did the officer activate his emergency lights and sirens. Unlike the officer in *Mixon v. City of Warner Robbins*, the officer did not follow the suspect vehicle so closely as to be "on its bumper," but instead slowed at intersections and at all times monitored the traffic conditions.<sup>37</sup> The court ruled that the officer did not act with reckless disregard for the safety of others but instead "balanced the risks involved in his pursuit of the [suspect] vehicle."<sup>38</sup> For these reasons the court affirmed the trial court's grant of summary judgment for the officer.

#### d. Defenses to Negligence Actions

When an officer and his agency are sued in a negligence action, there are several defenses that may be asserted. This section will discuss three defenses: (1) O.C.G.A. § 40-6-6(d) which provides that the officer's actions in certain cases were not the proximate cause of the injury; (2) official immunity; (3) sovereign immunity.

##### (1) O.C.G.A. § 40-6-6(d)

After the Georgia Supreme Court decided *Mixon v. City of Warner Robbins*, the General Assembly modified O.C.G.A. § 40-6-6 and added subsection (d)(2).<sup>39</sup> It provides the following:

When a law enforcement officer in a law enforcement vehicle is pursuing a fleeing suspect in another vehicle and the fleeing suspect damages any property or injures or kills any person during the pursuit, the law enforcement officer's pursuit shall not be the proximate cause or a contributing proximate cause of the damage, injury, or death caused by the fleeing suspect unless the law enforcement officer acted with reckless disregard for proper law enforcement procedures in the officer's decision to initiate or continue the pursuit. Where such reckless disregard exists, the pursuit may be found to constitute a proximate cause of the damage, injury, or death caused by the fleeing suspect, but the existence of such reckless disregard shall not in and of itself establish causation.<sup>40</sup>

Subsection (d)(1), which requires the officer to "drive with due regard for the safety of all persons," still remains in O.C.G.A. § 40-6-6.<sup>41</sup> With the addition of subsection (d)(2), officers have a defense in cases where the fleeing suspect injures another person as long as the officer did not act with "reckless disregard for proper law enforcement procedures."<sup>42</sup>

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<sup>37</sup> *Wilson*, 223 Ga. App. at 147.

<sup>38</sup> *Wilson*, 223 Ga. App. at 148.

<sup>39</sup> *Wilson*, 223 Ga. App. 144, 148 n.2 (1996).

<sup>40</sup> O.C.G.A. § 40-6-6(d)(2) (emphasis added).

<sup>41</sup> O.C.G.A. § 40-6-6(d)(1).

<sup>42</sup> O.C.G.A. § 40-6-6(d)(2).

In a 2003 decision in the case of *City of Winder v. McDougald*,<sup>43</sup> the Georgia Supreme Court considered the issue of whether this section applies when it is the fleeing suspect who is injured or killed. A fourteen year-old girl took her father's car without permission and was driving through the City of Winder at approximately 4:40 a.m. with no headlights illuminated.<sup>44</sup> An officer observed the vehicle traveling without lights and turned on his blue lights to make a traffic stop of the vehicle. The driver did not stop. The officer then turned on his siren and the driver "sped away."<sup>45</sup> As the pursuing officer followed, the driver increased her speed, lost control of the car, and crashed into a utility pole. The driver was killed.

The Georgia Supreme Court considered whether O.C.G.A. §40-6-6(d)(2) should apply to this case. The court explained that this statute was amended by the legislature in 1995 in order to "limit liability when a fleeing suspect injures an innocent person" – those cases when an officer is pursuing a suspect and the suspect hits an innocent person who is simply driving down the road.<sup>46</sup> In such cases, the officer is not liable for the suspect's actions unless the officer acted with reckless disregard. Although the statute does not specifically address injuries or death to the fleeing suspect, the court concluded that the legislature intended it to apply in such cases.<sup>47</sup> As a result of this ruling, there was no trial in the case. The Supreme Court reminded law enforcement again that while it may be "desirable" that the officer apprehend a criminal, "it is equally as important that innocent persons, whether or not connected with the emergency to be met, not be maimed or killed in the operation."<sup>48</sup>

Additionally, it should be noted that the defense provided by O.C.G.A. § 40-6-6(d)(2), namely that the officer's actions in pursuing were not the proximate cause of the injury, will not apply when the officer is acting "with reckless disregard for proper law enforcement procedures."<sup>49</sup>

## (2) Official Immunity

Georgia law enforcement officers may also be given official immunity for engaging in the discretionary function of pursuing a fleeing violator so long as the officer does not act with "actual malice or with actual intent to cause injury."<sup>50</sup> The determination of whether the officer is entitled to the official immunity should be made before there is any determination of whether the officer was acting with "reckless disregard for proper law enforcement procedures" within

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<sup>43</sup> 276 Ga. 866.

<sup>44</sup> *McDougald*, 276 Ga. at 866.

<sup>45</sup> *McDougald*, 276 Ga. at 866.

<sup>46</sup> *McDougald*, 276 Ga. at 867.

<sup>47</sup> *McDougald*, 276 Ga. at 868.

<sup>48</sup> *McDougald*, 276 Ga. at 867 (quoting *Archer v. Johnson*, 90 Ga. App. 418, 424 (1954)).

<sup>49</sup> O.C.G.A. § 40-6-6(d)(2).

<sup>50</sup> *Hanse v. Phillips*, 276 Ga. App. 558 (2005), *cert. granted*, 2006 Ga. LEXIS 214 (March 27, 2006).

the meaning of O.C.G.A. § 40-6-6(d)(2).<sup>51</sup> In *Cameron v. Lang*,<sup>52</sup> the Georgia Supreme Court explained the reasoning for official immunity as follows:

The doctrine of official immunity, also known as qualified immunity, offers public officers and employees limited protection from suit in their personal capacity. Qualified immunity ‘protects individual public agents from personal liability for discretionary actions taken within the scope of their official authority, and done without wilfulness, malice, or corruption.’ Under Georgia law, a public officer or employee may be personally liable only for ministerial acts negligently performed or acts performed with malice or an intent to injure. The rationale for this immunity is to preserve the public employee's independence of action without fear of lawsuits and to prevent a review of his or her judgment in hindsight. This protection is particularly important in the context of a high speed pursuit where police officers must make a split-second decision on whether to initiate the pursuit or continue it and the type of risks to take.<sup>53</sup>

*Cameron v. Lang* involved a vehicle pursuit by Deputy Cameron of a fleeing felon who crossed the centerline during the pursuit and struck the Lang's car, killing Mr. Lang.<sup>54</sup> The Georgia Supreme Court concluded that the officer's decision to engage in a high speed pursuit of a suspected felon was a discretionary decision.<sup>55</sup> Additionally the court found that there was no evidence that the deputy “acted with malice or an intent to injure in initiating or continuing the high speed chase.”<sup>56</sup>

Of course, it is important to remember that official immunity applies only to the claim against the individual officer and does not apply to the claim against the municipality that employs the officer.

### (3) Sovereign Immunity

The suit against the officer in his official capacity is in reality a suit against the agency that employs the officer.<sup>57</sup> The governmental entity, whether it is a city, county or state, may have sovereign immunity. For example, Georgia State Patrol troopers who engage in a pursuit to apprehend a traffic violator are “providing law enforcement” and are immune from suit.<sup>58</sup>

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<sup>51</sup> *Cameron v. Lang*, 274 Ga. 122, 124 (2001).

<sup>52</sup> 274 Ga. 122 (2001).

<sup>53</sup> *Cameron*, 274 Ga. at 123.

<sup>54</sup> *Cameron*, 274 Ga. at 122-23.

<sup>55</sup> *Cameron*, 274 Ga. at 125.

<sup>56</sup> *Cameron*, 274 Ga. at 125.

<sup>57</sup> *Cameron*, 274 Ga. at 125.

<sup>58</sup> See *Blackston v. Georgia State Patrol*, 274 Ga. App. 373, 374 (2005). In a case involving fire protection decided on June 26, 2006, the Georgia Supreme Court held that the exception to the waiver of sovereign immunity for



Additionally by statute, city and counties are liable for damages arising from the use of a motor vehicle only if they purchase liability insurance and that liability is limited to the amount of insurance purchased.<sup>59</sup>

The presence or absence of immunities, however, should not be considered when deciding what policy to promulgate regarding pursuits. Even when the law provides immunity, the safety of the public should always be considered in weighing the risks inherent in pursuing or in allowing the fleeing violator to escape.

## 2. 42 U.S.C. 1983 Lawsuits

In addition to negligence lawsuits, a lawsuit pursuant to 42 U.S.C. 1983 (“Section 1983”) may arise out of a police pursuit. Section 1983 allows a citizen to bring a lawsuit against a police officer for a violation of the citizen’s constitutional rights. There are two types of Section 1983 suits: (1) those where the injury occurred by accident; and (2) those where the officer intentionally makes contact with the fleeing violator’s vehicle.

In cases when the officer accidentally makes contact with the suspect or the suspect’s vehicle, the claim is brought pursuant to the Due Process Clause of the Fourteenth Amendment to the United States Constitution and is unlikely to succeed. In 1998 in the case of *County of Sacramento v. Lewis*,<sup>60</sup> the United States Supreme Court considered whether an accident between a deputy and a motorcycle passenger resulting in death to the passenger would violate the Due Process Clause of the Fourteenth Amendment.<sup>61</sup>

The deputy responded to a fight call and was returning to his car after handling the call when he observed a motorcycle with two people approaching at a high rate of speed. The deputy attempted to stop the motorcycle by turning on his lights and yelling at the boys to stop. The motorcycle maneuvered between the police cars and sped off. The pursuit was described as follows:

For over 75 seconds over a course of 1.3 miles in a residential neighborhood, the motorcycle wove in and out of oncoming traffic, forcing two cars and a bicycle to

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“providing law enforcement” found in OCGA § 50-21-24 (6) authorizes “the application of sovereign immunity to the making of policy decisions by state employees and officers . . . and to the acts and omissions of state employees and officers executing and implementing those policies.” *Georgia Forestry Comm’n v. Canady*, 2006 Ga. LEXIS 461 \*14 (June 26, 2006). It is unknown whether this ruling will affect the well-settled law of *Blackston v. Georgia State Patrol* regarding the “providing law enforcement” exception as applied to pursuits by the Georgia State Patrol; however it seems unlikely that it will, as pursuits are the “execution” of a policy decision.

<sup>59</sup> *Cameron*, 274 Ga. at 126 (discussing O.C.G.A. § 33-24-51).

<sup>60</sup> 523 U.S. 833 (1998).

<sup>61</sup> The Due Process Clause states that “no State shall . . . deprive any person of life, liberty, or property, without due process of law.” *Lewis*, 523 U.S. at 840 (quoting U.S. CONST., Amend. 14, § 1).

swerve off the road. The motorcycle and patrol car reached speeds up to 100 miles an hour, with [the deputy] following at a distance as short as 100 feet; at that speed, his car would have required 650 feet to stop.

The chase ended after the motorcycle tipped over as Willard tried a sharp left turn. By the time [the deputy] slammed on his breaks, [the driver] was out of the way but [the passenger] Lewis was not. The patrol car skidded into him at 40 miles an hour, propelling him some 70 feet down the road and inflicting massive injuries. Lewis was pronounced dead at the scene.<sup>62</sup>

In the lawsuit, Lewis' family argued that the deputy violated Lewis' Fourteenth Amendment right to due process by causing his death through deliberate or reckless indifference to life in a high speed automobile chase aimed at apprehending a suspect. The Supreme Court disagreed and held that the Due Process Clause is only violated when there is arbitrary conduct that shocks the conscience.<sup>63</sup> The Court explained that "a police officer deciding whether to give chase must balance on one hand the need to stop a suspect and show that flight from the law is no way to freedom, and on the other, the high-speed threat to everyone within stopping range, be they suspects, their passengers, other drivers, or bystanders."<sup>64</sup> The Court concluded that there was no intent by the deputy to cause physical harm to Lewis and consequently no violation of his due process rights.<sup>65</sup> Significantly, however, the Court noted that its finding of constitutional violation did not imply anything about the appropriate treatment of this case under state negligence law.<sup>66</sup>

As the standard for a Due Process Clause violation is so high, it is unlikely that there will be a successful claim if the injuries occur due to an accident.<sup>67</sup> There is, however, another type of constitutional claim that may be brought pursuant to Section 1983. A Fourth Amendment claim may be brought when an officer intentionally makes contact with a suspect vehicle by ramming the vehicle or using a dead man's roadblock.

In *Brower v. County of Inyo*<sup>68</sup> decided in 1989, the United States Supreme Court considered a case involving what has been described as a "deadman roadblock."<sup>69</sup> Police had chased a stolen

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<sup>62</sup> *Lewis*, 523 U.S. at 837.

<sup>63</sup> *Lewis*, 523 U.S. at 846.

<sup>64</sup> *Lewis*, 523 U.S. at 853.

<sup>65</sup> *Lewis*, 523 U.S. at 853-54.

<sup>66</sup> *Lewis*, 523 U.S. at 854.

<sup>67</sup> See *White v. Polk County*, 2006 U.S. Dist. LEXIS 22060 \*16 (April 21, 2006) ("Defendants cite numerous cases in their memorandum for the proposition that rarely, if ever, does a high-speed chase shock the judicial conscience in the constitutional sense.").

<sup>68</sup> 489 U.S. 593 (1989).

<sup>69</sup> *Harris v. Coweta County, Georgia*, 433 F.3d 807, 812 (11<sup>th</sup> Cir. 2005).

vehicle at high speeds for approximately 20 miles.<sup>70</sup> The driver Brower was killed when he crashed into a police roadblock. The roadblock was an 18-wheel tractor-trailer placed across both lanes of the two-lane highway in the path of Brower's flight.<sup>71</sup> The roadblock was "effectively concealed" by placing it behind a curve and leaving it unilluminated, and . . . position[ing] a police car, with its headlights on, between Brower's oncoming vehicle and the truck, so that Brower would be 'blinded' on his approach."<sup>72</sup>

The Court first held that the placement of this particular roadblock which was designed to produce a stop by physical impact if voluntary compliance did not occur was a seizure within the meaning of the Fourth Amendment.<sup>73</sup> A seizure is "a governmental termination of freedom of movement through means intentionally applied."<sup>74</sup> "Brower was meant to be stopped by the physical obstacle of the roadblock – and . . . was so stopped."<sup>75</sup> The next question will be whether the seizure was reasonable because the Fourth Amendment only prohibits "unreasonable" seizures. The Court held that a jury may conclude that the circumstances of the roadblock, particularly the use of headlights to blind Brower, resulted in an unreasonable seizure in violation of the Fourth Amendment.<sup>76</sup>

*Brower* is the first United States Supreme Court case involving a pursuit. It teaches that a roadblock may be an unreasonable seizure in violation of the Fourth Amendment when officers set up the roadblock in such manner that it is likely to kill the driver. Accordingly, a roadblock must be set up in a reasonable manner, such as a roadblock at the end of a long straightaway that gives the driver the option of stopping.<sup>77</sup>

The United States Supreme Court has not yet decided a case involving a ramming of a suspect's car during a pursuit. The United States Court of Appeals for the Eleventh Circuit, which covers Georgia, Florida and Alabama, however, has decided such a case. In 2005, the Eleventh Circuit decided the case of *Harris v. Coweta County, Georgia*.<sup>78</sup> A Coweta County Sheriff's Department deputy clocked Harris traveling at 73 mph in a 55 mph zone.<sup>79</sup> The deputy pursued and Harris fled. Harris traveled at speeds between 70-90 mph, passed vehicles on double yellow control lanes, and ran two red lights. The deputy was able to obtain a tag number on the suspect vehicle at the beginning of the pursuit. After requesting permission from a supervisor to perform

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<sup>70</sup> *Brower*, 489 U.S. at 594.

<sup>71</sup> *Brower*, 489 U.S. at 594.

<sup>72</sup> *Brower*, 489 U.S. at 594.

<sup>73</sup> *Brower*, 489 U.S. at 598-99.

<sup>74</sup> *Brower*, 489 U.S. at 597.

<sup>75</sup> *Brower*, 489 U.S. at 599.

<sup>76</sup> *Brower*, 489 U.S. at 599.

<sup>77</sup> *Brower*, 489 U.S. at 598 (distinguishing between roadblock "designed to give the oncoming driver the option of a voluntary stop (e.g., one at the end of a long straightaway), and a roadblock that is designed precisely to produce a collision (e.g., one located just around a bend)").

<sup>78</sup> 433 F.3d 807 (11<sup>th</sup> Cir. 2005).

<sup>79</sup> *Harris*, 433 F.3d at 810.

the PIT (“Precision Immobilization Technique”), another deputy who had joined the pursuit determined that Harris was traveling too fast for the maneuver.<sup>80</sup> The deputy then rammed Harris’ vehicle, causing the vehicle to crash and leaving Harris a quadriplegic.<sup>81</sup> At the time, the county’s pursuit policy stated that “deliberate physical contact between vehicles at anytime may be justified to terminate the pursuit upon the approval of the supervisor.”<sup>82</sup> Additionally the pursuing deputy was not trained to perform the PIT.<sup>83</sup>

The court first determined that the ramming by the deputy was a seizure. Citing *Brower*, the court found that “using a vehicle to stop and apprehend a suspect is a seizure.”<sup>84</sup> Next the court considered whether the use of the vehicle was deadly force. The court concluded that this was deadly force. It reasoned:

‘Deadly force’ is force that creates ‘a substantial risk of causing death or serious bodily injury.’ . . . Like other instrumentalities, the use of an automobile cannot be construed in every circumstance as deadly force. However, an automobile, like a gun, can be used deliberately to cause death or serious bodily injury. . . . Under an objective view of the facts of this case, there is little dispute that the ramming of Harris’ car could constitute a use of ‘deadly force’ and that a jury could so reasonably conclude.<sup>85</sup>

As the use of the automobile to ram the Harris’ car was deadly force, the next question was whether it was a reasonable use of deadly force. According to *Tennessee v. Garner*, deadly force may be authorized in two limited circumstances:

(1) ‘where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others,’ or ‘if the suspect threatens the officer with a weapon or there is probable cause to believe that he had committed a crime involving the infliction or threatened infliction of serious physical harm,’ and (2) if deadly force is ‘necessary to prevent escape,’ and, (3) ‘if, where feasible, some warning has been given.’<sup>86</sup>

The court found that none of these conditions were present to justify the use of deadly force. It reasoned as follows:

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<sup>80</sup> *Harris*, 433 F.3d at 810-11.

<sup>81</sup> *Harris*, 433 F.3d at 811.

<sup>82</sup> *Harris*, 433 F.3d at 810 n2.

<sup>83</sup> *Harris*, 433 F.3d at 810-11.

<sup>84</sup> *Harris*, 433 F.3d at 812.

<sup>85</sup> *Harris*, 433 F.3d at 821.

<sup>86</sup> *Harris*, 433 F.3d at 813 (quoting *Tennessee v. Garner*, 471 U.S. 1, 11-12 (1985)).

‘Harris’ infraction was speeding (73 mph in a 55 mph zone). There were no warrants out for his arrest for anything, much less for the requisite ‘crime involving the infliction or threatened infliction of serious physical harm.’ Indeed neither [the deputy who rammed Harris] nor [the supervisor] had any idea why Harris was being pursued. The use of deadly force is not ‘reasonable’ in a high-speed chase based only on a speeding violation and traffic infractions where there was little, if any, actual threat to pedestrians or other motorists, as the roads were mostly empty and Harris remained in control of his vehicle, and there is no question that there were alternatives for a later arrest. The Garner Court specifically recognized that it would be an anomaly to transform ‘every fleeing misdemeanor into a fleeing felon . . . solely by virtue of his flight.’ A high-speed chase of a suspect fleeing after a traffic infraction does not amount to the ‘substantial threat’ of imminent physical harm that Garner requires before deadly force can be used.<sup>87</sup>

The court also concluded that the deputy who rammed Harris was not entitled to qualified immunity because he had fair warning from prior decisions that the use of deadly force in this case was unconstitutional.<sup>88</sup>

With regard to the supervisor who had authorized the use of the PIT maneuver, the court concluded that he was entitled to summary judgment because he did not authorize deadly force.<sup>89</sup> The evidence submitted to the court regarding the PIT maneuver was that it was “a driving technique designed to stop a fleeing motorist safely and quickly by hitting the fleeing car at a specific point on the vehicle, which throws the car into a spin and brings it to a stop.” The court pointed out that this assumes that “the maneuver will be executed at lower speeds by properly trained officers, and therefore can terminate a flight ‘safely.’”<sup>90</sup> In assuming that the PIT maneuver can only be executed at “lower speeds,” the Eleventh Circuit did not have the benefit of the research conducted by the Georgia Institute of Technology and discussed *infra* that indicates that the PIT maneuver can be safely executed at higher speeds.

In sum, *Harris v. Coweta County* stands for the proposition that intentional ramming of a fleeing violator is the use of deadly force. The use of deadly force may be objectively reasonable under the specific facts and circumstances; however, the officer should only use deadly force when it is authorized by the standard set forth in *Tennessee v. Garner*. The *Harris* case does identify examples of cases where suspects have used their vehicles in such a manner as to make the vehicle a deadly weapon. For example, courts have authorized the use of deadly force when suspects have:

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<sup>87</sup> *Harris*, 433 F.3d at 815 (citations omitted).

<sup>88</sup> *Harris*, 433 F.3d at 820-21.

<sup>89</sup> *Harris*, 433 F.3d at 817.

<sup>90</sup> *Harris*, 433 F.3d at 817.

- (1) used an automobile to “run down an officer;”<sup>91</sup>
- (2) used the automobile to “ram, run over, side-swipe, or swerve” into officers;<sup>92</sup> or
- (3) intentionally driven “head-on” into the officer’s vehicle.<sup>93</sup>

In such cases, the courts have concluded that the use of deadly force in the form of ramming a suspect’s vehicle or discharging a firearm at the suspect was objectively reasonable under the circumstances.

#### IV. Policy Considerations

Every Georgia law enforcement agency that operates vehicles with emergency equipment (blue lights and siren), regardless of its mission, should have a policy regarding pursuits. The need for good, sound policies and procedures is important in any organization. Promulgating policies provides a map for employees to follow, provides management the authority to oversee operations, and enhances the operations of any organization. This need is critical for law enforcement agencies, because by the very nature of the profession, the ability to harm others and take a human life constantly exists.

Each agency’s pursuit policy will vary depending upon its mission, size, location and jurisdiction. For these reasons, the Committee is not recommending a statewide pursuit policy. A statewide pursuit policy would not take into account the disparity in missions of municipal, county and state police agencies.

When preparing the agency policy, however, there are some areas that should be addressed in every pursuit policy. These areas include (1) definition of terms; (2) initiation of pursuits; (3) pursuit procedures; (4) ending the pursuit; (5) review of pursuits; and (6) training. It is important to recognize that the determination of what policy to implement in each of these areas is a decision for each agency to make based upon its size, mission and location. The information that the Committee is providing in each area is to assist the agency in crafting its pursuit policy. As the International Association of Chiefs of Police states in its model policy entitled “Vehicular Pursuit”:

the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often

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<sup>91</sup> *Harris*, 433 F.3d at 814.

<sup>92</sup> *Harris*, 433 F.3d at 816 n.11.

<sup>93</sup> *Harris*, 433 F.3d at 814.

divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities, among other factors.<sup>94</sup>

With this guidance in mind and after reviewing Georgia law regarding pursuits, the Committee makes the following recommendations.

A. Definitions

The Committee recommends that the policy include a “Definitions” section to define key words. Definition of key words adds clarity to the document and ensures that the document as a whole is understood. Key words that may be defined, if used, include: (1) vehicle pursuit; (2) authorized law enforcement vehicle; (3) primary unit; (4) secondary unit; (5) inter-jurisdictional pursuits; (6) discontinue the pursuit; and (7) terminate the pursuit. Suggested definitions are as follows:

Vehicle Pursuit: an active attempt by a law enforcement officer operating an authorized law enforcement vehicle to apprehend a fleeing suspect who is actively attempting to elude the police.<sup>95</sup>

Authorized law enforcement vehicle: a motor vehicle belonging to a federal, state, or local law enforcement agency with a functioning audible signal and a functioning flashing or revolving blue light.<sup>96</sup>

Primary unit: The authorized law enforcement vehicle that initiates a pursuit or any other unit, which assumes control of the pursuit.<sup>97</sup>

Secondary unit(s): Any authorized law enforcement vehicle that becomes involved as a backup to the primary unit and follows the primary unit at a safe distance.<sup>98</sup>

Inter-jurisdictional pursuit: Any vehicle pursuit that crosses into a neighboring jurisdiction, such as across the municipal, county or state line.

Discontinue the pursuit: the law enforcement officer ends his involvement in the pursuit by slowing down to the posted speed limit and turning off emergency lights and siren.

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<sup>94</sup> International Association of Chiefs of Police Model Policy (hereinafter “IACP Model Policy”), Vehicular Pursuit, Oct. 1996 retrieved from <http://www.theiacp.org/pubinfo/PolCtr> on May 23, 2006.

<sup>95</sup> IACP Model Policy at 1.

<sup>96</sup> O.C.G.A. §§ 40-1-1 and 40-6-6.

<sup>97</sup> IACP Model Policy at 2.

<sup>98</sup> IACP Model Policy at 2.

Terminate the pursuit: stopping a suspect vehicle by the use of intervention methods, such as [*Include Only Those Methods That Your Officers Have Received Training And/Or Have The Equipment To Utilize*] tire deflation devices (stop sticks), roadblocks, ramming, PIT maneuver, to stop the continued movement of the suspect vehicle.

In addition to these suggested definitions, policymakers should consider defining the intervention methods that the agency authorizes for terminating a pursuit. For example, if the agency authorizes the use of the PIT maneuver, then the term should be defined.<sup>99</sup> The definition of these key words and any other words used throughout the policy will assist officers in understanding and complying with the pursuit policy.

## B. Initiation of Pursuit

First and foremost, policymakers should consider when a pursuit is authorized. Georgia law does not state when pursuits are authorized nor does it require officers to pursue. If an officer chooses to pursue, Georgia law requires that law enforcement officers drive with due regard for the safety of the public during the pursuit. Accordingly, the policy should address specific risks inherent in the pursuit and require the officer to weigh those risks as applied to the current situation. The officer will have to make the decision whether to pursue in a matter of seconds, so the policy must provide clear guidance.

### 1. Authorized Pursuits

At the outset of the pursuit policy, officers must be told when the agency authorizes the pursuit of a fleeing suspect. As discussed, each agency's policy will be different depending on variables such as its mission, size and location. Police pursuit policies may be either restrictive or judgmental as to the officer's authorization to pursue. Restrictive policies are those where "the officer may only pursue given the existence of certain well-defined criteria."<sup>100</sup> Judgmental, or discretionary, policies are those "where the officer may decide whether or not to pursue based upon certain factors."<sup>101</sup>

Policymakers should first determine whether a restrictive or judgmental policy is appropriate for their agency. Municipal police agencies may choose to have a restrictive policy because their jurisdiction is primarily urban and suburban. Studies have shown that "municipal agencies, for example, were significantly more likely to restrict pursuits to felony incidents (19 percent) than

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<sup>99</sup> This paper will define the term "PIT maneuver" in Section V *infra*.

<sup>100</sup> Pipes, Chris and Dominick Pape, *Police Pursuits and Civil Liability*, FBI LAW ENFORCEMENT BULLETIN, 16, 17 (Jul. 2001).

<sup>101</sup> Pipes et al. at 17.



were their county counterparts (11 percent).”<sup>102</sup> Whereas many county or state police agencies may choose to have a judgmental policy due to the type of roadways in their jurisdiction (many highways and interstates to patrol) and their mission. It is important to recognize that a judgmental policy still requires the officer to determine whether the danger to the public from the pursuit outweighs the benefits of the pursuit.

In considering a restrictive policy, the simplest way to make the decision about which pursuits will be authorized is to formulate the policy in terms of the nature of the charges and the driver’s current behavior in relationship to the danger it creates to the public. Officers are familiar with the difference between a minor traffic violations, serious traffic violations, misdemeanor and felony offenses. Taking into account the nature of the agency’s mission and jurisdiction, the policymaker should carefully consider the following questions:

Should the agency permit pursuits for minor traffic violations such as failure to stop for a stop sign?

Should the agency permit pursuits for serious traffic violations such as driving while impaired or speeding in excess of 15 miles per hour over the posted speed limit?

Should the agency permit pursuits for misdemeanor offenses?

Should the agency allow pursuits for felony offenses?

Should the agency allow pursuits for serious felony offenses and/or forcible felonies?

Should the agency allow pursuits when the violator has created a danger to the public that warrants immediate action in the form of a pursuit?

Should the agency allow a pursuit when, prior to any law enforcement contact, the violator is already operating a motor vehicle in a hazardous manner and the violator’s hazardous driving presents a continuing significant threat to the safety of the public?

Once the policymaker has considered these questions, the restrictive pursuit policy should provide the answers to these questions. As this is probably the most crucial part of pursuit policy formation, the Committee will provide three examples of restrictive pursuit policy language that addresses which pursuits are authorized by the agency. It is important to recognize that these

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<sup>102</sup> Kenney, Dennis J. and Geoffrey P. Alpert, *A National Survey of Pursuits and the Use of Police Force: Data from Law Enforcement Agencies*, 25 *J. Crim. Just.* 315, 320 (1997).

agencies are policing in primarily urban and suburban areas. And as stated, each policymaker should create policy based upon their agency's unique characteristics.

Valdosta Police Department is responsible for providing law enforcement to the City of Valdosta, Georgia. The Police Department consists of 132 sworn personnel, 21 non-sworn support personnel and 18 part-time employees. The 104 members of the Patrol Bureau are responsible for the initial response to calls for service from the 50,000 citizens of Valdosta. This bureau is also responsible for the Traffic Unit, Power Squad, the Special Response Team, and the K-9 Unit.<sup>103</sup> Their pursuit policy permits the initiation of a pursuit in the following circumstances:

Valdosta Police Department General Order 200-41

7. Nature of charges – Officers may initiate a vehicle pursuit under the following circumstances:
  - a. For person (s) suspected of a forcibly felony or when an officer has articulable reasonable suspicion or probable cause that an extraordinary danger exists that warrants immediate action and necessitates a vehicle pursuit or;
  - b. Prior to any police contact, the officer observes that the person is driving or operating a motor vehicle or motorcycle in a hazardous manner and that person's hazardous driving presents a significant threat to the safety of others.

Officers will not normally pursue for misdemeanors or minor traffic violations, unless such violations meet the criteria as specified in (7.b.) above.<sup>104</sup>

Gwinnett County Police Department is responsible for providing law enforcement in Gwinnett County, Georgia. Gwinnett County is one of several counties that comprise the Metropolitan Atlanta area. It is primarily an urban/suburban county with both business and residential areas. Gwinnett County also has several incorporated cities within its boundaries, many of which have their own police department. Gwinnett County Police Department has 662 sworn officers. Gwinnett County Police Department permits pursuits under the following circumstances:

Gwinnett County Police Department Directive 426.00

Vehicular pursuits are prohibited unless there is probable cause to believe that the person(s) being pursued have committed or are committing the following:

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<sup>103</sup> Retrieved from <http://www.valdostacity.com/CityDepartments/index.cfm?Fuseaction=Police> on May 23, 2006.

<sup>104</sup> Valdosta Police Department General Order 200-41 at 2 (rev'd 01-01-06) (copy attached at Appendix C).

1. Murder, armed robbery, rape, kidnapping and aggravated battery; or
2. Any action that creates an immediate threat of death or serious bodily injury to another person or a substantial threat to the safety of another person.<sup>105</sup>

The Atlanta Police Department is the largest police department in Georgia with approximately 1,700 sworn officers. It is responsible for policing the City of Atlanta, which is an urban/suburban environment with a population of 420,000 people. The Atlanta Police Department Policy regarding pursuits authorizes pursuits only in the following circumstances.

#### Atlanta Police Department SOP 3050 Pursuit Policy

The following two conditions must be met before a police officer can engage in a vehicle pursuit.

4.1.1 First, the vehicles of the primary and secondary pursuit units must comply with the three applicable state codes of Georgia regarding the equipment of law enforcement vehicles. The codes are 40-8-90 (Use of flashing or revolving blue lights), 40-8-91 (Marking of official vehicles), and 40-8-94 (Sirens, whistles, and bells). In addition, the driver of the authorized emergency vehicle must drive with due regard for the safety of all persons as described in Georgia code 40-6-6 (Authorized emergency vehicles). (CALEA 41.2.2d)

4.1.2 Second, the driver of the fleeing vehicle or a passenger in the fleeing vehicle must meet one of the three following standards set forth in O.C.G.A. 17-4-20 (Arrest Without a Warrant).

1. “The suspect possesses a deadly weapon or any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury.”
2. “When the officer reasonably believes that the suspect poses an immediate threat of physical violence to the officer or others.”
3. “When there is probable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious physical harm.” (CALEA 1.3.2)<sup>106</sup>

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<sup>105</sup> Gwinnett County Police Department General Order 426.00 at 1 (Sept. 24, 2006) (copy attached at Appendix D).

<sup>106</sup> Atlanta Police Department SOP 3050 Pursuit Policy at 3 (Aug. 18, 2004) (copy attached at Appendix E).

As mentioned, these sample policies are from agencies that police in primarily urban and suburban environments. In narrowly circumscribing what offender behavior justifies a pursuit, the policymakers are recognizing that the need to apprehend the offender does not usually outweigh the inherent risks of a pursuit in such an environment.

The International Association of Chiefs of Police Model Policy entitled “Vehicular Pursuit” best exemplifies a judgmental policy. In the section entitled “Initiation of Pursuit,” it states:

1. The decision to initiate pursuit must be based on the pursuing officer’s conclusion that the immediate danger to the officer and the public created by the pursuit is less than the immediate or potential danger to the public should the suspect remain at large.
2. Any law enforcement officer in an authorized emergency vehicle may initiate a vehicular pursuit when the suspect exhibits the intention to avoid apprehension by refusing to stop when properly directed to do so. Pursuit may also be justified if the officer reasonably believes that the suspect, if allowed to flee, would present a danger to human life or cause serious injury.
3. In deciding whether to initiate pursuit, the officer shall take into consideration:
  - a. road, weather and environmental conditions;
  - b. population density and vehicular and pedestrian traffic;
  - c. The relative performance capabilities of the pursuit vehicle and the vehicle being pursued;
  - d. The seriousness of the offense; and
  - e. The presence of other persons in the police vehicle.<sup>107</sup>

It is important to recognize that a judgmental policy does not mean that officers will always initiate the pursuit or, conversely, will never discontinue the pursuit. The essence of a judgmental policy is that the officer at all times – prior to initiation and during the pursuit, weighs the risks of the pursuit versus the danger to the public in allowing the suspect to remain at large. Such a policy is particularly appropriate for agencies that must patrol the state’s interstates and highways,<sup>108</sup> such as state police agencies, sheriff’s departments and those municipal agencies with interstates running through their jurisdictions.

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<sup>107</sup> IACP Model Policy at 2.

<sup>108</sup> Implicit in patrol of the interstates and highways is the need to apprehend suspects who present a grave danger to the public through their actions, but have not committed a felony. There are three crimes in Georgia that are only misdemeanor offenses, yet by definition present a danger to the public. For example, drag racing and reckless driving are only misdemeanor crimes in Georgia. See O.C.G.A. §§ 40-6-186 and 40-6-390. Another crime presenting a danger to the public is aggressive driving, which is defined as operating “any motor vehicle with the

## 2. Factors to Consider When Pursuit is Authorized

It may be that a pursuit is authorized under the policy but due to the current factors or conditions, it is not safe to pursue. A pursuit may create an even greater danger to the public than that posed by the violator being allowed to escape. The Atlanta Police Department policy frames it this way: “Once the two required conditions exist, other factors that need to be considered in order to initiate a vehicle pursuit or allow a vehicle pursuit to continue are”<sup>109</sup> and then lists the other factors. Reviewing this policy and others, this is a list of other factors to consider in determining whether to initiate a pursuit:

- Volume of traffic – both vehicular and pedestrian;
- Location of pursuit – urban, suburban or rural area;
- Driving abilities of the police officer;
- Condition of the authorized emergency vehicle;
- Weather conditions;
- Road surface conditions – contours of road, construction zones, poor road conditions, and narrow roads may affect vehicle performance at high speeds;
- Speeds involved;
- Divided highways and vehicles traveling the wrong way on divided highways.

In addition to considering these factors in deciding whether to initiate a pursuit, the policy should direct the officer and/or supervisor to keep these considerations in mind during the entire pursuit. It may be that conditions change and make the continuation of the pursuit too dangerous.<sup>110</sup>

The decision to initiate a pursuit will be made in seconds. The pursuit policy, however, will be carefully considered by policymakers who weigh the risks of the pursuit versus the danger to the public from the suspect remaining at large. Addressing which pursuits are authorized in the policy permits policymakers the opportunity to train officers. Additionally, it provides the means to address policy violations through training and/or appropriate disciplinary action.

### C. Pursuit Procedures

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intent to annoy, harass, molest, intimidate, injure, or obstruct another person.” O.C.G.A. § 40-6-397. Aggressive driving is also classified as a misdemeanor – although of a high and aggravated nature. To promulgate a restrictive pursuit policy that would prohibit pursuit for these types of misdemeanor traffic violations where the driver’s actions are creating a great danger to the public prior to the initiation of the pursuit would ultimately result in less safe roads in Georgia.

<sup>109</sup> Atlanta Police Department SOP 3050 Pursuit Policy at 4.

<sup>110</sup> Recall *Wilson v. City of Atlanta* where the officer discontinued the pursuit and slowed to normal speeds when the traffic became heavier. 223 Ga. App. 144, 147 (1996). The court granted summary judgment to the officer and concluded that the officer did not act with reckless disregard for the safety of others.

When developing the pursuit policy, the agency should consider the roles and responsibilities of all enforcement and non-enforcement personnel involved during the pursuit. The policy should provide for clear communications to ensure that resources are deployed to control and minimize danger to others and also to allow officers and their supervisors to make the best decisions possible from that information.

1. Responsibilities of the Primary Unit, Communications, Secondary Unit and Supervisor

The policy should address the responsibilities of the primary unit, communications secondary unit(s) and the supervisors. When a vehicle pursuit is initiated, the primary unit should immediately activate his emergency lights and siren. During the pursuit, the primary unit should report the following information to the dispatcher and/or supervisory personnel:

- a. Unit number and the fact that he is in pursuit;
- b. The location and direction of travel;
- c. Description of the vehicle (make, color, tag #, etc.) and occupants (race, sex, number, etc.);
- d. Reason for the pursuit;
- e. Changes in location and direction of travel during the pursuit; and
- f. Location at the time the pursuit is discontinued.

Once notified of the pursuit, the dispatcher should:

- a. Record all information received from the pursuing officer;
- b. Convey relevant information to the Shift Supervisor and responding units;
- c. Advise all units to clear the radio for emergency traffic only;
- d. Conduct an inquiry of the license plate number through the N.C.I.C. and G.C.I.C. computer systems;
- e. Notify adjacent jurisdictions of the pursuit and the potential for the pursuit entering their jurisdiction; and
- f. Monitor the pursuit via radio transmissions.

Upon notification of the pursuit, the supervisor should consider the following:

- a. Asserting control over the pursuit and the discretion to order specific units into or out of the pursuit;
- b. Controlling which and how many (back-up) units enter into an active pursuit;
- c. Ordering field units to clear intersections in the likely path of the pursuit;
- d. Authorizing termination of the pursuit by approved methods; and
- e. Discontinuing the pursuit any time the risks of the pursuit outweigh the danger to the public from the suspect remaining at large.

With regard to secondary units, the policy should address how many secondary units are authorized to assist. It may be that the policy only authorizes one secondary unit to operate with emergency equipment and provide for the other units to follow at a safe distance in compliance with the traffic laws. Consideration should be given to avoiding numerous police vehicles operating in the emergency mode; however, there is also a need to have secondary units to provide assistance to the primary unit. Secondary units authorized to participate in the pursuit should have their emergency equipment operating. The policy may want to limit the involvement of unmarked units during pursuits where a marked unit is available to take over the pursuit. Another possible utilization of the secondary unit is for that unit to handle the radio traffic to permit the primary unit to concentrate on pursuing the suspect vehicle.

## 2. Inter-jurisdictional Pursuits

The pursuit policy also should address inter-jurisdictional pursuits in two contexts: (1) a pursuit initiated by the agency that goes into another jurisdiction; and (2) a pursuit initiated by another agency entering and/or leaving the agency's jurisdiction. With regard to the pursuits entering the agency's jurisdiction, the policy should address the following:

- a. Provide guidance regarding the role the agency will play the pursuit;
- b. Address whether officers may become involved in an inter-jurisdictional pursuit;
- c. Provide guidance about whether officers, if permitted to join the inter-jurisdictional pursuit, may continue to assist with the pursuit after it has left the agency jurisdiction, to include crossing state lines;
- d. Supervisory oversight of involvement in the inter-jurisdictional pursuit;
- e. Responsibility for notifying neighboring jurisdictions and requesting their assistance; and
- f. Providing guidance regarding turning over the lead of the pursuit or the pursuit in its entirety to another jurisdiction such as the Georgia State Patrol or the agency having primary jurisdiction.

By outlining the procedures to follow during a pursuit, the policy ensures that the minimal number of officers will be involved in the pursuit and also defines the actions that should occur once the pursuit leaves a particular jurisdiction. This allows for better management and control of the pursuit from beginning to the end. And with all policy recommendations, addressing it on the front end allows for training of all officers prior to the pursuit.

### 3. Unmarked Vehicles

The policy should also address whether unmarked vehicles may participate in the pursuit. An unmarked car will not be as visible to other members of the public, although it must have the emergency equipment required by law to be used in a pursuit. Therefore it may be wise to limit the use of unmarked cars to serious felonies. For example, the City of LaGrange Police Department Policy 12.11 states:

#### Emergency Operation of Vehicles During Pursuits

1. Only marked vehicles with roof-mounted emergency light systems should engage in a pursuit.
2. Police vehicles that are slick top, but are equipped with intersection lights, and have all the police markings on the sides and back of the police vehicle are allowed to be involved in pursuits.
3. Unmarked vehicles will not become involved in any pursuit unless it involves a serious felony. No unmarked vehicle, without both blue lights and siren, will become involved in pursuits.<sup>111</sup>

According to Kenney and Alpert in their article “A National Survey of Pursuits and the Use of Police Force: Data from Law Enforcement Agencies,” municipal agencies are more likely to restrict pursuits to marked units than county agencies “(64 percent vs. 53 percent).”<sup>112</sup> Again this is a determination each agency should make based upon the unique variables of their community.

#### D. Ending the Pursuit

When developing the pursuit policy, the policymaker should determine the circumstances when discontinuing or terminating the pursuit is appropriate. During a pursuit, the need to apprehend the suspect should always outweigh the level of danger created by the pursuit. When the immediate danger to the public created by the pursuit is *greater* than the immediate or potential danger to the public should the suspect remain at large, then the pursuit should be discontinued or terminated.

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<sup>111</sup> LaGrange Police Department Vehicle Operations at 12.11 (rev'd 2-28-05) (copy attached at Appendix F).

<sup>112</sup> Kenney and Alpert at 320.



## 1. Discontinuing the Pursuit

It is very important for the policy to address when the pursuit will be discontinued. As defined *supra*, discontinuing a pursuit occurs when the law enforcement officer ends his involvement in the pursuit by slowing down to the posted speed limit and turning off the emergency lights and siren. In the absence of any viable and timely method of terminating the pursuit, discontinuing a pursuit should occur when the danger to the public is greater from the pursuit than the danger to the public should the suspect escape.

In addition to this paramount consideration, pursuits should usually be discontinued when the violator's identity has been established to the point that later apprehension can be accomplished without danger to the public. Finally, a pursuit should be discontinued when the violator's vehicle location is no longer known.

## 2. Terminating the Pursuit

As defined *supra*, terminating a pursuit occurs when the officer uses intervention methods, such as tire deflation devices (stop sticks), roadblocks, ramming, or the PIT maneuver, to stop the continued movement of the suspect vehicle. The pursuit policy should address only those methods that the officer has been trained to use. Additionally, the pursuit policy should address when these intervention methods may be used. For example, the Georgia State Patrol policy regarding stationary roadblocks states:

Stationary roadblocks will be used only in extraordinary circumstances and only with the permission of an NCO or commissioned officer. No stationary roadblock shall be set up on a hillcrest or in a curve. The roadblock must be visible from a sufficient distance to allow the suspect the opportunity to safely stop.

With regard to these methods, the policy may want to require officers to consider various intervention methods prior to utilizing others. For example, the Georgia State Patrol policy states that the PIT maneuver "should not be used until other methods for stopping a fleeing vehicle (e.g. tire deflation devices and roadblocks) have been considered and determined not to be feasible." As discussed in the legal section of this paper, the use of these intervention methods will be considered a Fourth Amendment seizure by the courts and must be objectively reasonable.

### a. Tire Deflation Devices

There are some specific considerations which should be addressed regarding tire deflation devices, such as stop sticks or spike strips. Specifically, the policy should address the circumstances that warrant the use of the device, and whether a supervisor needs to approve the use. The policy should incorporate or reference the manufacturer's recommendations as to speed

for deployment and any limitations on use. For example, some stop sticks may only be used at speeds greater than 25 mph and may not be used on motorcycles. Additionally, all enforcement personnel involved in the pursuit should be notified of the location where the devices have been deployed.

b. Roadblocks

If feasible and personnel are available to create it, a roadblock may be used when the suspect is creating a danger to the public. The use of the roadblock will be a Fourth Amendment seizure and must be objectively reasonable. Policy considerations include the following:

1. Requiring the approval of the roadblock by the supervisor;
2. Utilizing marked patrol vehicles with the emergency lights and headlights activated, but not intentionally directed to blind the driver of the pursued vehicle;
3. Ensuring that officers are not inside any vehicles used in the roadblock;
4. Requiring that the roadblock be clearly visible and there is an adequate warning to allow vehicles to come to a safe stop;
5. Taking into account road and weather conditions when considering stopping distance and visibility;
6. Setting up the roadblock to prevent civilian vehicles traveling into the area of the roadblock;
7. Communicating to all law enforcement personnel, including other participating agencies, involved in the pursuit of the decision to deploy a roadblock and its location; and
8. Addressing the use of civilian vehicles when constructing the roadblock.

With regard to the visibility of the roadblock, recall the case of *Brower v. County of Inyo*, where the roadblock was set up on a curve and a spotlight was directed so as to blind the driver as he rounded the curve. *Brower* teaches law enforcement that the roadblock must be visible and there must be enough distance for the driver to stop his vehicle safely. For these reasons, some policies mention a specific number of feet (500 or 1000 feet), while others state only that the roadblock must be visible from a sufficient distance to allow the suspect the opportunity to stop safely. Setting a specific distance may not be wise because it is unlikely that there will be time to measure the distance and also 500 feet may not be enough distance to stop if the roads are wet, speeds are high (over 100 mph) and the suspect's perception and reaction time is slow. If, however, the policy does not set a distance, training should address the variables that are factored into stopping distances.

If the agency uses and trains regarding mobile or rolling roadblocks, the policy should also address at what speeds and under what circumstances that the rolling roadblock should be utilized.

c. PIT Maneuver

As with the roadblock, the use of the PIT maneuver is a seizure and must comport with the reasonableness requirements of the Fourth Amendment. Accordingly, the policy should describe the circumstances that warrant the use of the PIT. For example, the Georgia State Patrol pursuit policy permits the use of the PIT maneuver when the “trooper or troopers in the pursuit determine that the fleeing vehicle must be stopped immediately to safeguard life and preserve public safety.”<sup>113</sup> The policy also carefully delineates the factors to consider before utilizing the PIT maneuver.

Georgia Department of Public Safety Policy No. 1702 Pursuits

4. PIT Maneuver

a. If the trooper or troopers in the pursuit determine that the fleeing vehicle must be stopped immediately to safeguard life and preserve public safety, the PIT maneuver may be used.

b. The PIT maneuver shall only be used by troopers in accordance with Department training received on the PIT maneuver.

c. The PIT maneuver should not be used until other methods for stopping a fleeing vehicle (e.g. tire deflation devices and roadblocks) have been considered and determined to be not feasible.

d. The PIT maneuver should be used only when the danger from the continued pursuit is greater than the danger associated with using the maneuver to end the pursuit. Before the PIT maneuver is used, factors that affect the safety of using the technique should be considered. These factors include:

1) Condition of the road:

- a) Wet or dry
- b) Width
- c) Divider or other obstruction
- d) Roadside obstructions (trees, ditches, buildings, etc.)

2) Visibility:

- a) Distance ahead
- b) Darkness

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<sup>113</sup> Georgia Department of Public Safety Policy 17.02 Pursuits at 5 (8/25/2005).

- 3) Traffic volume:
  - a) Anticipated volume due to time of day (school hours, commuter traffic)
  - b) Actual volume based upon observation
- 4) Pedestrian traffic:
  - a) Anticipated volume due to location (school or college nearby, industrial area)
  - b) Actual volume based upon observation
- 5) Type of fleeing vehicle:
  - a) Pickup truck (high center of gravity, narrow wheel base)
  - b) Small car (narrow wheel base, small tires)
  - c) Van (high center of gravity, narrow wheel base)
- 6) Occupants:
  - a) Number of people in the vehicle
  - b) Whether children are visible in the vehicle
  - c) Whether the occupants are wearing seatbelts
  - d) Whether the windows are down
- 7) Reasonable speed as determined by the following factors:
  - a) Whether the violator is showing total disregard for public safety
  - b) Whether the violator is slowing but not stopping for stop signs or other traffic control devices
  - c) Whether the violator is darting at other vehicles
  - d) Whether the violator is driving on the wrong side of the road
  - e) Whether the violator is running other motorists off the road

e. The PIT maneuver is considered a use of force and the trooper's individual actions must be objectively reasonable. The trooper will consider all the factors listed above, including his experience, his abilities, and the danger of continuing the pursuit. The PIT maneuver will only be executed when the need to stop the pursuit is immediate. The trooper must be able to articulate the reason for his actions.

f. The PIT maneuver shall not be used to stop a pursuit with a motorcycle or ATV.

Another consideration, which will be discussed in detail *infra*, in the utilization of the PIT maneuver, is that it may be more hazardous when used on vehicles with a high center of gravity such as vans and Sports Utility Vehicles (SUV). Consequently, the policy may want to direct the officer to consider the speed of the vehicle when deciding to use the PIT maneuver on certain vehicles.

d. Deadly Force

There are two other methods of terminating a pursuit – ramming and the use of a firearm, and both are considered deadly force by the courts. When the suspect is creating an imminent threat of serious bodily harm or loss of life, the use of deadly force will be reasonable. The pursuit policy, however, should specifically address this.

Discharging a firearm at a moving vehicle should be addressed in the pursuit policy. For example, the Valdosta Police Department Vehicle Pursuit policy states:

Firing from or at a moving vehicle or its occupants will only be deemed acceptable when the officer involved can demonstrate an articulable exigent circumstance which makes this action necessary for the protection of human life from an imminent threat of serious bodily harm or loss of life. Discharging a firearm from a moving vehicle is discouraged in any event.<sup>114</sup>

When using a firearm, however, the officer should be intending to disable the driver, not merely to stop the vehicle. The Atlanta Police Department Pursuit Policy states:

Police officers will not discharge their firearm in an effort to stop a fleeing vehicle. (This does not prohibit a police officer from using his or her firearm as a lethal force option when it is reasonable and necessary.)

Another way to handle the issue of firing at a vehicle is to reference the agency's use of force policy. For example, the Georgia Bureau of Investigation Directive 4-3 Vehicle Stop, Pursuit and Emergency Vehicle Operations policy states: "Firearms shall not be discharged at any moving vehicle unless the use of deadly force is justified in accordance with the provisions of Investigative Division Directive 10-2."

With regard to ramming which is also considered deadly force, the pursuit policy should also state when this is permissible or conversely, when it is not. The Valdosta Police Department has chosen to forbid the use of the police vehicle to stop a suspect vehicle. Specifically, the General Order directs that: "Officers may not attempt to stop a suspect vehicle in a pursuit by striking the

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<sup>114</sup> Valdosta Police Department General Order 200-41 Vehicle Pursuit at 5 (01-01-06).

suspect's vehicle with a police vehicle.” The LaGrange Police Department's Vehicle Operations policy generally prohibits “forcible stops” except for stationary roadblocks as “a last resort” and with approval of the supervisor.

The Gainesville Police Department allows ramming only as a last resort, but provides very specific guidance. It states:

Ramming - Deliberate ramming or intentional physical contact between vehicles by an officer is considered a use of deadly force and should be only considered as a **last resort**. This action must be approved by the highest-ranking supervisor prior to its utilization.<sup>115</sup>

In sum, it is essential that the pursuit policy address discharging a firearm or ramming as such actions will be considered the use of deadly force and subject to the Fourth Amendment's reasonableness requirement.

#### E. Review of Pursuits

When developing the pursuit policy, the agency should consider a review process after each pursuit and on an annual basis. The purpose of the review is threefold: (1) to determine whether the pursuit complied with agency policy; (2) to identify training needs; and (3) to observe any patterns of performance which have surfaced as a result.

In order to permit meaningful review of pursuits by the agency, the officer who acted as the primary unit and/or the supervisor should prepare a pursuit report. As part of this review, the officer and the supervisor should review any videos of the pursuit. The pursuit report should be reviewed through the officer's chain of command, to include the agency training section, policy development unit, and the agency internal affairs or Office of Professional Standards Unit.

In addition to annual reviews of pursuits, the agency may want to consider a review over a five-year period or more to see additional trends. For example in 2005, the LaGrange Police Department Office of Professional Standards conducted a review of all pursuits by the department since 1997.<sup>116</sup> The review determined that there were 164 pursuits in that time period, approximately 21 per year. It then addressed the reasons for the pursuits – 106 traffic violations, 16 felony violations, and 59 other misdemeanors. As a result of that review, it was recommended that the department modify the vehicle pursuit policy and “eliminate vehicle pursuits that do not relate directly to felony offenses or which put the general public in danger unless apprehended.” In response to that review, the LaGrange Police Department changed its pursuit policy.

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<sup>115</sup> Gainesville Police Department Vehicular Pursuits No. 558 at 8 (10-07-04).

<sup>116</sup> January 5, 2005 Memorandum from Lt. J. Hall to Chief Louis M. Dekmar.

The benefits of such a review are many. First, the review was not precipitated by a serious injury or death of a suspect, citizen or police officer. Yet, the Office of Professional Standards recognized that serious injuries or death can occur in any pursuit and deemed the issue important enough to justify a review. Additionally, the policy change was recommended by the staff and consequently may be more likely to be accepted by the officers than something coming directly from the Chief. Lastly, if an injury or death does occur during an authorized pursuit, the policy change is excellent evidence regarding the care with which the department makes its policy decisions.

#### F. Training

In order to ensure that officers comply with the pursuit policy, the agency should provide training for officers on the pursuit policy. It is recommended that all newly appointed sworn personnel should not be assigned to enforcement duties until receiving training on the agency's pursuit policy. In addition, all sworn personnel should receive annual training on the pursuit policy. This is a requirement for agencies certified by the Georgia Police Accreditation Coalition<sup>117</sup> and is suggested by the Commission on Accreditation in Law Enforcement (CALEA) for CALEA accredited agencies. As pursuits are a high liability area, annual training makes sense.

For those agencies that utilize the PIT maneuver, roadblocks, or tire deflation devices, the annual training should refresh the officers regarding these techniques. The PIT maneuver should only be performed by those officers who have received training from a certified PIT Instructor or academy certified to teach the maneuver. Reviewing the use of these intervention techniques on an annual basis in training will remind officers of the proper use of the techniques.

Additionally as discussed, the review of the pursuit reports by the training section and the internal affairs unit may identify officers who need additional training either because the initiation of the pursuit did not comply with agency policy or because proper procedures were not followed during the pursuit. The additional training may include video footage of pursuits and a debriefing or analysis of the officer's actions in those pursuits. Such additional training will provide evidence that the agency enforces its policy and does not merely pay lip service to it.

Lastly, the agency command staff should foster an agency culture that positively recognizes those officers who discontinue pursuits that are creating a danger to the public when terminating the pursuit is not a viable option. It will always be hard for an officer to discontinue a pursuit

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<sup>117</sup>State of Georgia Law Enforcement Certification Program Third Edition Standards at 1.11 located at <http://www.gpacinc.com/resources.htm> ("The agency has a written directive that requires each sworn officer receive annual training on . . . vehicle pursuits").

and let the suspect go. The agency can recognize this good judgment on the part of an officer by noting it in the officer's evaluations and also in the pursuit files. The fact that an officer chose to discontinue a pursuit on one occasion will be excellent evidence that he clearly understands the need to balance the safety of the public with the need to apprehend in the event that another pursuit ends tragically. Additionally it provides strong evidence that the agency pursuit policy is being followed.

#### V. An Engineering Analysis of the PIT Maneuver

Throughout this paper, the Committee has recognized the dilemma posed by pursuits. The fleeing suspect creates a danger to the public – either due to his driving or past conduct, and often that danger was created prior to the initiation of the pursuit. Guided by agency policy, the officer must choose whether to initiate a pursuit or not. In cases where the pursuit is initiated, every effort should be made to terminate the pursuit as quickly as possible.

The Committee decided to focus additional study on the PIT maneuver because, when properly utilized, it is a means to terminate pursuits safely. To this end, the Committee requested assistance from the George W. Woodruff School of Mechanical Engineering at the Georgia Institute of Technology (“Georgia Tech”) to study the engineering and physics of the PIT maneuver. Before discussing this research, the Committee will briefly review the history of the PIT.

##### a. History of the PIT Maneuver

The Georgia State Patrol has been utilizing the PIT maneuver since 1997.<sup>118</sup> The decision to utilize the PIT maneuver was made to provide a means to “end a pursuit quickly and safely.”<sup>119</sup> Developed more than two decades ago, the PIT maneuver was described by the National Institute of Justice in 1996 as a “potential alternative” to high-speed pursuits. Specifically, the article described the PIT as follows:

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<sup>118</sup> Georgia Department of Public Safety, *Pursuits and the PIT Maneuver*, Prepared for the Georgia Board of Public Safety 1 (Dec. 7, 2005) (hereinafter “*Pursuits and the PIT Maneuver*”).

<sup>119</sup> *Pursuits and the PIT Maneuver* at 1.



### Precision Immobilization Technique

Known initially as "tactical ramming" or "legal intervention," this maneuver was more fully developed and popularized more than a decade ago by BSR Inc., the Summit Point, West Virginia, advanced driver training center, as tactical vehicle interception (TVI), a formal training technique for law enforcement. The first large law enforcement agency to teach TVI as a technique to halt fleeing vehicles was the Fairfax County (Virginia) Police Department, which modified the program for police use and named it "precision immobilization technique" or PIT. The technique involves easing up to and making contact with a fleeing suspect's car in such a way as to cause the target car to snap sideways and come to a halt. While this technique is not applicable in every situation, the key to its effective use is to carefully choose a favorable spot before attempting PIT and to first consider the possible effects on other traffic and pedestrians."<sup>120</sup>

The California Highway Patrol has been utilizing the PIT since 1986.<sup>121</sup> Minnesota Highway Patrol and Fairfax County Police Department have been using it since 1988.<sup>122</sup>

Georgia State Patrol is the largest police agency in Georgia that currently utilizes the PIT. As addressed earlier, the Georgia State Patrol's Pursuit Policy explains the factors that should be considered before using the PIT maneuver. The policy defines PIT as follows:

Precision Immobilization Technique (PIT) The intentional act of using a trooper's vehicle to physically force a fleeing vehicle from a course of travel in order to stop it. The PIT maneuver is a specific, technical maneuver which requires advanced practical training prior to use. When executed by properly trained members under reasonable and prudent circumstances, the PIT maneuver does not constitute deadly force. In other circumstances, the PIT maneuver may constitute deadly force and may only be used when authorized by law.<sup>123</sup>

In view of the Georgia State Patrol's extensive experience in training and using the PIT, the Committee asked its training staff to assist the Georgia Tech researchers.

#### b. Georgia Institute of Technology Research Project

In an effort to provide more guidance to policymakers, the Committee asked the faculty at Georgia Tech to research the safety of the PIT maneuver. Although the PIT has been used by law enforcement as an effective technique to terminate pursuits, it has never been studied by

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<sup>120</sup> National Institute of Justice, *High-Speed Pursuit: New Technologies Around the Corner*, U.S. Dept. of Justice (Oct. 1996) at 4-5.

<sup>121</sup> *Pursuits and the PIT Maneuver* at Att. 4 PIT Maneuver Training Syllabus at 4.

<sup>122</sup> *Id.*

<sup>123</sup> Georgia State Patrol Policy No. 17.07 Pursuits at 2-3 (rev'd Aug. 24, 2005).

engineers. Dr. David M. Sanborn, Associate Chair for Undergraduate Studies of the George W. Woodruff School of Mechanical Engineering supervised a design project planned and executed by four seniors<sup>124</sup> as a research project in a mechanical engineering design class. The goal of the project was “to study the maneuver by using physical experimentation and computer simulations.”<sup>125</sup> The study hypothesized that the PIT is a “controlled and predictable maneuver”<sup>126</sup> that does not cause the vehicle to rollover when performed properly.<sup>127</sup> This hypothesis tracks the experience of the Georgia State Patrol, which teaches its troopers that “after contact, a vehicle always travels in a direction that was reasonably predictable for use on the public highway.”<sup>128</sup> Avoiding rollover is the key consideration because if there is no rollover, assuming the driver is wearing his seatbelt as required by law, then it is unlikely that there will be any serious injury or death as a result of the PIT maneuver. The study did not take into account “a crash that results from the vehicle skidding into another vehicle, person or object.”<sup>129</sup>

The research project had two parts: (1) to measure the force applied from the police car to the target car during an actual PIT maneuver; and (2) to model the PIT maneuver in a simulation program called MSC ADAMS/Car.<sup>130</sup> After designing and building a load measuring device, the researchers went to the driving track at the Georgia Public Safety Training Center to implement the first part of the research project.<sup>131</sup>

The Georgia State Patrol Training staff assisted the researchers by first defining and explaining the PIT maneuver. In a nutshell, the PIT maneuver follows four steps: match, touch, turn and follow through.<sup>132</sup> In executing the PIT, the police car first matches the speed of the suspect car. Next, the police car touches the rear end of the suspect car. After the police car makes contact, the officer turns the steering wheel a quarter turn to apply force. After application of the force, the suspect car will pivot around the police car, continue to spin and come to a stop.<sup>133</sup>

In order to determine the force used during the PIT, the training staff conducted the PIT maneuver at various speeds. During these demonstrations, the researchers were able to measure the force applied during the PIT maneuver and also, through the use of a camera mounted on the

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<sup>124</sup> Three of the seniors, Zachary Barbre, William Hagler and Kirsten Lundstrom, graduated in May of 2006. The other, Navneet Chhabra, will graduate at the end of the summer semester in 2006.

<sup>125</sup> Sanborn, David M., PIT: Precision Immobilization Technique ME 4182 Section D, George W. Woodruff School of Mechanical Engineering, Georgia Institute of Technology at 1(April 28, 2006) (on file with the Georgia Association of Chiefs of Police).

<sup>126</sup> Sanborn at 1.

<sup>127</sup> Sanborn at 3.

<sup>128</sup> *Pursuits and the PIT Maneuver* at Att. 4 PIT Maneuver Training Syllabus at 4.

<sup>129</sup> Sanborn at 3.

<sup>130</sup> Sanborn at 1.

<sup>131</sup> Sanborn at 11.

<sup>132</sup> Sanborn at 3.

<sup>133</sup> Sanborn at 3.

bumper, obtain actual video footage of a PIT maneuver.<sup>134</sup> There were eight PIT maneuvers executed at speeds of 40, 35, 35, 45, 45, 50, 55 and 60 mph. Of these eight runs, three runs produced measurable data regarding the amount of force utilized by the police car.<sup>135</sup> Additionally, no run resulted in any vehicle rolling over and no injuries were sustained by any drivers or passengers in the vehicles during the runs.

The data regarding the force used is summarized in the table below:<sup>136</sup>

<b>Experimental PIT Force</b>	
Speed (mph)	Force (lbf)
45	800
55	600
60	620

As is evident, the “experiment confirmed that as the speed increases, the maximum force needed to immobilize the target car decreases.”<sup>137</sup> In other words, the amount of force necessary to effectuate the PIT maneuver decreases with the increased speed.

The Committee also requested that the researchers consider whether a ramming technique is effective in displacing the suspect vehicle. As requested, the researchers also experimented with “ramming” the suspect car as opposed to “touching” the suspect car using the PIT maneuver. It was determined that a ram was not effective in displacing the car from the roadway.<sup>138</sup> Additionally, the ramming required more force than the force used in the PIT maneuver.

After conducting the application of force research at the Georgia Public Safety Training Center, the researchers concluded the following regarding the PIT Maneuver and ramming:

If the PIT maneuver is performed under the correct conditions and with the proper procedure, the results of this maneuver are very consistent and predictable. This was observed at the Georgia Public Safety Training Center where the PIT maneuver was performed at [speeds from 35 to 60<sup>139</sup>] mph with dry road

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<sup>134</sup> Sanborn at 11-12.

<sup>135</sup> For these three runs, the police car made continuous contact with the measuring device during the entire maneuver enabling the force to be measured. In the other runs, the police car did not make continuous contact with the measuring device.

<sup>136</sup> Barbre, Z. *et al*, PowerPoint presentation, “PIT Testing and Simulation” Slide 17 (May 2006) (on file with the Georgia Association of Chiefs of Police).

<sup>137</sup> Sanborn at 13.

<sup>138</sup> Sanborn at 3.

<sup>139</sup> June 5, 2006 Telephone conversation with Dr. Sanborn.

conditions. Additionally, it was observed that if the officer car did not “touch” the target car, but instead “rammed” into the target car, the maneuver was completely ineffective. This ineffectiveness vividly illustrates the difference between the controlled PIT and an uncontrolled collision. A properly executed PIT requires a steady force applied over a second or two, not a sharp impact.<sup>140</sup>

The next step of the research project was to utilize a computer simulation of the PIT maneuver to determine how the car would perform at higher speeds. The computer simulation was done in the MSC Adams/Car computer program.<sup>141</sup> The Adams/Car is similar to a Ferrari, a low center of gravity sports car with wide tires. The topography of the road used in the simulation was a smooth, flat road and the simulation was performed with both dry and wet road conditions.<sup>142</sup>

The simulation results matched those of the experiments at the Georgia Public Safety Training Center.<sup>143</sup> The amount of force decreased as the speed increased.<sup>144</sup> The chart below shows the speed and force for the computer simulation.<sup>145</sup>

Simulated PIT Force	
Speed (mph)	Force (lbf)
45	875
55	810
60	780

As is evident from the chart, the model car required the application of greater force to force it into the PIT maneuver.<sup>146</sup> The researchers concluded that this was due to the wider tires on the model car.<sup>147</sup> The model car also never rolled over, even at speeds up to 120 mph.<sup>148</sup>

The simulation verified the experimental conditions observed at the Georgia Public Safety Training Center.<sup>149</sup> The PIT maneuver appears to be predictable and controllable under the conditions simulated (a smooth, flat road under both wet and dry conditions) and at speeds up to

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<sup>140</sup> Sanborn at 3.

<sup>141</sup> Sanborn at 6.

<sup>142</sup> Sanborn at 20.

<sup>143</sup> Sanborn at 24.

<sup>144</sup> Sanborn at 24.

<sup>145</sup> Barbre at Slide 22.

<sup>146</sup> Sanborn at 24.

<sup>147</sup> Sanborn at 24.

<sup>148</sup> Sanborn at 25.

<sup>149</sup> Sanborn at 2.

120 mph with a low center-of-gravity vehicle such as the Adams/Car.

The researchers also attempted to model a high center-of-gravity vehicle, such as a sports utility vehicle in the Adams/Car software.<sup>150</sup> Due to the limitations of the software program, this was not successful.<sup>151</sup> The researchers, however, were able to perform rollover calculations using basic laws of dynamics in Microsoft Excel on other vehicles.<sup>152</sup> These calculations demonstrated that higher center of gravity vehicles, such as a Ford Explorer or an Isuzu Trooper, were more likely to roll over.<sup>153</sup> The analysis showed that the likelihood of a rollover for a given vehicle is inversely proportional to the coefficient of friction between the tires and the road, shoulder or other surface.<sup>154</sup> However, for a given coefficient, rollover likelihood is directly proportional to the ratio of the height of the center of mass to the wheel track width. Therefore, on a given road surface, the vehicles with high values of this ratio are the ones most likely to rollover. Due to its wide track width and low center of gravity, the Adams/Car was impossible to roll over during the simulation.<sup>155</sup>

This research supports the policy and training of the Georgia State Patrol. Based upon their nine years of performing the PIT maneuver, Georgia State Patrol policy lists the type of vehicle as one of the factors that should be considered when deciding to use the PIT maneuver. Specifically, the pursuit policy states:

d. The PIT maneuver should be used only when the danger from the continued pursuit is greater than the danger associated with the using the maneuver to end the pursuit. Before the PIT maneuver is used, factors that affect the safety of using the technique should be considered. These factors include:

5) Type of fleeing vehicle:

- a) Pickup truck (high center of gravity, narrow wheel base)
- b) Small car (narrow wheel base, small tires)
- c) Van (high center of gravity, narrow wheel base)

In addressing this policy provision during training, the training staff explains that using the PIT maneuver at higher speeds on vehicles such as vans and pickup trucks, which have a high center

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<sup>150</sup> Sanborn at 24.

<sup>151</sup> Sanborn at 24.

<sup>152</sup> Sanborn at 24.

<sup>153</sup> Sanborn at 25.

<sup>154</sup> Sanborn, E-mail message to Chief Dekmar (August 2, 2006) (copy on file with the Georgia Association of Chiefs of Police). Professor Sanborn requested the addition of these three sentences as a clarification to the original paragraph contained in the July 22, 2006 version of this paper.

<sup>155</sup> Sanborn at 25.

of gravity, may be more likely to result in a rollover.<sup>156</sup>

In summary, the Georgia Tech research confirms law enforcement's experience with the PIT maneuver. Properly performed by a trained driver under certain conditions, it is a controlled, predictable method to stop a pursuit. The PIT maneuver can be simulated utilizing a computer model. The computer simulation results as to the force needed to perform the maneuver displayed the same linear, predictable trend as did the experiments with actual vehicles.

Additionally, the research demonstrates that the PIT maneuver is not the same as ramming. It uses far less force than a ram.<sup>157</sup> Moreover, the ramming of a suspect vehicle is not controlled and hence, not predictable.

c. Legal and Policy Considerations in Utilizing the PIT Maneuver

As has been discussed in detail *supra* in the section regarding Fourth Amendment claims, the courts will consider the PIT maneuver as a seizure within the meaning of the Fourth Amendment.<sup>158</sup> As a seizure, it must comply with the Fourth Amendment's requirement that the seizure be objectively reasonable. In *Graham v. Connor*, the United States Supreme Court has described an "objectively reasonable" use of force:

Today we make explicit what was implicit in *Garner's* analysis, and hold that *all* claims that law enforcement officers have used excessive force—deadly or not—in the course of an arrest, investigatory stop, or other "seizure" of a free citizen should be analyzed under the Fourth Amendment and its "reasonableness" standard . . . .

Because "[t]he test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application," . . . however, its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.<sup>159</sup>

As previously discussed, *Harris v. Coweta County*<sup>160</sup> is a recent case decided by the Eleventh Circuit Court of Appeals that addresses the use of an automobile as a use of force. In *Harris*, the Eleventh Circuit explained:

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<sup>156</sup> Pursuits and the PIT Maneuver at Att. 4 at 7.

<sup>157</sup> The ram used 2000 lbf in 1/10 of a second.

<sup>158</sup> *Brower v. County of Inyo*, 489 U.S. 593, 597 (1989) (holding that Fourth Amendment seizure occurs "only when there is a governmental termination of freedom of movement through means intentionally applied").

<sup>159</sup> *Graham v. Connor*, 490 U.S. 386, 395-96 (1989) (internal citations omitted).

<sup>160</sup> 433 F.3d 807 (11<sup>th</sup> Cir. 2005).

To establish an excessive force claim, Harris must show first that he was subjected to a “seizure” within the meaning of the Fourth Amendment. . . .

The district court concluded, and Scott does not contest, that Harris was seized by Scott when the latter rammed his vehicle, causing him to lose control and crash.

Having determined that Harris was seized, we turn to the question of whether the force used by Scott to effectuate the seizure was reasonable, in light of the facts according to Harris. . . .

Like other instrumentalities, the use of an automobile cannot be construed in every circumstance as deadly force. However, an automobile, like a gun, can be used deliberately to cause death or serious bodily injury.<sup>161</sup>

As *Harris* holds, the use of an automobile as a seizure may be considered deadly force.

Hence, the key question concerning the use of the PIT maneuver by the officer centers on whether it would be considered “deadly force.” In 1985, the United States Supreme Court held that law enforcement officers may use deadly force to protect the officer or others from what is reasonably believed to be a threat of death or serious bodily harm; and/or to prevent the escape of a fleeing violent felon who the officer has probable cause to believe will pose a significant threat of death or serious physical injury to the officer or others.<sup>162</sup>

In order to answer whether the PIT maneuver would be considered deadly force, it is first necessary to define deadly force. The courts, including the Eleventh Circuit, have adopted the Model Penal Code definition of deadly force. The Model Penal Code defines “deadly force” as follows:

Force which the actor uses with the purpose of causing or which he knows to create a substantial risk of causing death or serious bodily harm. Purposely firing a firearm in the direction of another person or at a vehicle in which another person is believed to be constitutes deadly force.<sup>163</sup>

In a later case involving a person who died after being fettered, the Eleventh Circuit concluded that fettering or hog-tying was not deadly force because the evidence did not show that “death or serious injury [was] a likely consequence of fettering a person.”<sup>164</sup>

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<sup>161</sup> *Harris*, 433 F.3d at 812-14 (emphasis added, internal citations omitted).

<sup>162</sup> *Tennessee v. Garner*, 417 U.S. 1, 11 (1985).

<sup>163</sup> *Pruitt v. City of Montgomery, Ala.*, 771 F.2d 1475, 1479 (11<sup>th</sup> Cir. 1985).

<sup>164</sup> *Garrett v. Athens-Clarke County*, 378 F.3d 1274, 1280 (11<sup>th</sup> Cir. 2004).

The courts have not yet explicitly ruled on whether the PIT maneuver is deadly force.<sup>165</sup>

Using the Model Penal Code definition of deadly force, it is the Committee's opinion that the PIT maneuver is not deadly force because death or serious injury is not a likely consequence of using the PIT maneuver in accordance with proper training and policy. The Committee's opinion is based upon the current law, the Georgia Tech research project and the Georgia State Patrol's statistics and experience.

With regard to the law, the Eleventh Circuit has spoken about the PIT maneuver in *dicta*<sup>166</sup> in the *Harris* case. In *Harris*, the officer had not been trained to execute a PIT maneuver, never attempted to use the PIT to stop the suspect vehicle, and instead chose to ram the vehicle to cause it to leave the roadway. In determining that the supervisor was not liable, the Eleventh Circuit made a clear distinction between a PIT and a ram. The court said very specifically:

Scott, however, chose not to execute a PIT at all, but rather to ram the car at a very high speed from behind. Because this ramming was not authorized by [the supervisor], we cannot say that [the supervisor's] conduct-authorization of a safe PIT that was not executed-violated Harris'

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<sup>165</sup> Research located two other cases regarding the PIT Maneuver. In one, *Abney v. Coe*, the PIT Maneuver was defined as "bumping, ramming or sideswiping a vehicle in order to end a chase." 2006 U.S. Dist. LEXIS 29547 \*10 (M.D.N.C. April 25, 2006). In that case, a deputy was pursuing a motorcycle and "bumped" the motorcycle to get it stopped, the motorcycle continued, but was wobbling, and was ultimately struck by the deputy's car. *Abney* at \*6-8. The court concluded that if the deputy intentionally struck the motorcycle, this would constitute deadly force. *Abney* at \*16. Accordingly, the court denied summary judgment and left it for a jury to decide whether the driving created a substantial threat to the officers and others. *Abney* at \*20-21. In *Abney*, however, the definition that the court accepted of the PIT Maneuver is not the definition used by the Georgia State Patrol and studied by the Georgia Tech researchers. Additionally, Georgia State Patrol policy does not permit utilizing a PIT Maneuver on a motorcycle. Georgia State Pursuit Policy No. 17.02 Pursuits at 6.

In the other case involving a PIT Maneuver, the use of the PIT Maneuver did not stop the driver as he was able to regain control of his vehicle after being pitted three times. The court did state that the use of the PIT was "in an attempt to stop the fleeing Contois vehicle and apprehend its driver. The only harm intended by this conduct was incidental to [the officer's] legitimate objective of arresting Contois." *Helseth v. Burch*, 258 F.3d 867, 872 (8<sup>th</sup> Cir. 2001). The court further stated that had the officer succeeded in stopping Contois using the PIT, those actions would have been "subject to a reasonableness challenge under the Fourth Amendment." *Helseth*, 258 F.3d at 872. Significantly, however, it made no finding that the use of the PIT Maneuver was deadly force. The court further pointed out that "Contois was a fleeing criminal, whose irresponsible high-speed driving endangered countless citizens and ultimately killed one innocent bystander and maimed another. Burch and the other police officers who risked their lives to remove this menace from the public highways were not guilty of a conscience-shocking intent to harm." *Id.* at 872. In the dissenting opinion, one judge did conclude that the use of the PIT Maneuver was "deadly force when used on a vehicle moving at high speeds" because "intentional ramming causes the high probability of serious injury or death." *Id.* at 877. The dissent did not have the benefit of the Georgia Tech research and the experience of the Georgia State Patrol when it made this statement. As discussed, the PIT maneuver is very different than a ram.

<sup>166</sup> *Dicta* is the plural term for "dictum." Dictum is defined as "a judge's statement of opinion on some legal point not essential to and other than the principal issue of the case." WEBSTER'S NEW WORLD DICTIONARY 392 (2nd College Ed. 1972).



constitutional rights.<sup>167</sup>

As mentioned, this description is *dicta* as the PIT maneuver was not executed in Harris; however the description of the PIT as “safe” provides support for the conclusion that a court would find that it is not deadly force.

Even more importantly, the data collected by the Georgia State Patrol shows that the use of the PIT maneuver is not likely to cause death or serious injury. According to the 2001-2004 Pursuit Summary Report, troopers engaged in 971 pursuits during this time period.<sup>168</sup> In 195 cases, the PIT maneuver was utilized to stop the vehicle.<sup>169</sup> In three of the 195 cases, there was a fatality crash associated with the use of the PIT maneuver.<sup>170</sup> In two of those fatality crashes, the suspect was not wearing his seatbelt. In two of the fatality crashes, the vehicle left the roadway and struck a tree. In one of the fatality crashes, the vehicle left the roadway and rolled over, which ejected the driver who was not wearing his seatbelt.

As is evident from these numbers, the PIT maneuver caused death in only 1.5% of the cases in which it was used. Such a small percentage cannot be said to create a “substantial risk of causing death or serious injury.” Significantly, two of the three fatalities involved suspects who were not wearing their seatbelts.<sup>171</sup> Hence the failure to wear a seatbelt also played a part in these fatalities and the drivers may have survived had they been wearing their seatbelts.<sup>172</sup>

In addition to the data from the use of the PIT maneuver on suspects, Georgia State Patrol has data regarding training. According to the Driver Training Coordinator:

Since the Georgia State Patrol began training in the PIT maneuver in

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<sup>167</sup> Harris, 433 F.3d at 817 (emphasis added).

<sup>168</sup> Pursuits and the PIT Maneuver at Att. 3 Pursuit Summary Report 2001-2004 at 1.

<sup>169</sup> *Id.* at 4.

<sup>170</sup> *Pursuits and the PIT Maneuver* at 5-8. The crashes occurred on February 7, 2001, March 26, 2004 and August 17, 2004. In one case during this period, a trooper was killed during a pursuit on December 1, 2003. He attempted to use the PIT maneuver; however, the suspect struck the trooper’s car with his truck, causing the trooper to lose control of his vehicle. The investigation performed by the Special Crash Reconstruction Team (SCRT) determined that the “cause of death associated with this collision [was] not related to the PIT maneuver, but linked directly to the actions of the fleeing driver.” *Pursuits and the PIT Maneuver*, at 7. In addition to this case, there have been three fatalities involving the PIT Maneuver outside of the 2001-2004 time period: January 11, 1999; January 27, 2005; and March 19, 2006. There is no data as to the number of PIT maneuvers performed in the years 1999 and 2000. As of the submission of this report, the Georgia State Patrol statistics for 2005 were not available.

<sup>171</sup> In Georgia, seatbelt use is inadmissible in civil cases as evidence of “negligence or causation.” O.C.G.A. §40-8-76.1(d). In determining whether the use of the PIT Maneuver is the use of the PIT maneuver is deadly force, however, the lack of a seatbelt should be considered. A suspect who uses his seatbelt is far less likely to sustain serious injury or die during the execution of the PIT maneuver.

<sup>172</sup> According to the National Highway Traffic Safety Administration, “In 2004, the majority (55%) of the occupants of passenger vehicles . . . killed in motor vehicle crashes were unrestrained.” Traffic Safety Facts Research Note, “Restraint Use Patterns Among Fatally Injured Passenger Vehicle Occupants” (May 2006), retrieved from <http://www-nrd.nhtsa.dot.gov> on June 7, 2006.

1998, there have been approximately 1,485 law enforcement officers trained. During this training there have been approximately 61,800 PIT maneuvers performed with no injuries. Most PIT maneuvers were performed at 35 – 50 mph. There have been at least 40 high speed PIT demos at speeds in excess of 70 mph. All of these PIT maneuvers are included in the above numbers.

The number above does not reflect any PIT maneuvers that were performed as demos for [the] news media, dignitaries (board members, politicians, government officials etc.) or outside of a scheduled training session. An estimated number of these types of PIT maneuvers would bring the total very close to 62,000 performed during training with no injuries or fatalities.<sup>173</sup>

Additionally during PIT maneuver training, there have been two instances where the vehicle rolled over.<sup>174</sup> Both rollovers occurred when instructors were driving the vehicles. “The primary cause of these two rollovers was the surface of the shoulder around the track. The sand piled up as the tires slid across the ground and eventually dug in enough to cause the rollover.”<sup>175</sup> Of course the instructors were wearing their seatbelts and there were no injuries as a result of the rollovers.

After analyzing these numbers, the Committee concludes that the PIT maneuver when used properly by a trained officer is not deadly force within the meaning of the Model Penal Code definition.<sup>176</sup> The Georgia Tech research proves that the PIT maneuver is controlled and predictable. It is very different than a ram. Additionally, the information collected by the Georgia State Patrol shows that the PIT maneuver is not likely to cause death or serious injury when used in accordance with Georgia State Patrol’s policy.

Of course, the Committee also recognizes that the use of the PIT maneuver in certain circumstances could result in serious injury or death. For this reason, it is crucial that officers be properly trained in the use of the PIT maneuver and that policymakers provide clear guidance in agency policy for the use of the PIT maneuver.

## VI. Technological Alternatives to Pursuits

This section will provide a general overview of the feasibility and availability of pursuit intervention tools. Technology has always proven to be a realm where devices render

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<sup>173</sup> June 9, 2006 Memorandum from Sgt. Ryan Newman to Captain Russell Powell (hereinafter “June 9, 2006 Memorandum”) at 2.

<sup>174</sup> June 9, 2006 Memorandum at 1.

<sup>175</sup> June 9, 2006 Memorandum at 1.

<sup>176</sup> Deadly force may be authorized during pursuits if the suspect’s driving was sufficiently reckless to pose “a substantial threat of imminent physical harm to motorists and pedestrians.” *Harris*, 433 F.3d at 815. The courts have concluded that the suspect’s driving created a substantial threat sufficient to authorize the use of deadly force, either in the form of a firearm or using the vehicle. *Harris*, 433 F.3d at 816 (citing cases).

each other obsolete within short time spans. This is a phenomenon usually driven by new developments, research, improvements and cost reduction.

Pursuits pose a quagmire of challenges that predispose the technology sector to infinite dead ends and unique problem sets. This has resulted in a slow development process, often devoid of any novel approach that might realistically represent the new silver bullet to ending the police chase. Although ideas are many and some research is cited, publications specifically endorsing certain tools and techniques are few. The primary reason for this is the fact that, despite looking good on paper, many tools are not yet viable.

In 1998, the National Institute of Justice<sup>177</sup> published a report examining the issue of police pursuits.<sup>178</sup> Regarding pursuit intervention technology, the report opined that:

Police vehicle pursuits are dangerous, and officers have traditionally had few options in stopping a fleeing suspect. However, technological development may help to facilitate major changes in law enforcement services by the year 2000. Joint ventures now occurring between law enforcement and industry are indicative of future markets for advanced technology. The six prototype technologies described below offer seven potential alternatives to high-speed pursuits.<sup>179</sup>

The report then discussed the six prototype technologies: (1) retractable spiked barrier strip; (2) auto arrester systems; (3) Road Patriot™/Road Sentry™; (4) checkpoint barrier strip; (5) fleeing vehicle tagging system; and (6) precision immobilization technique. A prevalent theme to that report was that at the time, no acceptable technological means existed in terms of pursuit intervention, although electromechanical devices proved most promising. In terms of equipment available to the average police agency, not a lot has changed since then.

Also in 1998, the Pursuit Management Task Force (PMTF) was formed under the auspices of the National Institute of Justice's Office of Science and Technology.<sup>180</sup> It published a report regarding Police Pursuit Practices and the Role of Technology. After examining pursuit technologies, the report declared that:

spike strips were found to be most frequently used, and currently, the most effective technology readily available. Most of the other reviewed technologies were in the conceptual or precommercial phases and require

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<sup>177</sup>The National Institute of Justice is "the research, development, and evaluation agency of the U.S. Department of Justice and is dedicated to researching crime control and justice issues." Retrieved on June 8, 2006 at <http://www.ojp.usdoj.gov/nij/about.htm>.

<sup>178</sup> National Institute of Justice, "High-Speed Pursuit: New Technologies Around the Corner," (hereinafter "High-Speed Pursuit") U.S. Dept. of Justice (Oct. 1996).

<sup>179</sup> High-Speed Pursuit at 3.

<sup>180</sup> National Institute of Justice, Pursuit Management Task Force: Research Preview (hereinafter "Pursuit Management Task Force") 1 U.S. Dept. of Justice (Aug. 1998).

substantial testing and development. The PMTF identified a group of technologies that are of high priority for additional research, development and commercialization.<sup>181</sup>

Additionally, the report concluded that there was “currently no single technology on the horizon that affords a ‘universal’ solution to pursuits.”<sup>182</sup> The PMTF also recommended technologies as “high priority” to move to prototype stages for evaluation. These high priority technologies were:

retractable direct injection electrical systems; radiative electrical systems, including high-power microwave; cooperative systems with law enforcement activation; and auditory/visual sensory enhancements (improved warning devices).<sup>183</sup>

Some of these systems have now reached the testing stage and will be discussed in this paper.

In reviewing technology, there is one crucial consideration for the majority of agencies and that is cost. While the possibility of a police pursuit is present in every jurisdiction, not all jurisdictions have the financial resources to invest in some of the new technology. When many citizens think of a police department, they may think of large police agencies such as the Los Angeles Police Department or the City of Atlanta Police Department that employ more than a thousand officers. They may be surprised to learn that 90% of all law enforcement agencies in the United States employ less than 50 officers.<sup>184</sup> These smaller agencies, many of which are located in rural areas, only bring limited monetary resources to the table. Yet, these smaller agencies are just as likely to face a pursuit situation as the larger agencies. For this reason, this review will, whenever possible, address the anticipated cost of the new technologies.

Pursuit technology can be separated into several types: (1) mechanical; (2) tagging and tracking; (3) traffic preemption; and (4) cooperative systems. Some pursuit technologies, particularly mechanical technologies such as spike strips, are already used by jurisdictions throughout the United States. Others are simply not feasible because of the expense. Still others just don’t work very well.

#### A. Mechanical

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<sup>181</sup> Pursuit Management Task Force at 1.

<sup>182</sup> *Id.*

<sup>183</sup> *Id.* at 3.

<sup>184</sup> National Institute of Justice, *Law Enforcement Technology—Are Small and Rural Agencies Equipped and Trained?*, Dept. of Justice (June 2004) at 1.

Mechanical devices are those that disable the vehicle. Mechanical devices include (1) tire deflation devices such as stop-sticks or caltrops<sup>185</sup>; (2) barriers, fixed, movable, cable and inflatable; and (3) entanglers or nets. The Memphis Shelby Crime Commission conducted an excellent analysis of the strengths and limitations of each device and a chart summarizing this analysis is attached hereto as Appendix G.<sup>186</sup> As the analysis by the Memphis Shelby Crime Commission is so thorough, this section will only briefly review the stop-stick and a new product on the market.

The most widely used device is the stop-stick or tire deflation device. A stop-stick is a simple device that puts holes in the suspect vehicle's tires. The common operational principle to virtually all stop sticks is that they are designed to deflate the suspect tires slowly and safely. As a result, utilizing stop sticks seldom, if ever, results in crashes.

The real problem with stop-sticks is deployment. Prior to using them, officers must anticipate the most likely route of the pursuit, outrun the fleeing suspect and get to a point where they can safely deploy stop-sticks in the roadway. Additionally, once the stop-sticks are deployed, the officers must do their best to keep citizens out of the area of deployment. Hence, the utilization of stop-sticks requires a number of officers who are vigilant at key locations.

Attempts have been made to eliminate some of this process by the utilization of static placement of stop devices. One product allows officers to deploy a stop-stick type device from the back of the police car during the pursuit. One such device currently being advertised is designed to be dragged behind the front police vehicle at a distance of 16 feet.

One disadvantage to this device is the need to get in front of the fleeing vehicle to deploy the device. In a pursuit, the front vehicle has the disadvantage – and this is the reason that the PIT maneuver can be very successful in dislodging the front vehicle from the road. The officer places himself in jeopardy of being rammed by the suspect once he assumes the front position in the pursuit.

In addition to the danger to the officer deploying this device, the device currently sells for \$1475.00 plus shipping. There is also a lease plan currently advertised at \$500.00 down and \$85.00 a month for one year. At this price, this device may be cost-prohibitive for smaller departments. To equip a small number of units, perhaps 10 patrol units, an administrator would have to budget \$15,000.00 to purchase or \$10,700.00 to lease for a year for something that may or may not effectively stop a pursuit – and may only be used in a small percentage of pursuits.

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<sup>185</sup> Caltrops are “devices with four projecting strips that, when deployed, rest on three spikes with the fourth pointing upward.” Memphis Shelby Crime Commission, *The Role of Technology in Supporting Police Pursuit Policies* (April 2001).

<sup>186</sup> “Analysis of Mechanical Systems” chart from Memphis Shelby Crime Commission, “*The Role of Technology in Supporting Police Pursuit Policies*” (April 2001).

## B. Tagging and Tracking

Suspect vehicle tagging and tracking involves a new method of ending the physical engagement of the pursuit while allowing for the ongoing investigation.<sup>187</sup> One system being advertised allows the police to launch an adhesive Global Positioning System (GPS) tracking device onto a target vehicle, terminate the pursuit and apprehend the suspect at a later time. Using pre-existing technology, police can track the suspect vehicle anywhere.

This system is composed of commercial off-the-shelf technology. It is comprised of a tracking projectile that is a miniaturized GPS receiver, radio transmitter, power supply and a launcher which can be hand-held or mounted on a police car. Once the fleeing suspect's car has been tagged, its position is transmitted via wireless modem, allowing a centralized information facility (usually the agency dispatch center or 911 Center) to view the suspect vehicle's exact location. In many cases, this would allow a pursuit to be replaced with an interdiction strategy. A tagging system works best when there are helicopters available to assist in the tracking.

Ultimately, this device can be used eventually to identify and track the suspect vehicle. Of course, running the vehicle's tag will also identify the vehicle owner, however, the owner may not be driving the vehicle or may be smart enough not to go home.

Even though this device seems promising, there are still operational limitations. First, the officer must close the distance with the fleeing vehicle to discharge the tracking device. Next if the suspect being chased knows his vehicle is tagged, he may quickly abandon the vehicle. Typically, most fleeing suspects abandon their car anyway, leaving police with a recovered vehicle and no suspect. Then what frequently occurs next is that the driver reports the vehicle stolen. If this occurs, unless police can prove otherwise through car video or other means, the driver may be off the hook and the fictitious car thief remains focus of a dead case file. The positive side of the abandoned vehicle is that the suspect no longer poses a danger to the public on the roadway.

Another concern is the cost, which may be prohibitive for smaller agencies. The Committee was unable to get a definite cost estimate at this time from the manufacturer. It is anticipated that the cost will be several thousand dollars per vehicle and then there will be a cost for the communications link. Currently, this system is focused on pre-commercial testing with the Los Angeles Police Department. Additionally, the manufacturer is working with the National League of Cities on potential grants to deploy the system in another large city.

## C. Traffic Preemption

Traffic preemption systems manipulate traffic control devices at the discretion of public safety and are usually involved in some form of emergency response. One system

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<sup>187</sup> See Appendix G (analyzing strengths and limitations of vehicle taggers).

currently being advertised gives any authorized vehicle the capability to move through traffic without unduly disrupting signal synchronization or other traffic. The system is advertised as providing for faster, life-saving 911 response and able to turn any lane into an electronic high occupancy vehicle (HOV) lane for transit vehicles. The system uses infrared technology to grant authorized vehicles momentary right-of-way at signalized intersections. The system reportedly can identify every vehicle on the system, record travel direction and establish vehicle location. Some jurisdictions have installed these infra-red based traffic signal controls.

As with most of this technology, however, it is currently cost-prohibitive. The good news is that the transmitter device slips into a pre-existing lightbar on the top of the police car. The bad news is that each emitter costs in excess of \$1000 per unit. Next, the jurisdiction must consider which intersections to target for this type of control option. Each intersection requires a detector available either as a single channel one direction or single channel dual direction. In addition, jurisdictions must install the cabinet for the power supply on a light pole. The average price is about \$415.00 per detector, \$1006.75 for the phase selector, \$135 for the card rack that mounts in cabinet and detector cable at \$0.39 per foot available in 500, 1000, or 2500 foot reels. Adding these costs, it appears that the cost to equip only one police car and one traffic light is approximately \$2500.00.

GPS versions are also advertised and are currently being utilized in larger cities such as Houston, Denver and St. Paul. Also noteworthy is the fact that for most of the systems advertised, the company displays fire trucks and ambulances and describes the benefits in terms of emergency vehicle response times. In other words, it appears that this system was designed more with quick passage of emergency vehicles in mind than with stopping a pursuit.

As is the case all too often with new technology, this uncharted territory is again full of potential pitfalls. How to use this technology in a pursuit? Should the officer in a pursuit change the intersection light to red, thus creating traffic congestion as a means of preventing escape? The problem is that this may result in a citizen's vehicle being struck by the suspect. On the other hand, the officer could change the lights to green in the direction of travel of the pursuit to ensure free passage through intersections for the suspect vehicle and pursuit units. But how does this help end the pursuit? It appears this alternative technology is not only costly, but has sketchy chances of success.

#### D. Cooperative Systems

Cooperative systems hold the greatest promise in pursuit intervention for the future. Cooperative systems can ultimately disable vehicles as well as record circumstantial events pertaining to unauthorized use. Cooperative systems may be activated by law enforcement to cause a fleeing vehicle to come to a stop.<sup>188</sup>

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<sup>188</sup> The Memphis Shelby Crime Commission has prepared a chart analyzing the strengths and limitations of three cooperative systems. A copy of this chart is attached hereto as Appendix H.

One such device allows for the remote control of select vehicle operating systems. This device is reported to influence the starter, fuel pump, ignition and 4-way flashers.<sup>189</sup> Part of the attractiveness of this form of intervention includes the sequence of events leading to the stop. For instance, with the appropriate equipment installed, intervention could include a transmitted message that is played over the suspect's stereo system – perhaps even recorded by a 911 dispatch center. With hazard lights activated and a progressively degenerating speed, the driver would have no recourse but to pull off the side of the road. The vehicle is then out of commission thus presenting no danger to other drivers.

Placing a small radio receiver in a vehicle to disable the vehicle (a “kill switch”) is easy. Enacting the legislation that would mandate this installation of the kill switch is another matter. Law enforcement could certainly anticipate protests by groups claiming that such legislation raises the specter of an Orwellian society where all vehicles are subject to being stopped by police electronically.

Cooperative systems could be very useful in preventing or at least ending police pursuits quickly and safely. Also worthy of consideration is the impact to society in terms of homeland security. Utilizing such systems in large trucks and tractor-trailers involved in transporting materials could ensure the ability to stop these vehicles in cases of drivers who fail to comply with the law regarding the transport of hazardous chemicals or if the truck is hijacked by terrorists.

This technology is feasible, particularly for the engine control aftermarket systems; however, vendors are engaging in little development. What would spur this development? The answer is simple: legislation requiring this type of technology in all vehicles.

As always with all new technology (recall the furor over OC spray and the current controversy over the use of the Taser), there will always be protests from citizens who are fearful that society is becoming Orwellian. And of course, there must be laws regulating the use and punishing misuse of the technology. An existing model to consider is the state and federal laws protecting access to criminal history data that is collected by the states and the National Crime Information Center (NCIC). The laws set forth criminal and administrative sanctions for misuse and also require periodic audits to ensure compliance.

In terms of an initial step, perhaps the greatest potential for use of these systems will come from the privately owned fleets of vehicles (such as trucks and rental cars). The companies that own such fleets may appreciate the benefits of cooperating with law

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<sup>189</sup> Other cooperative systems have been considered such as switches mounted at the front or rear of a vehicle sensitive to impact. Such systems are not nearly as viable an option due to the fact that the courts have ruled that ramming a vehicle is deadly force. Hence such systems could only be utilized when the suspect is created a risk of death or serious bodily injury to the officer or others. Additionally, the notion of having a police cruiser bump into the front or rear of a suspect vehicle such as a large truck is far from appealing.



enforcement and also reduce their losses due to theft by equipping their vehicles with cooperative systems.

#### E. Electrical Systems

Electrical systems are categorized as either radiative or direct injection. Direct injection systems require contact with the target vehicle and radiative systems do not. Electrical energy from a stored source can be discharged through wires emanating from a device causing current to pass through the frame and engine ground paths. The current that is passed from the battery through the wires disables the electronic components of the target vehicle. This can be either in the form of a pre-emplaced platform or a package launched at the pursued vehicle. Public concerns over launched rocket-type devices have thus far pre-empted any wide-spread fielding of a direct injection product, although some testing has been accomplished.

Two such devices are reportedly in existence: the Road Patriot (launchable) and the Road Sentry (stationary). The Committee conducted an internet search for information regarding both systems and was unable to locate any information. Consequently at the time of this publication, the status of these seemingly obscure devices is unknown.

One concept has already made it beyond prototype development and offers the end-user with the option of deployment during permanent access points, mobile road checkpoints and portable systems. A direct injection device is now commercially available. The manufacturer has performed proof-of-principle demonstration tests with a laboratory pulsed-power supply. The device has also been demonstrated on real vehicles for the Colorado State Patrol, Colorado Springs Police, United States Department of Transportation, United States Customs, Drug Enforcement Agency, United States Border Patrol, the United States Attorney General's Office, the Army Research Laboratories, and numerous news media groups.

It works by injecting relatively large electromagnetic pulses into the sensitive ignition and engine-control electronics of vehicles, damaging or disrupting the electronics, and causing the vehicle to come to a stop or be inoperable. According to the manufacturer, the vehicle cannot be restarted until the damaged electronics are replaced. If the vehicle is moving, once the electronics are damaged, the vehicle coasts to a safe stop as if it had run out of gas.

According to the advertisements, the use of current pulse power technology and packaging for simplified operation should result in a power supply package less than six cubic feet. That, however, is too large to fit in the front seat of the typical patrol vehicle. Command activation is accomplished with a wire or remote control radio frequency transmission, similar to that used for auto alarm systems. Two systems are currently being advertised, one portable and one stationary. The portable version appears much more feasible and uses a pad or hose rolled across the highway where the suspect car will run over it, similar to the way stop-sticks are deployed today. Once the system is armed

by an officer, the next vehicle to pass over the pad triggers the electric charge. As with stop-sticks, police must first anticipate the most likely route of the pursuit, outrun the fleeing suspect and get to a vantage point to deploy the device. Again, without a significant deployment of officers constantly vigilant at key locations, even this simple device is not feasible.

It is worth mentioning that in the future, radiative technology may represent the ultimate in pursuit intervention technology. The prototypical radiative device will allow police to target a suspect vehicle and with a pulse of energy (usually microwave), shut down the electronic components of an engine. The Army Research Laboratory is conducting initial testing on such a system. These systems will be more reliable than smart technology, safer than stop sticks, more selective than traffic control and immediately available to the officer . . . some day.

#### F. Summary of Technology

It is apparent from this review that technology exists or is in development that will ultimately enable law enforcement to stop vehicles driven by suspects who are fleeing from law enforcement. Stopping the pursuit quickly and without the vehicle losing control will result in fewer injuries and deaths to citizens and law enforcement. The problem is simply that, with the exception of stop-sticks, this technology is costly and/or not fully operational as yet. Additionally, the deployment of the mechanical devices like stop-sticks requires a number of officers and is simply not feasible in rural jurisdictions. Whether the ultimate solution is controlled intervention systems in all vehicles or radiative systems deployed by officers, law enforcement needs to stay abreast of the technology and continue to support this research.

#### VII. Conclusion and Recommendations

The Committee concludes that police pursuits may be required in certain circumstances; however, the Committee also recognizes that police pursuits can result in injuries or death to innocent persons, suspects and officers. In an effort to avoid this, Georgia law requires that the officer drive with “due regard for the safety of all persons”<sup>190</sup> during the pursuit. In order to ensure that officers drive with the requisite due regard, the Committee makes the following recommendations:

Policy: Law enforcement agencies should promulgate a policy governing pursuits that sets forth guidelines to assist the officer in pursuing with due regard for the safety of the public. The agency’s pursuit policy may be either a judgmental or a restrictive policy. Regardless of which type of pursuit policy is chosen, the officer should always weigh the risks of the pursuit versus the immediate or potential danger to the public should the suspect remain at large. At all times during the pursuit, the need to apprehend the suspect must outweigh the level of danger created by the pursuit. The agency’s pursuit policy should be specifically tailored to the size, location and

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<sup>190</sup> O.C.G.A. § 40-6-6(d)(1)/

mission of the agency and should provide guidance in the specific areas discussed earlier in this paper.

Training: In addition to the training officers receive in mandate school, agencies should provide periodic training regarding their agency's pursuit policy to their officers.

Reporting: Agencies should require officers to report every time they engage in a pursuit, as well as when a pursuit is initiated but discontinued by the officer. The supervisor on duty during the pursuit should also review the report and provide information regarding the pursuit. These reports should be periodically reviewed by agency heads because they may reveal patterns or trends that could indicate training needs and/or policy modifications.

In addition to these recommendations, the Committee is encouraged by the Georgia Tech research project, as well as the experience of the Georgia State Patrol in using the PIT maneuver. When properly performed by a trained driver under certain conditions, the PIT maneuver is a controlled, predictable technique to stop a pursuit thus eliminating the danger to the public from the pursuit. The use of the PIT maneuver is not likely to, nor is it intended, to cause death or serious injury. Consequently, the Committee concludes that the use of the PIT maneuver, unlike a ram, is not deadly force. The Committee recommends that the PIT maneuver only be utilized by officers who have received training in its use. Additionally, agencies should provide clear guidance in their policy regarding when and under what conditions the PIT maneuver may be used.

The Committee is somewhat optimistic about the possibility of technology some day eliminating the need for pursuits at all. The Committee strongly supports the development of technology such as tracking devices and cooperative systems that will safely disable vehicles. Perhaps in the near future, an officer will have the ability to activate a device that will disable the vehicle when a suspect does not accede to the officer's authority. When such technology becomes a reality, the suspect can no longer present a danger to the public by choosing to flee from law enforcement.

The issue of police pursuits will always require much thought on the part of policymakers. A very astute observation, which originated from a National Institute of Justice study of police pursuits, sums up the dilemma created by police pursuits:

On the one hand too many restrictions placed on police use of pursuit could place the public at risk from dangerous individuals escaping apprehension. On the other hand, insufficient controls on police pursuit could result in needless accidents and injuries.<sup>191</sup>

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<sup>191</sup> Alpert, Geoffrey P., *Police Pursuit: Policies and Training*, National Institute of Justice Research in Brief at 1 (May 1997).

Policymakers must ensure that their pursuit policy considers not only the risk of the pursuit, but also the danger to the public from the suspect escaping.

# Appendixes

- Appendix A Georgia Pursuit Data Research
- Appendix B Pursuit Data Collection Form
- Appendix C Valdosta Police Department General Order 200-41  
Vehicle Pursuit (Rev. January 1, 2006)
- Appendix D Gwinnett County Police Department General Order 426  
Pursuit Policy (Rev. September 24, 2005)
- Appendix E Atlanta Police Department Standard Operating Procedure  
3050 Pursuit Policy (August 18, 2004)
- Appendix F LaGrange Police Department Operations Manual Chapter  
12 Vehicle Operations (Rev. February 28, 2005)
- Appendix G Analysis of Mechanical Systems by Memphis Shelby  
Crime Commission
- Appendix H Analysis of Cooperative Systems by Memphis Shelby  
Crime Commission

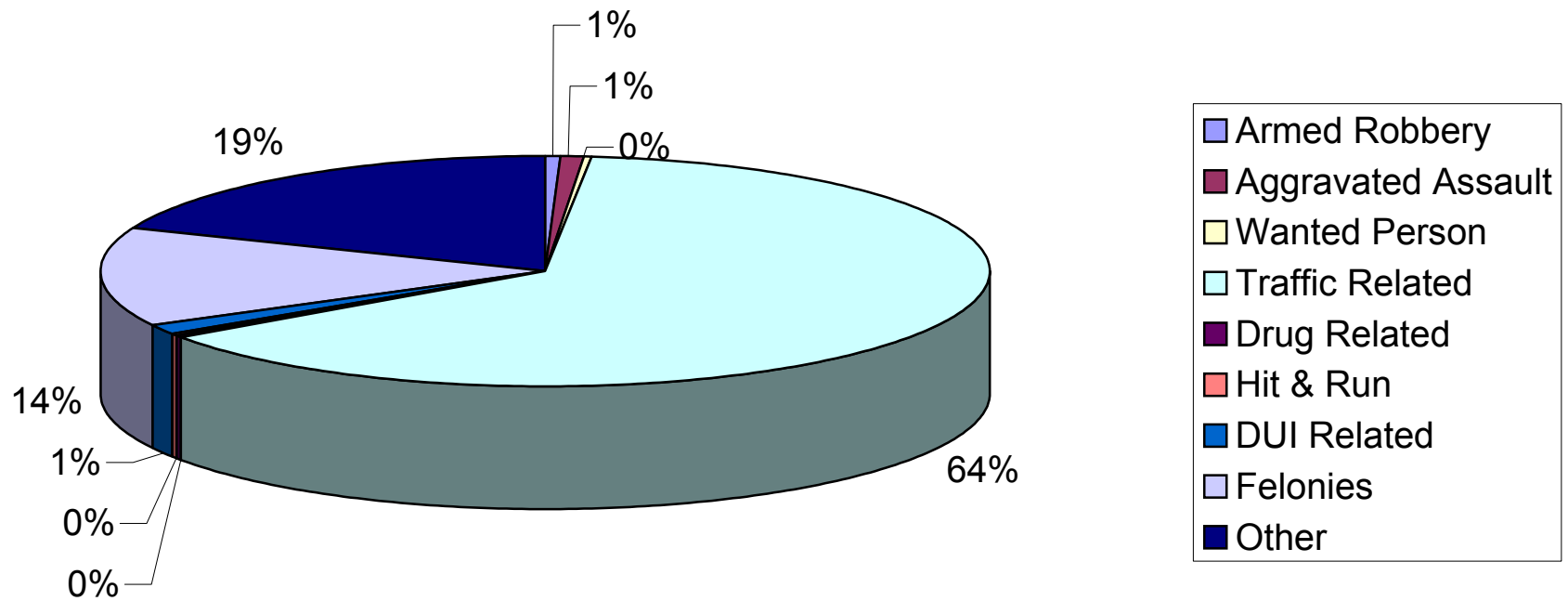
# **APPENDIX A**

# Pursuit Data Research

(15 Agencies Reporting)

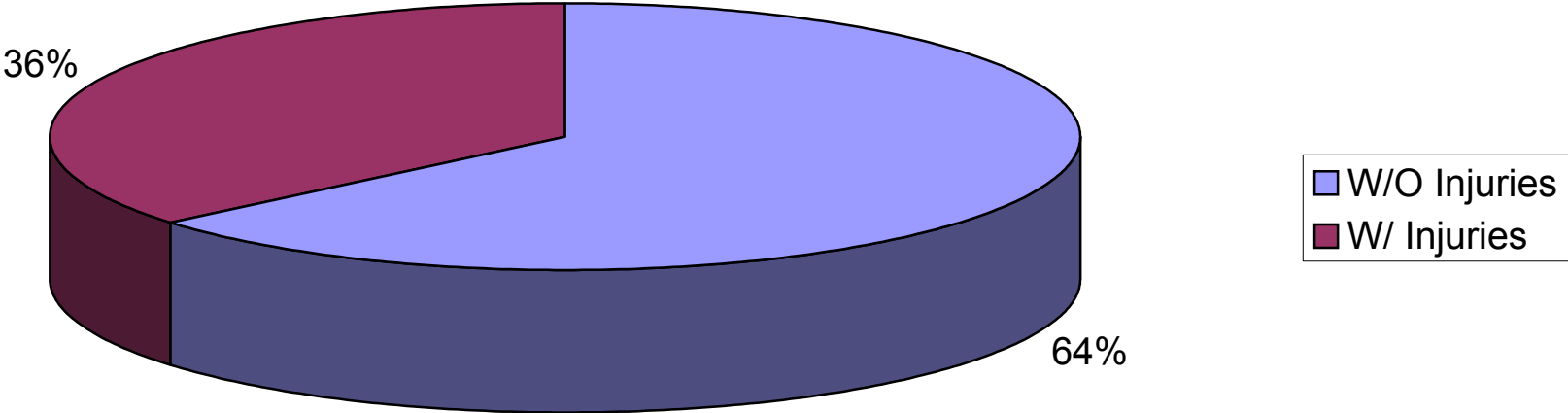
<b>Total Number of Pursuits</b>	419	
<b>Reasons for Pursuits</b>		
Armed Robbery	2	
Aggravated Assault	3	
Wanted Person	1	
Traffic Related	228	
Drug Related	1	
Hit & Run	1	
DUI Related	5	
Felonies	50	
Other	68	
<b>Arrests</b>	235	56.09%
<b>Total Accidents Reported</b>	110	26.25%
W/O Injuries	51	
W/ Injuries	29	
<b>Terminated by Officer / Supervisor</b>	80	
<b>Fatalities</b>	1	
<b>Pursuit Review / Investigation</b>		
Exonerated	17	
Discipline Taken	4	

# Reasons for Pursuits





# Total Accidents Reported



# **APPENDIX B**

**Appendix B**  
**Pursuit Data Collection Form**

**Agency Information** (Agency Who Initiated Pursuit)  
(Please fill in your GCIC number and your agency report number)

Agency ID (GCIC Identifier) GA \_\_\_\_\_ Report Number \_\_\_\_\_

**Officer Information** (Officer who initiated the pursuit)  
(Check Only One)

Age:  18-21     22-25     26-29     30-33     34-37     38-41  
 42-45     46-49     50+

Gender:     Male     Female

Ethnicity:     White     Black     Asian or Pacific Islander  
 American Indian/Alaska Native     Unknown

Total Years of Police Experience:     0-3     4-7     8-11     12-15  
 16-19     20-23     24-27     28-31     32+

**Suspect Driver Information** (If suspect is apprehended or identified)  
(Check Only One)

Age:  18-21     22-25     26-29     30-33     34-37     38-41  
 42-45     46-49     50+

Gender:     Male     Female

Ethnicity:     White     Black     Asian or Pacific Islander  
 American Indian/Alaska Native     Unknown

**Violation That Initiated Pursuit**

(Check All That Apply)

Traffic Violation  Felony (Property Crime)  Felony (Forcible)  Stolen Vehicle

Drug Related  Hit and Run

**Length of Pursuit in Minutes**

(Check Only One)

Less than 1 minute  2-5 minutes  6-8 minutes  9-11 minutes

12-15 minutes  16-19 minutes  20-23 minutes  24 minutes or greater

**Length of Pursuit in Miles [Total even if in a circle]**

(Check Only One)

Less than 1 mile  2-5 miles  6-9 miles  10-13 miles  14-17 miles

18-21 miles  22-25 miles  26-29 miles  30 miles or greater

**Type of Vehicle Pursued [Suspect's Vehicle]**

(Check Only One)

Passenger Car  Van (4 wheel)  Pickup Truck  Motorcycle

S.U.V.  Commercial Vehicle (18 Wheeler)  Off Road Vehicle (4 Wheeler)

Other (Military tank, farm tractor, hovercraft, etc.)

**Maximum Speed During Pursuit**

(Check Only One)

Posted or less  10-19 MPH over  20-30 MPH over  31-40 MPH over

41-50 MPH over  51-61 MPH over  Greater than 61 MPH over

**Way Pursuit Ended**

(Check All That Apply)

\_\_\_\_ Pursuit Discontinued    \_\_\_\_ Suspect Stopped    \_\_\_\_ Vehicle Wrecked  
\_\_\_\_ Stop Sticks Deployed    \_\_\_\_ PIT Utilized    \_\_\_\_ Stationary Roadblock  
\_\_\_\_ Rolling Roadblock    \_\_\_\_ Suspect Shot by Police

**Number of Police Vehicles Utilized**  
(Check All That Apply)

\_\_\_\_ Only One Agency/One Vehicle    \_\_\_\_ Only One Agency/Two or More Vehicles  
\_\_\_\_ Two Agencies/Two or More Vehicles    \_\_\_\_ Three Agencies/ Two or More Vehicles  
\_\_\_\_ Four Agencies/Two or More Vehicles    \_\_\_\_ Five or More Agencies/Multiple Vehicles

**Injuries/Fatalities to Officer(s)**  
(Check All That Apply)

\_\_\_\_ Officer(s) not injured    \_\_\_\_ One Officer Injured    \_\_\_\_ Two or more officers injured  
\_\_\_\_ Officer fatality    \_\_\_\_ More than one officer fatality

**Injuries/Fatalities to Suspect/Passengers**  
(Check All That Apply)

\_\_\_\_ Suspect not injured    \_\_\_\_ One passenger Injured    \_\_\_\_ Two or more passengers injured  
\_\_\_\_ Suspect killed    \_\_\_\_ One passenger killed    \_\_\_\_ Two or more passengers killed

**Third Party (Not Police Vehicle) Hit/Injured/Killed**  
(Check All That Apply)

\_\_\_\_ Third party accident/No injuries in third party vehicle  
\_\_\_\_ Third party vehicle hit with injuries in third party vehicle  
\_\_\_\_ Third party vehicle hit with fatality in third party vehicle  
\_\_\_\_ Third party vehicle hit with more than one fatality in third party vehicle

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**Time of Day of Pursuit (Time Initiated)**  
(Check All That Apply)

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00:00 to 02:00 Hours     02:01 to 04:00 Hours     04:01 to 06:00 Hours  
 06:01 to 08:00 Hours     08:01 to 10:00 Hours     10:01 to 12:00 Hours  
 12:01 to 14:00 Hours     14:01 to 16:00 Hours     16:01 to 18:00 Hours  
 18:01 to 20:00 Hours     20:01 to 22:00 Hours     22:01 to 24:00 Hours

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**Road/Weather Character (When pursuit was initiated)**  
(Check All That Apply)

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Within city limits     Outside city limits     Daylight conditions  
 Night conditions     Roadway dry     Roadway wet     2 Lane roadway  
 4 or more lanes/no median     Interstate with median     Interstate with barrier

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**Review by Administration**  
(Check All That Apply)

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Pursuit report filed by officer     Pursuit report reviewed by supervisor  
 Pursuit report reviewed by command staff     Pursuit report reviewed by  
Chief/Sheriff/Agency Head

# **APPENDIX C**

**VALDOSTA POLICE DEPARTMENT**  
**GENERAL ORDER 200-41**  
**“Vehicle Pursuit”**

**CHIEF OF POLICE:**

**CALEA STANDARD: 41.2.2, 61.3.4**

**EFFECTIVE DATE: 09/23/96**

**INDEX AS: Vehicle Pursuit**  
**Use of Force**  
**Roadblocks**

**LAST REVISED DATE: 08/26/96 09/01/01 09/05/03**  
**12/23/97 11/23/01 01/01/06**  
**12/13/99 06/21/02**

Purpose: To establish the procedures to be initiated and observed in the event of a vehicle pursuit, and to balance the necessity for pursuit or apprehension against the probability and severity of damage or injury that may result from the pursuit.

Policy: This procedure is based upon recognition of the basic need for the pursuit under certain circumstances. Great reliance is placed upon the individual officer and field supervisors in the application of their experience, common sense, and training. Officers will be neither criticized nor disciplined when their decision is to terminate rather than continue a pursuit.

**I. DEFINITION**

"Pursuit Driving" is an active attempt by a police officer operating a motor vehicle in an emergency condition to apprehend one or more occupants of another moving vehicle, where the driver of the fleeing vehicle is aware of that attempt and is resisting apprehension by maintaining or increasing the vehicle speed, ignoring the officer, or attempting to elude the officer while driving at speeds in excess of the legal speed limit.

**II. RISK EVALUATION**

- A. When involved in a pursuit, officers must constantly consider the risks. An officer shall not needlessly endanger other persons. Some factors to be considered when deciding to initiate, continue, or terminate a pursuit are:
  - 1. Time of day - Pursuits occurring during a time when there is a high level of business, school, or other activity are deemed more hazardous than those occurring during periods of low activity.



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2. Volume of Vehicular/Pedestrian Traffic - Pursuits occurring during periods of heavy traffic are deemed more hazardous than those occurring at other times.
  3. Location of pursuit - Pursuits through residential areas or along streets near or adjacent to schools are viewed as more hazardous than those in lightly populated areas.
  4. Weather conditions.
  5. Road conditions.
  6. Speeds involved.
  7. Nature of charges – Officers may initiate a vehicle pursuit under the following circumstances:
    - a. For person (s) suspected of a forcibly felony or when an officer has articulable reasonable suspicion or probable cause that an extraordinary danger exists that warrants immediate action and necessitates a vehicle pursuit or;
    - b. Prior to any police contact, the officer observes that the person is driving or operating a motor vehicle or motorcycle in a hazardous manner and that person’s hazardous driving presents a significant threat to the safety of others;
  8. Once an officer initiates a traffic stop on a vehicle, the officer may assess the actions of the driver to determine if the operator plans to adhere to the officer’s request to stop the vehicle. If the driver displays an intention not to stop the vehicle, a pursuit may continue if the violations meet criteria as specified in (7.) above.
  9. Officers will not normally pursue for misdemeanors or minor traffic violations, unless such violations meet the criteria as specified in (7.b.) above.
  10. No unit transporting a prisoner or carrying other non-sworn persons will participate in a pursuit.
- B.** Divided Highways - Officers may not pursue suspect(s) the wrong way on the interstate or other controlled-access highways. Officers may drive on the wrong side of any other divided roadway only when absolutely necessary and when doing so shall exercise extreme caution.

- C. Overtaking Suspects - When in pursuit of a fleeing suspect, officers should not attempt to overtake or pass the suspect. This action places an officer in a highly vulnerable position. The pursuing officer (s) should keep a safe distance from the suspect and merely attempt to keep the suspect vehicle in sight until the suspect voluntarily stops.
  
- D. Traffic Signals - Officers should use extreme care when disobeying traffic signs or signals, even where the statutes specifically permit such conduct. Officers should make use of all available warning devices to alert other motorists and pedestrians.
  
- E. After consideration has been given to the above factors, discretion to initiate a pursuit rests with the individual officer. However, no pursuit will be initiated when the total circumstances surrounding the incident indicate that pursuit is not justified and/or creates an unacceptable degree of risk in terms of the considerations outlined in Section II.

**III. RESPONSIBILITIES**

A. Initiating Officer - When a vehicle pursuit is initiated, the officer involved shall immediately activate his emergency lights and siren and report to the dispatcher:

- 1. Unit number and the fact that he is in pursuit;
- 2. The location and direction of travel;
- 3. Description of the vehicle (make, color, tag #, etc.) and occupants (race, sex, number, etc.);
- 4. Reason for the pursuit;
- 5. Changes in location and direction of travel during the pursuit;
- 6. Location at the time the pursuit is terminated.

B. Dispatcher

- 1. Upon notification or becoming aware of a pursuit initiated by a Valdosta Police Officer, the Dispatcher will:
  - a. Record all information received from the pursuing officer;
  - b. Convey relevant information to the Shift Supervisor and responding units;

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- c. Advise all units to clear the radio for emergency traffic only.
  - d. Conduct an inquiry of the license plate number through the N.C.I.C. and G.C.I.C. computer systems;
  - e. Notify adjacent jurisdictions of our pursuit and the potential for the pursuit entering their jurisdiction;
  - f. Monitor the pursuit.
2. Upon notification or becoming aware of a pursuit initiated by another agency, the Dispatcher will notify the Shift Supervisor of the initiating agency, location and direction of the pursuit.
- C. Supervisor - Upon notification or becoming aware of a pursuit, the Shift Supervisor shall assert control over the pursuit and has the discretion to order specific units into or out of the pursuit, or to clear intersections in the likely path of the pursuit. The Supervisor may also order that the pursuit be terminated any time he believes the risks outweigh the value of apprehension.
- D. Assisting Units
- 1. Assisting (back-up) units will not enter into an active pursuit unless directed to do so by the Shift Supervisor. Units joining the pursuit will operate Code 3 (emergency lights and sirens).
  - 2. Unless otherwise directed by a supervising officer, not more than two police vehicles will become actively involved in a pursuit. Other officers should be alert to the pursuit progress and location.
  - 3. Officers operating unmarked vehicles may engage in pursuit only when the occupant of the fleeing vehicle currently represents, or has committed offenses, which represents, an immediate and direct threat to life or property. Whenever a marked vehicle becomes available to take over a pursuit initiated by an officer in an unmarked vehicle, the unmarked unit will relinquish primary responsibility for the pursuit to the marked unit. The unmarked unit may continue to follow as a backup unit, operating Code 3.
  - 4. Assisting units will direct their radio communications to the Shift Supervisor.

#### IV. INTER-JURISDICTIONAL PURSUITS

- A. When a pursuit is initiated by another law enforcement agency, the initiating unit(s) and jurisdiction shall be responsible for the progress of the pursuit. Valdosta Police Department field personnel may become involved in the pursuit only upon order of a Valdosta Police Department supervisory officer. No Valdosta Police Officer will continue as a back-up unit outside the city limits without the authorization of the Shift Supervisor.
  
- B. When an active pursuit leaves the City Limits, the pursuing officer will notify the dispatcher. The dispatcher will contact the agency with jurisdiction as soon as possible and request assistance.
  
- C. When a Valdosta Police Officer is in pursuit of a vehicle that enters a freeway, the Dispatcher will notify the Georgia State Patrol or Lowndes County S.O. When a GSP or L.C.S.O. unit is in a position to assume responsibility for the pursuit, involved units from this department will relinquish the pursuit. The involved officers may continue to monitor the progress of the pursuit and provide assistance as necessary, with the approval of the Shift Supervisor.
  
- D. Officers of this department may pursue known felons until the point of capture if reasonable, justified, and safe. Officers must stay within the guidelines of the pursuit policy of this department. When apprehension of either felony or misdemeanor offenders occurs within the State of Georgia, the pursuing officer has the authority to arrest and transport the offender back to Valdosta.
  
- E. Out of State Pursuit - Due to Valdosta's geographic location, pursuit of a felon may cross the state boundary into Florida. In such incidents, the pursuing officer may apprehend the offender, but must turn the offender over to the law enforcement agency in whose jurisdiction the apprehension was affected. The offender's return to our jurisdiction will be accomplished through extradition proceedings. Note: Misdemeanor offenders will not be pursued over state lines.

**V. FORCIBLE STOPPING**

- A. Officers may not attempt to stop a suspect vehicle in a pursuit by striking the suspect's vehicle with a police vehicle.
  
- B. Firing from or at a moving vehicle or its occupants will only be deemed acceptable when the officer involved can demonstrate an articulable exigent circumstance which makes this action necessary for the protection of human life from an imminent threat of serious bodily harm or loss of life. Discharging a firearm from a moving vehicle is discouraged in any event.

- C. Roadblocks** - The use of roadblocks is not encouraged. The Shift Supervisor, however, may authorize the use of a roadblock when there is a definite knowledge that the fleeing suspect is wanted for a forcible felony and that he/she constitutes an imminent and continuous serious hazard and all other efforts to affect apprehension have failed. The use of a roadblock will be considered a use of force, as defined by General Order 200-10.
- 1. Stationary Roadblocks** - Due caution must be exercised when erecting a roadblock. A roadblock generally consists of a vehicle or vehicles or a hastily erected barricade. The use of a roadblock must be directly associated with the seriousness of the crime for which the suspect is wanted and must be approved by the Shift Supervisor. If a stationary roadblock is to be utilized, the following will apply:
- a.** It will be pre-approved by the Shift Supervisor;
  - b.** It will only be used in forcible felony offenses;
  - c.** Only marked patrol vehicles will be used, with the emergency lights and headlights activated, but not intentionally directed such as to blind the driver of the pursued vehicle;
  - d.** Officers will not remain inside any vehicle used;
  - e.** It will be clearly visible and provide adequate warning to allow vehicles to come to a safe stop (500 feet visibility in all directions);
  - f.** If weather and road conditions do not allow visibility as prescribed, the roadblock will not be utilized;
  - g.** The roadway will not be completely blocked except in situations where the use of deadly force would be authorized;
  - h.** There must be a means provided that will allow civilian vehicles to avoid becoming caught by the roadblock unexpectedly;
  - i.** Roadblocks will not be attempted if any other agency is participating in the pursuit unless and until the other agency units are informed of the decision to deploy a roadblock and its location;
  - j.** No civilian vehicles will be used in constructing the roadblock;
  - k.** The dispatcher will be advised of the roadblock, and advise all other units.

2. Mobile or "Rolling" Roadblocks - Forcible stops by the use of mobile roadblocks will be attempted only in cases a low speed pursuits (40 MPH or less), when all available traffic lanes can be blocked, and upon the approval of the Shift Supervisor.

## VI. USE OF TIRE DEFLATION DEVICES

- A. Tire deflation devices (Stop Sticks, etc) will be considered for use with stationary roadblocks. In order for such devices to be used, the following conditions **MUST** be met:
  1. Emergency equipment is in use;
  2. Headlights will be on, but not directed such as to blind the on-coming driver;
  3. An avenue of escape must be provided, allowing for reasonable speed (25 mph max);
  4. All personnel will be evacuated from the area;
  5. Location must be visible from all directions;
  6. A supervisor must approve the use of the device;
  7. A device may be used only in the following cases:
    - a. Incidents involving fleeing felons;
    - b. When a person is driving or operating a motor vehicle in a hazardous manner and that person's hazardous driving presents a significant threat to the safety of others;
    - c. When another agency is pursuing a suspect vehicle in city limits of Valdosta and that vehicle presents a continuous threat to public safety.
  8. All officers involved in the chase will be notified that the devices have been deployed
  9. Devices will not be used against motorcycles
- B. Upon completion of an incident involving the deployment of tire deflation devices, the deployment shall be noted by the officer responsible for the deployment in the Vehicle Pursuit Report and Incident Report. In addition, used tire deflation devices will be taken as evidence and handled accordingly.

## VII. TERMINATION OF PURSUIT

Any officer involved in a pursuit will terminate the pursuit under any one of the following conditions:

- A. When ordered by a supervisor to terminate the pursuit.
- B. When the officer believes the level of danger created by the pursuit outweighs the necessity for immediate apprehension.

- C. When the suspect's identity has been established to the point that later apprehension can be accomplished and there is no longer any need for immediate apprehension.
- D. When the pursued vehicle's location is no longer known.

**VIII. VEHICLE PURSUIT REPORT**

- A. Following the pursuit, the reporting officer will complete a Vehicle Pursuit Report (FM 200-41) in addition to any other required paperwork.
- B. The report will be forwarded by the Shift Supervisor to the appropriate Bureau Commander.
- C. The Bureau Commander and the Chief of Police will review the report to identify indications of possible policy failure, policy violations, and/or officer misconduct.
- D. The Training Officer will review the report to determine indications of training needs.
- E. Vehicle Pursuit Reports will be maintained in the Internal Affairs Unit.
- F. The I.A. Unit will prepare an annual analysis of all vehicle pursuit reports for submission to the Chief of Police.

# **APPENDIX D**





<b>TYPE OF COMMUNICATION</b> General Orders	<b>DISSEMINATION</b> Department	<b>DESTINATION</b> Directives Manual	<b>NUMBER</b> 426.00	<b>PAGE OF</b> 1 4
<b>TOPIC:</b> Pursuit Policy	<b>EFFECTIVE DATE</b> 04/15/90	<b>SOURCE</b> DLB	<b>APPROVED BY</b> CMW	<input type="checkbox"/> NEW <input checked="" type="checkbox"/> AMENDS <input type="checkbox"/> RESCINDS 09/24/05

**426.01 POLICY**

The Department recognizes that police pursuits are inherently dangerous and pose a risk to the safety of citizens and the officers involved in them. The apprehension of a suspect or violator in a pursuit is secondary to the risk of injury or death to citizens or officers.

Vehicular pursuits are prohibited unless there is probable cause to believe that the person(s) being pursued have committed or are committing the following:

1. Murder, armed robbery, rape, kidnapping and aggravated battery; or
2. Any action that creates an immediate threat of death or serious bodily injury to another person or a substantial threat to the safety of another person.

**426.02 DEFINITION**

For the purpose of this directive, a vehicular pursuit is defined as an active attempt by an officer to apprehend a suspect/violator in a vehicle who is willfully attempting to elude apprehension and is willfully disobeying the officer's visual and audible signals to stop (lights and siren).

**426.03 RESPONSIBILITY**

The initiation and continuation of a vehicular pursuit should be viewed as having the same consequence as a potential use of deadly force. At any time that the risk of continuation of a vehicular pursuit outweighs the risk to the public from discontinuing the pursuit, the pursuit shall be terminated. Any vehicular pursuit undertaken must be done so with due regard for the safety of all persons.

The initial decision to pursue rests with the individual officer in conjunction with procedures established in this policy. Prior to initiating or continuing a pursuit the officer must evaluate the following factors:

- Location (schools, business district, residential area)
- Road and traffic conditions
- Weather conditions and visibility
- Time of day and day of week
- Amount of vehicular and pedestrian traffic
- Population density
- Physical and mental condition of any officer involved
- Severity of the charges
- Any other perceived condition or factors that, in the opinion of the pursuing officer(s), would increase the risks of continuing a pursuit.

Even when the above conditions are considered ideal both the officer and field supervisor must constantly evaluate the pursuit and, when necessary, terminate it. The pursuing officer must, at all time, utilize their best judgment in evaluating whether or not to continue a pursuit. Officers should be aware that at times the decision to abandon a pursuit is the most intelligent and professional course of action. A pursuit will be terminated when:

- The risk created by the pursuit to the officer and/or public is greater than the risk associated with discontinuing the pursuit.
- The distance from the pursued vehicle is too great to justify continuing the pursuit.
- The pursuing officer is not familiar with the territory.
- The identity of the violator is known and there is no apparent further danger to the public if the pursuit is terminated (the violator can be apprehended later under more favorable conditions).

- The pursuing officer knows, or is reasonably certain; that a juvenile operates the fleeing vehicle and the offense constitutes a misdemeanor or a felony that does not jeopardize the safety of the public.
- Any time the initiating unit or subsequent units have a civilian complainant, witness, prisoner, suspect, or civilian observer on board.

#### **426.04 PURSUIT PROCEDURES**

1. When safe to do so, the pursuing officer shall communicate with the dispatcher relaying information, such as the identity of the unit, location, direction of travel, exact reason for pursuit and any other details, which will enable any other officers in the area, as well as the dispatcher, to assist. While the pursuing officer is transmitting information, he should keep his voice as normal and coherent as possible to avoid confusion. In cases where there are two (2) officers in the same vehicle, the passenger should handle all radio transmissions.

2. Emergency lights and siren will be activated at all times during a pursuit.

3. Units responding to assist should concentrate on covering the streets parallel to the one the pursuit is on, thus creating a "boxing in" effect.

Normally, no more than two police vehicles, the primary and a backup, shall maintain the direct pursuit unless the field supervisor authorizes otherwise. When practical, the backup unit will handle the communications pertaining to the pursuit. The pursuit supervisor may allow more than two vehicles in the pursuit if circumstances require it. Considerations regarding additional officers being allowed to be in the direct pursuit include, but are not limited to, the number of offenders in the pursued vehicle, the number and type of weapons believed to be in the pursued vehicle and whether or not the roadway allows for parallel coverage.

4. During pursuit a safe distance shall be maintained between the pursued vehicle and/or any police vehicles involved in the pursuit. This will allow the pursuing officer to duplicate any sudden turns and lessen the possibility of a collision in the event of a sudden stop.

5. During pursuit the violator/suspect may take grave risks regardless of the consequences. The pursuing officer shall not duplicate these risks. In all cases, the officer must operate his vehicle in a manner that shows consideration for his safety, the safety of the violator whom he seeks to apprehend, and the safety of others who may be on or near the roadway. Because of the many handicaps he encounters, the pursuing officer must recognize and accept the fact that he will not be able to successfully apprehend every violator/suspect that flees.

6. Intersections pose an increased risk to the safety of the officer and citizens. Officers involved in a pursuit will exercise extreme care when approaching and entering an intersection and will not enter an intersection without exercising due regard for the safety of others. If confronted with a traffic control device requiring a stop or yield, a pursuing officer will proceed; i.e., take the right-of-way, only after determining that it is safe to do so. If two or more traffic control device and/or the Uniform Rules of the Road will determine which vehicle has the right-of-way.

#### **426.05 METHODS FOR STOPPING FLEEING VEHICLES**

Other than described previously, other methods may be utilized with supervisor approval to terminate a pursuit. In all situation listed below it is the responsibility of the pursuing officer to notify Communications, of his intent and in a timely manner, in order to provide sufficient time to notify other units of the proposed action and location.

##### **1. Stationary Roadblocks**

Because of the dangers inherent in the use of stationary roadblocks in pursuit situations, roadblocks for the purpose of apprehending suspect/violators should be utilized only after all other means have failed and there is a reasonable basis to believe that the person eluding apprehension presents a significant threat to police officers and/or citizens if not apprehended without delay.

Extremely careful consideration must be given to establishing a stationary roadblock so as not to jeopardize the safety of citizens or officers. Stationary roadblocks will be utilized only with the approval of the watch commander and with the following considerations in mind:

- Civilian vehicles will not be used in any roadblock
- No occupied vehicles will be utilized
- Roadblocks will be set up so as to provide the violator or any other driver who approaches the roadblock with an adequate stopping distance
- Speed of the vehicles involved
- Traffic and road conditions
- Weather and visibility
- Type of area (schools, business or residential district)
- Amount of vehicular and/or pedestrian traffic and whether it can be safely controlled

## 2. Rolling Roadblocks

In pursuits of moderate speed and under traffic and road conditions, which would allow it, positioning a patrol vehicle to the front of the violator and another vehicle beside and/or behind the violator may use a blocking maneuver. Speed should be gradually reduced until the violator is stopped. Every effort should be made to avoid contact with the violator's vehicle. The field supervisor prior to its utilization must approve this action.

## 3. Ramming

Deliberate physical contact initiated between vehicles by an officer is a use of force and shall be avoided unless exigent circumstances exist that make such contact the only reasonable option to protect citizen(s) and/or any officer from loss of life or serious injury. The watch commander prior to its utilization must approve this action.

## 4. Tire Deflating Devices

The use of tire deflating devices will be governed by sound professional judgment and only under the following circumstances:

- The officer has reasonable cause to believe that the suspect has committed an offense consistent with the requirements of this department's pursuit policy.
- The pursuing officers have attempted to apprehend the suspect by means of both blue light and siren and the suspect has ignored this attempt.
- The officer utilizing the tire deflating devices has received training on the use of the device and is certified by the Training Division in its proper use. Only tire deflation devices approved by this department shall be utilized in accordance with the training received.

## 5. Precision Immobilization Technique (PIT)

The use of precision immobilization techniques will be governed by sound professional judgment and only under the following circumstances:

- The PIT maneuver may only be utilized by officers who have received departmentally approved training and who are certified to perform this technique.
- The PIT maneuver may only be used at reasonable speeds and in locations where it is reasonable to expect that the maneuver can be safely accomplished.
- The decision to utilize the PIT maneuver rests with the pursuing officer in accordance with this policy and no supervisory approval is required prior to performing this technique.

### **426.06 UNMARKED POLICE VEHICLES**

Unmarked police vehicles will not engage in any pursuit.

Unmarked police vehicles may attempt to maintain sight of the suspect if possible to do so in a safe manner and in conjunction with the policies and procedures set forth in this and other applicable directives.

### **426.07 MOTORCYCLES**

Motorcycles may initiate a pursuit and actively participate in the pursuit until the arrival of a four-wheel marked patrol unit. At that time, the motorcycle officer shall cease pursuit.

### **426.08 OTHER POLICE VEHICLES**

Officers operating specialized police vehicles, such as prisoner transport vehicles and BAT mobiles, will not engage in vehicular pursuits.

### **426.09 INTER-JURISDICTIONAL CONSIDERATIONS**

1. If another agency, including city police departments in Gwinnett County, initiates a pursuit, which enters into the jurisdiction of this Department, the criteria established in section 426.01 of this policy must be met prior to any member of this Department engaging in the pursuit. If the pursuit does not meet the criteria established in 426.01, members of this Department will not engage in the pursuit. The field supervisor must authorize participation in a pursuit initiated by another jurisdiction. Members of this Department must conduct any pursuit in accordance with all the policies and procedures set forth in this directive.

If a pursuit entering this jurisdiction does not meet the criteria established in section 426.01 of this policy, the field supervisor may grant permission to officers to maintain contact, either visually or through communications, with the pursuit. If the pursuit terminates in Gwinnett County, officer may proceed to the point of termination to assist. A supervisor will respond to the scene.

Officers assisting an outside agency shall terminate their assistance, when the pursuing officer leaves the jurisdiction of Gwinnett County, unless to do so would cause the pursuing officer to be the only police unit involved. The assisting unit from Gwinnett County may also continue to assist in the pursuit until it is replaced by the next assisting agency. At that time the pursuit will be terminated.

2. Pursuits initiated by this agency, which exit the boundaries of Gwinnett County, may be continued with the authorization of the field supervisor. Careful consideration must be given to the factors described in 426.03 and the pursuit must be terminated when the risk of continuing the pursuit is greater than the risk of terminating the pursuit. All policies and procedures described in this directive will be adhered to during any pursuit, which leaves the jurisdictional boundaries of Gwinnett County. A supervisor will respond to scene if the perpetrator is apprehended.

In any pursuit described in 426.09 the following additional guidelines will also apply:

#### 1. Prohibited Activities

The following activities are prohibited:

- (a) Roadblocks (stationary and moving)
- (b) Ramming or deliberate physical contact between vehicles
- (c) Forcing the pursued vehicle off the road
- (d) Shooting at the pursued vehicle

#### 2. Participating Agency Responsibility

The agency initiating the pursuit will normally be responsible for the following:

- (a) Arraignment of arrested person(s)
- (b) Disposition of any passenger(s)
- (c) Disposition of arrestee's vehicle
- (d) Coordination of reports, citations, and criminal charges with the exception of accident reports

#### 3. Number of Vehicles

In the event that another agency is assisting in a pursuit, a total of no more than three (3) vehicles from the combined jurisdictions will be involved in the pursuit. For example, two (2) vehicles from the initiating agency and one (1) from the assisting agency.

### **426.10 COMMUNICATIONS OFFICER RESPONSIBILITY**

Upon being notified by the initiating officer that a pursuit is in-progress, the communications officer will advise all units to hold all non-emergency traffic and that a particular unit is involved in a pursuit.

The communications officer will verify that the field supervisor is aware that a pursuit is in-progress and has taken command of it and will assign another unit to assist the pursuing unit.

If the circumstances indicate a pursuit may leave Gwinnett County, the communications officer will provide the following information to other jurisdictions that may be affected by the pursuit:

- That the pursuit is about to enter their jurisdiction
- The reason for the pursuit and nature of the charges
- The location and direction of travel
- A complete description of the vehicle and occupant, if available
- The number of units involved in the pursuit
- When applicable, notify the agency that the pursuit is leaving the jurisdictional boundaries or the location of the termination
- Any other information deemed important or necessary

When another agency enters Gwinnett County in pursuit, the communications officer will obtain as much of the above information as possible and relay this information as possible and relay this information to the field supervisor.

The communications officer will notify the appropriate agency or jurisdiction should the pursuing officer leave Gwinnett County.

### **426.11 PURSUIT REPORTING REQUIREMENTS**

On any occasion when an officer has been involved in a pursuit, the field supervisor responsible for monitoring the pursuit will complete a "Vehicle Pursuit Report/GCPD #225" prior to the end of their tour of duty.

This report will be in addition to any other reports arising from the pursuit.

The "Vehicle Pursuit Report" will be forwarded through the chain of command and will be maintained by Professional Standards in accordance with their record keeping procedures.

# **APPENDIX E**


Atlanta Police Department Policy Manual		Standard Operating Procedure
Effective Date: July 1, 2004, revised August 16, 2004		APD.SOP.3050 Pursuit Policy
Applicable To: All employees		
Approval Authority: Chief Richard J. Pennington		
Signature: Signed by RJP		Date Signed: 8/18/2004

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1. PURPOSE

To establish guidelines, based on state law and court decisions, for police officers that are in pursuit of motor vehicles within and outside the city limits of Atlanta.

2. POLICY

The Atlanta Police Department places the highest value upon the preservation of life and the safety of its police officers and citizens. The methods used to enforce laws should maximize the safety of all police officers and citizens.

The decision to pursue a vehicle that refuses to voluntarily stop for "a motor vehicle that is used on official business by any person authorized to make arrests" must comply with the following state laws: OCGA § 40-6-6, 40-8-90, 40-8-91, 40-8-94, and 17-4-20.

The maximum number of Atlanta Police Department vehicles that are allowed to directly participate in a vehicle pursuit is three.



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3. RESPONSIBILITIES
  - 3.1 Primary (First) Pursuit Unit  
(CALEA 41.2.2b)
    - 3.1.1 It is the responsibility of the primary pursuit unit to provide his or her immediate supervisor with the totality of circumstances regarding the pursuit of a suspected felon in a vehicle, in order for the immediate supervisor to make an informed decision.
  - 3.2 Secondary (Second) Pursuit Unit  
(CALEA 41.2.2c)
    - 3.2.1 It is the responsibility of the secondary unit to provide communication support of the primary unit. Typically, the secondary unit will give the direction and location of the vehicle pursuit.
  - 3.3 Tertiary (Third) Pursuit Unit
    - 3.3.1 It is the responsibility of the tertiary unit to provide support of the primary and secondary pursuit units when they enter another zone. Also, it is the responsibility of the tertiary unit to provide support of the primary and secondary pursuit units that originate from another jurisdiction.
  - 3.4 Immediate Supervisor  
(CALEA 41.2.2f)
    - 3.4.1 The immediate supervisor of the primary pursuit unit will advise, via radio transmission, whether to continue the vehicle pursuit based on the available information or lack of information from the primary pursuit unit. If the vehicle pursuit is approved, the immediate supervisor will continue to monitor the radio transmissions and continually evaluate the need to continue the vehicle pursuit.
  - 3.5 Watch Commander
    - 3.5.1 The watch commander of the primary pursuit unit will assume overall command of the vehicle pursuit, if he or she is on-duty and operating on the same radio channel as the immediate supervisor and the primary pursuit unit.
  - 3.6 Communications  
(CALEA 41.2.2e)
    - 3.6.1 The radio dispatcher will notify the zone watch commander and the Communications watch supervisor when there is a vehicle pursuit.
    - 3.6.2 The radio dispatcher will control all radio transmissions while a vehicle pursuit is in progress.
    - 3.6.3 The Communications watch supervisor will coordinate all Communications activities in support of the radio dispatcher, as well as coordinate with other zones and jurisdictions regarding the progress and status of the vehicle pursuit.
  - 3.7 The Training Section
    - 3.7.1 The Training Section commander will review incoming vehicle pursuit reports to determine if Departmental guidelines were followed, if future training needs are required, and any changes in procedure need to be made.



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- 3.8 The Office of Professional Standards (OPS)
  - 3.8.1 The Office of Professional Standards commander will review incoming vehicle pursuit reports to determine if Departmental guidelines were followed by all participants and recommend if any changes in procedure need to be made.
- 3.9 Planning and Research/Accreditation Unit
  - 3.9.1 The Planning and Research/Accreditation Unit commander will coordinate an annual analysis of vehicle pursuit reports to determine if Departmental guidelines were followed, if future training needs are required, and any changes in procedure need to be made.
- 4. ACTION
  - 4.1 The decision to pursue a vehicle that refuses to stop voluntarily for “a motor vehicle that is used on official business by any person authorized to make arrests” must comply with five state laws. The following two conditions must be met before a police officer can engage in a vehicle pursuit.
    - 4.1.1 First, the vehicles of the primary and secondary pursuit units must comply with the three applicable state codes of Georgia regarding the equipment of law enforcement vehicles. The codes are 40-8-90 (Use of flashing or revolving blue lights), 40-8-91 (Marking of official vehicles), and 40-8-94 (Sirens, whistles, and bells). In addition, the driver of the authorized emergency vehicle must drive with due regard for the safety of all persons as described in Georgia code 40-6-6 (Authorized emergency vehicles). (CALEA 41.2.2d)
    - 4.1.2 Second, the driver of the fleeing vehicle or a passenger in the fleeing vehicle must meet one of the three following standards set forth in O.C.G.A. 17-4-20 (Arrest Without a Warrant).
      1. “The suspect possesses a deadly weapon or any object, device, or instrument which, when used offensively against a person, is likely to or actually does result in serious bodily injury.”
      2. “When the officer reasonably believes that the suspect poses an immediate threat of physical violence to the officer or others.”
      3. “When there is probable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious physical harm.” (CALEA 1.3.2)
  - 4.2 Once the two required conditions exist, other factors that need to be considered in order to initiate a vehicle pursuit or allow a vehicle pursuit to continue are:
    - 4.2.1 The risk of the subject’s conduct to innocent third parties.
    - 4.2.2 The driving abilities of the police officer.
    - 4.2.3 The performance capabilities of the police vehicle.
    - 4.2.4 Weather conditions.
    - 4.2.5 Roadway surface conditions.
    - 4.2.6 The type of roadway and its contour. (CALEA 41.2.2a)





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- 4.3 All police officers actively or directly involved in a vehicle pursuit will utilize all of the following equipment:
- 4.3.1 Siren
  - 4.3.2 Flashing blue lights
  - 4.3.3 Headlights (day or night)
- 4.4 All police officers driving under emergency conditions will roll up the windows of their police vehicle to eliminate air turbulence and ensure the radio dispatcher understands all radio transmissions.
- 4.5 Primary Pursuit Unit (CALEA 41.2.2b)
- 4.5.1 **Once the two required conditions exist** and a vehicle pursuit is initiated, the primary pursuit unit will immediately notify the radio dispatcher that a vehicle pursuit is underway and provide the following information.
1. The unit number of the primary pursuit unit.
  2. Current location, direction of travel, and speed.
  3. A description of the vehicle and an auto tag number.
  4. The type of criminal offense.
  5. The number and description of occupants.
  6. Any information regarding weapons, threats, or hazards.
- 4.5.2 The immediate supervisor or watch commander must acknowledge he or she has received all pertinent information. In addition, the immediate supervisor or watch commander must give permission to continue the vehicle pursuit or terminate it. Failure to provide the above information is cause enough for the watch commander or immediate supervisor to order the termination of the vehicle pursuit.
- 4.5.3 If the primary pursuit unit does not receive a response from the watch commander or the immediate supervisor, the primary and secondary pursuit units will terminate the vehicle pursuit.
- 4.6 Secondary Pursuit Unit (CALEA 41.2.2c)
- 4.6.1 All marked police vehicles in the vicinity of the vehicle pursuit and able to assist will make the radio dispatcher aware of their availability. The radio dispatcher, under the direction of the immediate supervisor or watch commander, will coordinate assistance.
- 4.6.2 The secondary pursuit unit designated by the radio dispatcher or the immediate supervisor will be the only other police unit to engage in the vehicle pursuit, unless one of the following conditions exists:



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1. The primary or secondary pursuit unit does not believe that two units will be able to safely arrest the suspect(s). The immediate supervisor or watch commander must approve this request for an additional pursuit unit.
  2. The primary pursuit unit is unable to continue and has informed the radio dispatcher, and the secondary pursuit unit has assumed the role of the primary pursuit unit.
  3. The watch commander or immediate supervisor has authorized additional police vehicles to join the vehicle pursuit.
- 4.6.3 The officer in the primary pursuit unit will make radio transmissions during the vehicle pursuit, until the secondary unit is close enough to monitor the vehicle pursuit and assume the radio communications task. This will allow the primary unit to focus on driving.
- 4.7 Supervisors  
(CALEA 41.2.2f)
- 4.7.1 After being notified of a vehicle pursuit, the watch commander or immediate supervisor will do the following:
1. Acknowledge the location and the direction of travel.
  2. Request the reason for the vehicle pursuit.
  3. Monitor radio transmissions regarding the vehicle pursuit and proceed in the direction of its progress in a non-emergency mode.
  4. Ensure that only the necessary units are involved in the vehicle pursuit. When appropriate, ensure that air support has been requested.
  5. When appropriate, ensure that other law enforcement agencies are being notified if the vehicle pursuit is entering other jurisdictions.
  6. Ensure that the vehicle pursuit is terminated, if the pursuing units do not provide adequate information.
  7. Ensure that the vehicle pursuit is terminated, if the risk to police officers and citizens is too great.
- 4.7.2 The supervisor in the zone where the vehicle pursuit ends will proceed to the termination point and provide necessary supervision until the pursuing unit's supervisor arrives on the scene.
- 4.7.3 The pursuing unit's immediate supervisor will go to the scene of a concluded vehicle pursuit whenever a suspect is apprehended or when injuries, death, or property damage has occurred; and ensure that a pursuit form (form APD 602) is completed by the unit initiating the vehicle pursuit.
- 4.7.4 Watch commanders and immediate supervisors are not authorized to join in a vehicle pursuit, unless they are the initiating unit or close enough to become the secondary unit. If a field supervisor engages in the vehicle pursuit, he or she will relinquish field command to the watch commander.



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- 4.7.5 If the watch commander engages in a vehicle pursuit, he or she will yield the position of primary pursuit unit as soon as a marked unit can take over and the watch commander will move to the position of the secondary pursuit unit. If the watch commander is the secondary pursuit unit, he or she will yield the position of secondary pursuit unit as soon as a marked unit can take over and the watch commander will withdraw from the vehicle pursuit.
- 4.8 Entering Another Zone  
(CALEA 41.2.2i)
- 4.8.1 When it is apparent that a vehicle pursuit will enter another zone, the watch commander or immediate supervisor of the originating zone will decide according to the information available whether to continue the vehicle pursuit.
- 4.8.2 If the vehicle pursuit is continued, the Communication watch supervisor will notify the second zone's watch commander that the vehicle pursuit is entering the zone. The supervisor in the originating zone **may request one additional marked unit**, from the zone that has been entered, to join in the vehicle pursuit. The radio dispatcher will continue to monitor radio transmissions on the originating zone's radio channel.
- 4.8.3 The watch commander of the secondary zone may advise one of his or her marked units to join the vehicle pursuit as a third pursuit unit. Once the third pursuit unit enters into the vehicle pursuit, he or she will be under the command of the primary pursuit unit's supervisor and will switch to the radio channel that the primary pursuit unit is on.
- 4.8.4 The third pursuit unit should communicate to the other two units any pertinent information about the geographic area in which the vehicle pursuit is taking place. The third pursuit unit will continue as part of the vehicle pursuit only while the vehicle pursuit is in their zone. Once the vehicle pursuit leaves the third pursuit unit's zone, he or she will terminate his or her pursuit. The third pursuit vehicle will then notify the originating zone's radio dispatcher of the return to service.
- 4.9 Field Units Not In Pursuit
- 4.9.1 Field units that are not in the vehicle pursuit are to monitor the location and the direction of travel of the two or three pursuit units. Field units may position themselves at strategic sites along the probable pursuit route or on parallel roadways, for response to any emergency that may develop. These field units will not engage in the vehicle pursuit, unless otherwise directed by a supervisor and may monitor the vehicle pursuit with a second radio, if available.
- 4.9.2 Field units not directly involved in a vehicle pursuit are not authorized to proceed to strategic sites or parallel roadways in an emergency mode (code 3).
- 4.10 Communications  
(CALEA 41.2.2e)
- 4.10.1 The zone's radio dispatcher, with the assistance of the Communications watch supervisor, will:
1. Clear the radio channel of any unnecessary traffic.
  2. Immediately notify the watch commander or immediate supervisor.



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3. Obtain all pertinent information that is available.
4. Request the support of the Helicopter Unit, if necessary, and advise the supervisor on the air of their status to the pursuit.
5. Determine if the watch commander or immediate supervisor wants to continue the vehicle pursuit.
6. Immediately notify the Communications watch supervisor, if the vehicle pursuit is continuing.
7. Coordinate assistance under the direction of the Communications watch supervisor.
8. Receive and record all pertinent information on the vehicle pursuit. Categorize the call as a Signal 72P.
9. Perform relevant record checks and motor vehicle checks.
10. Advise the pursuit units of any known or potential hazards in the path of the vehicle pursuit (i.e., accidents, street closures, etc.).

#### 4.10.2 Watch supervisor will (CALEA 41.2.2f)

1. Advise the watch commander or immediate supervisor which two units are involved in the vehicle pursuit.
2. Notify other zone radio dispatchers of the vehicle pursuit and advise them, if the vehicle pursuit enters their zone.
3. Monitor the vehicle pursuit until its conclusion.
4. Notify the Helicopter Unit, if it is available. If not, contact the closest law enforcement agency with a Helicopter Unit. Request assistance and an estimated time of arrival.
5. If the vehicle pursuit is likely to enter another zone, advise the second watch commander of all pertinent information. Request the second watch commander to designate a third pursuit unit to assist and advise the third pursuit unit to switch to the radio channel that the primary pursuit unit is on.
6. Have the secondary zone radio dispatcher inform the secondary zone officers that they may monitor the vehicle pursuit on their mobile radio.
7. Notify the zone commander of the originating zone, if the situation warrants.
8. Provide pertinent information to other law enforcement jurisdictions (within or outside the city limits) that may become involved or be of assistance in the vehicle pursuit. Notify the Georgia State Patrol, if the vehicle pursuit leaves the local jurisdiction or enters an Interstate Highway.



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- 4.11 Motorcycle Unit  
(CALEA 41.2.2d)
  - 4.11.1 If a motorcycle unit initiates a vehicle pursuit, he or she may continue that vehicle pursuit until a marked patrol unit or aircraft joins the vehicle pursuit, at which time the motorcycle officer must abandon the vehicle pursuit. After abandoning the vehicle pursuit, the motorcycle unit will proceed to the termination point in a non-emergency mode, if a suspect is apprehended.
  - 4.11.2 Police officers on motorcycles are not authorized to be part of a vehicle pursuit without the approval of his or her watch commander.
- 4.12 Air Support  
(CALEA 41.2.2d)

The following guidelines will be used when the Helicopter Unit is able to assist in a vehicle pursuit:

  - 4.12.1 When the Helicopter Unit advises that the suspect's vehicle is in view, field units in a pursuit will keep their emergency lights and siren on, but will decrease their speed as they continue the pursuit.
  - 4.12.2 The Helicopter Unit will continue to advise the location of the suspect's vehicle and approximate speed.
  - 4.12.3 The Helicopter Unit should attempt to position field units to assist in the apprehension of the suspect(s) when the vehicle stops.
  - 4.12.4 The aircraft will maintain a safe altitude to allow the pilot or the observer to watch the suspect vehicle.
  - 4.12.5 When possible, the aircraft should be operated so that the suspect does not know he or she is being watched.
- 4.13 Special Vehicles  
(CALEA 41.2.2d)
  - 4.13.1 Vehicles that are transporting prisoners, witnesses, suspects, complainants, juveniles, citizens, civilian employees, or any passengers other than on-duty Atlanta police officers will not engage in vehicle pursuits.
  - 4.13.2 Police vans, pick-up trucks, sport utility vehicles, and three-wheeled vehicles will not engage in a vehicle pursuit.
  - 4.13.3 Unmarked vehicles will not become involved in any vehicle pursuit, unless it involves a serious felony and the unmarked vehicle is the initiating unit. If an unmarked vehicle is the initiating unit, it will discontinue the vehicle pursuit when a marked vehicle assumes the role of the primary pursuit unit. At no other time will an unmarked vehicle become involved in a vehicle pursuit.
  - 4.13.4 When a marked vehicle with a roof-mounted emergency light system assumes the role of the primary pursuit unit, marked vehicles without a roof-mounted emergency light system will discontinue the vehicle pursuit.



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#### 4.14 Driving Techniques

All units, **up to a maximum of three units**, directly involved in a vehicle pursuit will space themselves at safe intervals that ensures adequate time and distance for slowing, stopping, and turning.

#### 4.15 Termination of Vehicle Pursuits (CALEA 41.2.2h)

4.15.1 When the watch commander or immediate supervisor orders the vehicle pursuit terminated.

4.15.2 When there is an unreasonable danger to police officers or citizens.

4.15.3 When the suspect's identity has been established to the point that later apprehension can be accomplished.

4.15.4 When the primary pursuit unit loses visual contact with the pursued vehicle for more than fifteen seconds.

4.15.5 When it is apparent the primary pursuit unit is not familiar with the area.

4.15.6 When there is an equipment failure involving an emergency signal device, a radio, brakes, steering, or other essential mechanical equipment.

4.15.7 When the primary pursuit unit is of the opinion that it is not safe to continue the vehicle pursuit.

#### 4.16 Prohibited Practices (CALEA 41.2.2g)

4.16.1 Police officers will not pursue a vehicle the wrong way on a freeway or interstate highway.

4.16.2 Police officers will not discharge their firearm in an effort to stop a fleeing vehicle. (This does not prohibit a police officer from using his or her firearm as a lethal force option when it is reasonable and necessary.)

4.16.3 Police officers will not purposely position their vehicle in the path of a fleeing vehicle.

4.16.4 Police officers will not bump, ram, or box-in a fleeing vehicle.

4.16.5 Police officers will not force the fleeing vehicle from the roadway by driving in front of it or along side of it.

4.16.6 Police officers will never attempt to pass the primary pursuit unit, unless an officer receives specific permission from the primary pursuit unit or immediate supervisor.

4.16.7 The following practices are prohibited during a vehicle pursuit: (CALEA 41.2.2g and 61.3.4)

1. Fixed roadblocks
2. Moving or rolling roadblocks



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3. Ramming
  4. Forcing fleeing vehicles off the roadway.
  5. Discharging a firearm in an effort to stop a fleeing vehicle. (This does not prohibit a police officer from using his or her firearm as a lethal force option when it is reasonable and necessary.)
- 4.17 Inter-Jurisdictional Pursuits  
(CALEA 41.2.2i)
- 4.17.1 The Atlanta Police Department has joined other law enforcement agencies in the Atlanta metropolitan area in adopting the Metropolitan Atlanta Inter-Jurisdictional Pursuit Policy. The policy provides guidelines for police officers in vehicle pursuits when entering other jurisdictions. Atlanta police officers will adhere to this policy when pursuing a vehicle outside the City of Atlanta.
- 4.17.2 When entering another jurisdiction, the pursuing agency's radio dispatch will notify the other agency with the following information:
1. A vehicle pursuit is about to enter its jurisdiction.
  2. The reason for the vehicle pursuit and the nature of the crime.
  3. The location and the direction of travel.
  4. A complete description of the vehicle and occupants.
  5. The number of units involved in the vehicle pursuit.
  6. Whether or not assistance is needed.
  7. Notify the agency when the vehicle pursuit is leaving their jurisdiction or the location of termination.
- 4.17.3 When available, law enforcement agencies that maintain an aircraft unit will agree to provide assistance to all signatories upon a direct request. Also, any signatory obtaining aviation support in the future will provide this assistance. The following agencies will provide this assistance: DeKalb County, Clayton County, Fulton County, Gwinnett County, and Atlanta.
- 4.17.4 The initiating law enforcement agency will have the control and be responsible for the vehicle pursuit. Other law enforcement agencies will not participate, unless requested to assist.
- 4.17.5 A total of no more than three vehicles from the combined jurisdictions will be involved in any vehicle pursuit. Typically, there will be two pursuit units from the initiating agency and one additional pursuit unit from the assisting agency.
- 4.17.6 If there are three or more pursuit units from other law enforcement agencies entering the city limits of Atlanta, no Atlanta police officer will become directly involved in the vehicle pursuit. Atlanta police officers will monitor the location and direction of travel of the fleeing vehicle. Field units may position themselves at strategic sites along the probable pursuit route or on parallel



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roadways, for response to any emergency that may develop. These field units will not engage in the vehicle pursuit, unless otherwise directed by a supervisor.

- 4.17.7 In the case that a vehicle pursuit enters subsequent jurisdictions, the assisting unit (typically the third pursuit unit) will notify the next jurisdiction through their radio dispatch of a desire for assistance. The assisting unit will remain with the vehicle pursuit until replaced by the next assisting agency.
- 4.17.8 If the suspect is apprehended, all concerned agencies will be notified of the location and supplied pertinent information for the appropriate charges.
- 4.17.9 A supervisor from the law enforcement agency where the vehicle pursuit terminates will respond to the location in order to supervise and assist officers.
- 4.17.10 The following responsibilities of the initiating law enforcement agency are not to be relinquished to another law enforcement agency:
1. Arraignment of arrested persons.
  2. Disposition of any passenger(s).
  3. Disposition of the suspect vehicle.
  4. Coordination of all reports and charges with the exception of accident reports.
- 4.17.11 The Atlanta Police Department's participation in an inter-jurisdictional vehicle pursuit will be terminated if pursuing units from this agency or another law enforcement agency violate the guidelines set forth in the Metropolitan Atlanta Inter-Jurisdictional Pursuit Policy.
- 4.18 Reporting Process  
(CALEA 41.2.2j)
- 4.18.1 The police officer initiating a vehicle pursuit will obtain an incident number and a Pursuit Report (form APD 602). All vehicle pursuits **involving** Atlanta police officers will be reported on a Pursuit Report form and an incident report form even if the latter form is not normally required.
- 4.18.2 A Pursuit Report (form APD 602) is required:
1. Pursuits involving Atlanta police officers
  2. Pursuits involving Atlanta police officers **and** another law enforcement agency
  3. Pursuits involving another law enforcement agency entering Atlanta's jurisdiction, but **no** Atlanta police officers were involved (to be completed by the on-duty watch commander)
- 4.18.3 An incident report form is **not** required for a vehicle pursuit involving another law enforcement agency entering Atlanta's jurisdiction, but no Atlanta police officers.
- 4.18.4 An incident report form must be completed for each vehicle pursuit along with a Pursuit Report (form APD 602) involving Atlanta police officers. The reason for the vehicle pursuit and the details of the vehicle pursuit must be included in the narrative of the incident report form. All





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- officers (secondary and tertiary units) involved in the vehicle pursuit will complete a supplemental incident report to the original incident report.
- 4.18.5 The Pursuit Report (form APD 602) will be approved by the pursuit officer's immediate supervisor and forwarded through their chain of command to the zone or section commander and the division commander for review and signature. A copy of the incident report form and supplemental reports must be attached to the Pursuit Report (form APD 602).
- 4.18.6 Upon completion of their review, the division commander will distribute a copy of all completed Pursuit Reports, incident reports, and supplemental incident reports to the Training Section commander, the Office of Professional Standards commander, and the Planning and Research unit commander for review. The division commander and the above-designated commanders will maintain a copy of the pursuit package in their respective administrative office files for three years.
- 4.18.7 The purpose of the review by the three areas is to determine the following:
1. The vehicle pursuit was necessary and within Departmental guidelines.
  2. The identification of future training needs, if necessary.
  3. Any changes to Departmental policy and procedures.
- 4.18.8 The Planning and Research unit will conduct an annual analysis of all vehicle pursuits to examine patterns or trends that identify the need for additional training and/or policy modifications. Upon completion, copies of the annual analysis will be forwarded to the Chief of Police, the Assistant Chief, and the Deputy Chiefs for review and appropriate action. (CALEA 41.2.3)
- 4.18.9 The Communications Section commander will generate a monthly report of vehicle pursuits (Signal 72P/Pursuit) and forward a copy to the Chief of Police, the Assistant Chief, the Deputy Chiefs, Office of Professional Standards, Training, and Planning and Research. The generation of this monthly report will replace the APD Pursuit Log Form (form APD 603).
5. DEFINITIONS
- 5.1 General Terminology
- 5.1.1 Inter-Jurisdictional Pursuit Agreement: A document signed by the chief executive of each participating law enforcement agency which coordinates procedures to be followed during a vehicle pursuit involving two or more law enforcement agencies.
- 5.1.2 Motor Vehicle Pursuit: An active attempt by a police officer in an authorized emergency vehicle to apprehend the occupant(s) of a moving vehicle. This is assuming the driver of the vehicle is aware of the attempt then increases speed, takes other evasive actions to avoid apprehension, or refuses to stop while maintaining a legal speed.
- 5.1.3 Safe Following Distance: A safe following distance is dependent on several factors like the speed of the pursuit, the driver's abilities, the performance capabilities of the vehicle, weather conditions, roadway surface, and the actions of the fleeing vehicle. Generally, each police officer should allow one to two car lengths for each ten-mile per hour (10 MPH) increment in speed.



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#### 5.2 Vehicle Pursuit Roles

- 5.2.1 Assisting Agency: The law enforcement agency with a unit actively involved in another agency's vehicle pursuit.
- 5.2.2 Initiating Agency: The law enforcement agency that originally attempted the stop on an actively fleeing vehicle.
- 5.2.3 Primary (First) Pursuit Unit: The police officer that initiates a vehicle pursuit or any unit that assumes control of the vehicle pursuit by becoming the unit closest to the fleeing vehicle.
- 5.2.4 Secondary (Second) Pursuit Unit: The police officer that trails the primary pursuit unit at a safe distance. This police officer is available to assume the role of primary pursuit unit or assist when the fleeing vehicle stops.
- 5.2.5 Tertiary (Third) Pursuit Unit: The police officer that trails the secondary pursuit unit at a safe distance. This police officer provides support of the primary and secondary pursuit units when they enter another zone or enter the city limits of Atlanta from another jurisdiction.
- 5.2.6 Immediate Supervisor: The sworn supervisory officer responsible for the supervision of the pursuit units.
- 5.2.7 Watch Commander: The sworn supervisory officer responsible for all personnel assigned to a specific watch in a zone.

#### 6. CANCELLATIONS

APD.SOP.3050 "Pursuit Policy", issued July 1, 2004

#### 7. REFERENCES

OCGA § 17-4-20(b)	Arrest without warrant
OCGA § 40-6-6	Authorized emergency vehicles
OCGA § 40-8-90	Use of flashing or revolving blue lights
OCGA § 40-8-91	Marking of official vehicles
OCGA § 40-8-94	Sirens, whistles, or bells

Commission on Accreditation for Law Enforcement Agencies (CALEA) Section 1.3.2, 41.2.2, 1.3.4

The 2003 Metropolitan Atlanta Inter-Jurisdictional Pursuit Policy Memorandum of Understanding and future revisions.

# **APPENDIX F**

LaGrange Police Department  
Operations Manual

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Chapter: 12                    Vehicle Operations

Effective Date: March 19, 1996                    Number of Pages: 20

Revised Date: February 28, 2005                    Distribution: Divisions,  
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Special Instructions:

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## **M. Reporting and Review Process**

### **I. Purpose**

To establish and describe guidelines and procedures for all city owned vehicles operated by members of the Department in the performance of their duties. To include vehicle maintenance, pursuit driving, use of roadblocks, Inter-jurisdictional pursuit policy. The emergency operation of the police vehicle is one of the most dangerous task the police officer is asked to perform. Death and/or serious injury to officers and citizens can occur if policy is not adhered. To establish guidelines for responding to calls for service in a safe and efficient manner.

### **II. Policy**

It is the policy of The LaGrange Police department that officers consider the external factors, which may have a bearing on the operation of the vehicle. These factors include the time of day, road and traffic conditions, weather, speeds, nature of the incident, and the officer's personal ability to control the vehicle. During pursuits, excessive speed and carelessness shall not be permitted nor will they warrant the risk involved.

### **III. Definitions**

Assisting Agency - The police agency with a vehicle actively involved in another agency's pursuit.

Blocking - A technique designed to stop a violator's vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop without making actual contact with the violator's vehicle.

Channelization - A technique similar to a roadblock where objects are placed in the anticipated path of a pursued vehicle to alter its direction.

Creating Slow Moving Traffic - The slowing of the normal flow of traffic. Patrol vehicles not involved in the pursuit enter the roadway at least two miles ahead of the violator. By slowing the flow of normal traffic, the violator and pursuit vehicle are forced to reduce their speed.

Due Regard - When a reasonably careful person, performing similar duties under similar circumstances, would act in the same manner.

Emergency - A situation in which there is a high probability of death or serious injury to an individual, or significant property loss.

Emergency Law Enforcement Vehicle - A law enforcement vehicle equipped with a siren and one or more blue lights which can be operated as an emergency vehicle.

Forcible Stop - An attempt to prevent the continued movement of a fleeing vehicle through the use of roadblocks, boxing-in, ramming, channelization, or creating slow moving traffic.

Initiating Agency - The law enforcement agency that originally attempted to stop the driver of an actively fleeing vehicle.

Motor Vehicle Pursuit - An active attempt by an officer in an authorized emergency vehicle to apprehend the occupant(s) of a moving vehicle, providing the driver of such vehicle is aware of the attempt and increases his speed, takes other evasive actions to avoid apprehension, or refuses to stop while maintaining a legal speed.

Pacing - The positioning of a law enforcement vehicle at a stable, fixed distance behind a speeding vehicle at a constant speed to measure its speed.

Primary Pursuing Vehicle - The law enforcement vehicle that initiates the pursuit or any other vehicle that assumes control of the pursuit.

Ramming - The deliberate act of impacting a violator's vehicle with another vehicle to functionally damage or otherwise force the violator's vehicle to stop.

Roadblock - Any method, restriction, or obstruction utilized or intended to prevent free passage of motor vehicles on a roadway in order to apprehend the driver/passengers in a particular motor vehicle.

Secondary Pursuit Vehicle - The police vehicle, which trails the primary pursuit vehicle at a safe distance and which, is immediately available to assume the primary role or assist when the fleeing vehicle stops.

Serious Felony - A felony that involves an actual or threatened attack, which the officer has reasonable cause to believe, could result or has resulted in death or serious bodily injury (e.g., aggravated assault, armed robbery, murder, rape).

Supervisor - The superior officer responsible for the immediate supervision of the patrol vehicles.

Stinger - A device used to stop a fleeing vehicle which will incapacitate the vehicle by deflating the tires while it is in motion.

#### **IV. Emergency and Non-Emergency Vehicle Operation**

Response modes shall allow police vehicles to arrive at the scene of calls for service as quickly and safely as possible according to the laws of the State of Georgia governing police emergency vehicle operations.

##### **A. Routine Patrol**

During routine patrol, an officer's responsibility to exercise due care is no different from that of every other citizen. Good driving habits and courtesy toward other drivers or pedestrians should always be practiced.

##### **B. Pacing**

1. Pacing is not an emergency operation.
2. Officers, while pacing a traffic violator, may exceed the speed limit to establish a pace, but must do so with due regard to the safety of others.
3. Officers may not violate any other traffic laws other than exceeding the speed limit when establishing the pace of a traffic violator.
4. When pacing a traffic violator, an officer may operate without emergency equipment engaged.

##### **C. Safety Rules**

1. When operating an emergency vehicle, an officer must have the vehicle under control and be prepared to yield the right of way.
2. When an officer receives information indicating that an emergency exists, his primary duty is to arrive at the site of the emergency as safely as conditions permit.
3. Seat belts shall be fastened when operating a law enforcement vehicle.
4. An officer should not drive up immediately behind

another vehicle and sound the siren. The motorist may suddenly stop.

5. An officer should not pass to the right of a vehicle in traffic, unless absolutely necessary.
6. An officer may fluctuate the sound of the siren so that the emergency vehicle can be heard.
7. An officer shall always maintain adequate radio volume and remain aware that the communication's operator may wish to relay additional information while the vehicle is being operated in an emergency status.
8. When an officer approaches an intersection extreme caution shall be used:
  - a. The vehicle should be slowed to a normal speed when approaching an intersection, and it should be crossed with the light.
  - b. When it is necessary to enter an intersection against the light, all emergency vehicles should come to a complete stop to insure all traffic has seen the vehicle before crossing the intersection.
  - c. The above sections, a and b, also apply to STOP signs.
9. Officers driving under emergency conditions will roll windows up, to ensure the radio operator understands their transmissions.

#### **D. Considerations (Emergency Use of Vehicles)**

The driver of any law enforcement vehicle responding to an emergency call shall use the blue light, headlights and siren. If the siren would warn of the officer's approach and aid in a violator's escape or endanger the life of other persons, the siren may be disengaged upon approaching within audible range. At that time, the officer shall cease emergency vehicle operating status by slowing speed to normal and disengaging emergency equipment.

Before engaging in the emergency use of a vehicle, several factors in addition to vehicle control, due regard and true emergency considerations must be weighed. Typical examples include but are not limited to:



1. The type and condition of the vehicle being operated;
2. The type and condition of the roadway to be traveled and the officer's familiarity with it;
3. Obstacles, both present and potential that must be avoided (e.g. foreign objects on the roadway, construction, gravel, standing water, etc.);
4. Experience and the training of the officer in a high speed vehicle operation;
5. The nature of the offense and the circumstances known concerning the manner in which the call was relayed to the communication's center;
6. The time of day, amount and type of traffic encountered (the potential danger to the officer and other drivers operating at a high speed);
7. Visibility and illumination available to the officer in the area being traveled;
8. Existing weather conditions and roadway surfaces.

**E. Emergency Escorts Prohibited**

Members of this Department will not attempt to escort other emergency vehicles or private vehicles on an emergency run. Assistance may be given by blocking dangerous intersections to aid in the movement of such vehicles.

**F. Supervisors Monthly Review of Code Three Response**

1. Patrol Supervisors shall randomly review videotapes to evaluate driving techniques of officers code three response. The supervisor will evaluate defensive driving techniques such as use of blue lights and siren, audio and video usage, and the use of due regard for safety of others.
2. The monthly report will detail emergency driving conditions, officers involved, and indicate if department guidelines and policies were followed.

At least two such reviews shall be made each month and a report documenting the reviews shall be submitted to the Patrol Commander.

#### **D. Police Vehicle Operation Training**

Training shall cover three areas:

1. **Patrol or Defensive Driving:** ordinary driving for going from one point to another. The emphasis is on driving safely to prevent any type of accidents.
2. **Emergency Driving:** driving which requires the use of emergency warning devices (audible and visible) in order to be exempted from rules of the road, while exercising due caution and regard for the safety of other vehicles.
3. **Pursuit Driving:** in contrast to emergency driving, the officer makes independent decisions on speed, direction and routes, with little choice except to remain close to the car that is being pursued.
4. **Basic Emergency Vehicle Operations Class:** All new recruit officers shall attend and successfully pass the Basic Emergency Vehicle Operation Class given through the Georgia Public Safety Training Center, while in the F.T.O. program or before released from probationary status. All recruit officers will attend six hours of driver orientation during F.T.O. program and prior to operation of a patrol vehicle.

#### **V. Response Modes**

##### **A. Code One (Normal Response)**

Units will respond by observing all applicable traffic regulations and traffic control devices en route to the call.

##### **B. Code Two (Normal Response Expedite)**

1. Unit may exceed maximum speed limit as long as it does not create a danger to property or public.
2. A unit may proceed past a stop signal, but only after coming to a complete stop to ensure that all vehicular and pedestrian traffic at or near the intersection has stopped and is aware of the emergency vehicles intentions. (Blue lights and siren will be used at all intersections and elsewhere as needed.)
3. The following types of calls will be Code Two response calls:

- a. In progress crimes of property.
- b. Fight and disturbance calls of non-emergency nature.
- c. Any sick or injured person call.
- d. Accidents where injury is probable, but not confirmed.
- e. Any other calls which officer deems appropriate.

**C. Code Two (Silent Response)**

This response will be used for crime in progress calls when officers are in close proximity to the incident location and a stealth approach is necessary for possible apprehension of criminals and safety of potential victims. The types of call that will be appropriate for a code two-silent response include:

1. Robberies in progress
2. Burglaries in progress

**Note: Officer should use blue lights only, during silent response, and all lights should be terminated when within a block of call.**

**D. Code Three (Emergency Response)**

When units are responding in this mode, both blue lights and siren will be in continuous operation from the time officer begins responding to the call until officer arrives on scene or is advised by units on scene to reduce code response. Additionally, audio body pack will be activated, if the responding vehicle is so equipped. When responding Code Three, units may operate as follows:

1. Proceed past a stop sign, but only after having slowed down or stopped, to ensure that all vehicular traffic and pedestrian traffic at or near the intersection has stopped and is aware of the emergency vehicle's intentions.
2. Will come to a complete stop at all intersections when traveling through a red light ensuring safe passage before entering the intersection.

**Note: Georgia Law exempts emergency vehicles from**

**certain traffic laws. However, the burden of safety is on the officer to use due regard for public safety when operating emergency vehicles.**

3. Exceed the maximum speed limit as long as lives and/or property are not endangered.
4. Disregard regulations governing directions or movement or turning in specified directions except that no vehicle will be allowed to go Code Three down the wrong lane of a limited access highway unless there is absolutely no other way to get to an emergency scene without undue delay. Even with emergency equipment activated, police vehicles will lower their speed and be alert to the possibility of high-speed oncoming traffic.
5. The following types of calls will be Code Three response-type calls:
  - a. All in-progress crimes where there is an immediate danger of death or serious bodily injury, i.e., shootings, stabbings, rapes, etc.
  - b. All emergency calls where the immediate danger of death or serious bodily injury is present, i.e., drownings, motor vehicle accidents with injuries, etc.
  - c. Officer Needs Assistance and Help calls of an emergency nature where there is an indication of imminent danger to the officer and/or the 911 dispatcher is unable to ascertain the status of the officer at the scene. The nearest units to include unmarked cars, sergeants, and any other supervisory personnel near the call will respond Code Three.
  - d. Any call where in the officer's opinion, emergency response is required or where such response is requested by field units.

**E. Code Four**

Any supervisor or officer determining that no other units are needed will advise Code Four at which time all units not on the scene will disregard and resume normal duties.

## **F. Speed Caps**

Public safety and protection of human life are our paramount concerns. The need to apprehend a violator and to respond to a location or situation does not normally justify creation of new or additional risks of injury or death to police officers or to others. Occasionally the need to apprehend a serious offender or to provide emergency services may justify driving outside normally applicable laws and rules of the road.

Police vehicles shall be operated in a reasonable manner with due regard for the rights and safety of others. Irresponsible, careless and reckless driving are prohibited and will not be tolerated. Police vehicle operation shall be at all times consistent with the concept of "reasonable safety" and with all other requirements of the department.

1. Reasonable Safety - circumstances in which the risk created or perpetuated otherwise, considering on the following;
  - a. The seriousness and or harmfulness of the crime warranting police involvement;
  - b. Pedestrian and vehicular traffic patterns and volume;
  - c. Time of day;
  - d. Road conditions, weather conditions, lighting, and visibility;
  - e. Terrain (curves, hills, buildings, etc.);
  - f. The type of roadway and posted speeds;
  - g. Likely effectiveness or ineffectiveness of audible and visible warning signals;
  - h. The capability and limitations of police equipment and vehicle operations;
  - i. Involved officer(s) and supervisor(s) familiarity with the area of travel;
  - j. The quality of radio communications;
  - k. Alternate (safer) methods of problem solving;
  - l. Likelihood of apprehending a suspect;

- m. Any other functions increasing or decreasing risks.

**G. Special Exception for Exceeding Speed Caps**

1. Because it is impractical, if not impossible, to engage in meaningful enforcement of speed limit laws without significantly exceeding those same speed limits, a limited exception to the requirements concerning non-routine operations is made for the purpose of traffic enforcement.
2. When responding to a Code Two or Code Three call, officers shall at no time other than as stated below, drive at speeds in excess of 20 miles per hour over the posted speed limit on a non-controlled access roadway, or 30 miles per hour over the posted speed limit on controlled access roadways. The only roadways to be considered controlled are as follows;
  - a. Lafayette Parkway from Morgan Street up to Interstate 85;
  - b. New Franklin Road from Commerce Avenue north to the city limits;
  - c. Interstate 85.

**Note: Any other roadway in the city is to be considered a non-controlled access roadway.**

3. The officer may exceed the speed limit cap only after advising 911 of their intentions, stating "Code 2 Xray or Code 3 Xray", and receiving an acknowledgment from the on-duty supervisor.

**VI. Vehicle Pursuits**

**A. Emergency Operations of Vehicles During Pursuits**

1. Only marked vehicles with roof-mounted emergency light systems should engage in a pursuit.
2. Police vehicles that are slick top, but are equipped with intersection lights, and have all the police markings on the sides and back of the police vehicle are allowed to be involved in pursuits.
3. Unmarked vehicles will not become involved in any pursuit unless it involves a serious felony. No unmarked vehicle, without both blue lights and siren, will become involved in pursuits.

4. Special vehicles such as paddy wagons, crime scene units, etc. will not engage in pursuits.
5. Vehicles that are transporting prisoners, witnesses, suspects, complainants, or passengers other than on-duty police officers will not engage in pursuits.
6. The ultimate decision to pursue a fleeing vehicle is the responsibility of the initiating officer. The officer will consider the circumstances surrounding the flight such as vehicular and pedestrian traffic, weather and road conditions, and never allow the desire to apprehend a suspect be the sole deciding factor.
7. An officer shall be familiar with his assigned vehicle, its capabilities, limitations, and daily operational status. When making the decision to pursue the officer shall use due regard for the safety of all persons involved or potentially involved.

#### **B. Primary Pursuit Unit**

It is the responsibility of the primary unit to reach a rational conclusion whether or not to pursue a fleeing vehicle, however, officers are not allowed to pursue for misdemeanor traffic offenses except for leaving the scene of an accident with bodily injury and the driver is unknown. Officers are also allowed to pursue drivers that pose an immediate risk to the public by driving in an erratic manner by forcing drivers off the roadway, driving up on sidewalks, and other offenses deemed unsafe to the public. Officers are allowed to pursue suspects believed to be involved in any forcible felony including burglary suspects, where the victim has been or could have been injured as a result of the crime, and any other felony the supervisor on duty approves. In all pursuits the initiating officer is to advise radio of the pursuit and provide required information, and continue to update its progress.

1. In order to diminish the likelihood of a pursuit, the initiating officer will be in close proximity of any vehicle before attempting a stop and when possible in a location that would tend to decrease the opportunity for a violator to flee and would insure the safety of the officer and the violator

when possible.

2. Upon making a rational decision to pursue an actual or suspected violator, the officer initiating a pursuit will, in all cases, immediately notify E-911 a pursuit is underway, activate the body pack, and provide the following information:
  - a. Unit identification
  - b. Location, direction of travel, and speed
  - c. Vehicle description, including license number if known
  - d. Reason vehicle is wanted (type of offense)
  - e. Number and description of occupants (sex, race, and age and
  - g. Any information concerning the use of firearms, threat of force, or other usual hazard.
3. Failure to provide the above information may be cause for the shift supervisor to order termination of the pursuit.

### **C. Secondary Pursuit Unit**

It is the responsibility of the second unit to provide immediate and close support to the primary unit.

1. All units in the vicinity of the pursuit and able to assist will make the dispatcher aware of their availability. Assistance will be coordinated through E-911 under the direction of the supervisor.
2. Any officer assigned to assist in a pursuit situation will:
  - a. Respond under emergency conditions and
  - b. Advise dispatcher and pursuing officer where he intends to intercept the pursuit.
  - c. Secondary unit designated by the dispatcher will be the only other police vehicle to pursue unless one of the following conditions exist:
    1. The primary unit requests that additional units join the pursuit because he believes



the two units will not be sufficient to safely arrest the suspect(s). The use of additional units must be approved by the supervisor or watch commander.

2. Primary unit is unable to continue and has informed the dispatcher and the secondary unit has taken over the primary role.
3. The shift supervisor or other authority has authorized additional police vehicles to join the pursuit.
4. The officer in the primary unit will make radio transmissions during the pursuit until the secondary unit is close enough to monitor the pursuit and take over the communications task. This will allow the primary unit to focus on his driving.

#### **D. Supervisor Responsibilities**

The Supervisor will assume overall command and exercise control over all Officers. It is the responsibility of the supervisor to monitor radio transmissions and to evaluate the need to continue the pursuit. Upon being notified of the pursuit, the field supervisor will:

1. ascertain the location and direction of travel;
2. ascertain the reason for pursuit;
3. monitor the pursuit and proceed in the direction of its progress in a non-emergency mode;
4. ensure no more than the required or necessary units are involved in the pursuit;
5. ensure aerial assistance has been requested (if available);
6. ensure the affected allied agencies are being notified if pursuit appears to be entering another jurisdiction;
7. ensure the pursuit is terminated if adequate information is not provided by the pursuing units or the risk factor is too great to the officer or the general public to continue the pursuit;

8. The supervisor will proceed to the termination point and provide guidance and necessary supervision to the pursuing officer;
9. The pursuing units supervisor shall go to the scene of a concluded pursuit any time a suspects apprehended or when injuries, death or property damage has occurred;
10. Supervisors are not authorized to join in pursuit unless they are the initiating unit or close enough to become the secondary unit. If the field supervisor engages in the pursuit, he will relinquish field command to the watch commander.

**E. E-911 Responsibilities**

The dispatcher will monitor and control all radio transmissions. He will ensure a supervisor is notified of the pursuit and the necessary support is provided to the primary unit. The following is a list of duties of the communications center during a pursuit.

1. Receive and record all incoming information on the pursuit.
2. Clear the radio channel of any unnecessary traffic (10-33 traffic).
3. Immediately notify the commanding officer or the supervisor when a pursuit is initiated.
4. Coordinate assistance under the direction of the supervisor.
5. Perform relevant record and motor vehicle checks.
6. Advise pursuit vehicle of any known or potential hazards in the path of the pursuit (accidents, street closures, repairs, etc.).
7. Attempt to determine the reason(s) for which the Vehicle is fleeing (e.g., a robbery that may have occurred near the initiation point of the chase, etc.).
8. Relay pertinent information to and from allied agencies.

## **F. Field Units Not in Pursuit**

Other units are to remain alert to the direction and travel of the pursuit and may position themselves at strategic sites along the probable pursuit route, or on parallel roadways, for response to any emergencies that may develop. These units are not to be operated in an emergency mode.

## **G. Driving Techniques**

All units in pursuit, including the primary unit, will space themselves at a distance that ensures adequate reaction and braking time in the event any leading vehicle stops, slows, or turns.

## **H. Termination of Pursuits**

Pursuits will be terminated under the following conditions:

1. Supervisor orders the pursuit terminated.
2. When there is a clear and unreasonable danger to the officer, fleeing motorist, or other persons. A clear danger exist when speeds dangerously exceed the normal flow of traffic, or when vehicular and pedestrian traffic necessitates dangerous maneuvering that exceeds the performance capabilities of the vehicle or driver.
3. The offense is a traffic violation, misdemeanor or nonviolent felony and the suspects identity has been established to the point that later apprehension can be accomplished.
4. The officer loses visual contact with the suspect for an extended period of time (approximately 30 seconds).
5. When there is an equipment failure involving an emergency signal device, radio, brakes, steering, or other essential mechanical equipment.
6. The pursuing officer knows, or is reasonably certain, that the fleeing vehicle is operated by a juvenile and the offense constitutes a misdemeanor or a nonserious felony and the safety factors involved are obviously greater than a juvenile drivers capabilities.

## **I. Forcible Stops**

The use of forcible stops are generally prohibited. Only those prescribed below may be used if all other tactics have failed and authorization has been given by the watch commander. If a stationary roadblock is used, the following will be adhered to:

1. It will be approved by the watch supervisor.
2. It will only be used in serious felony offenses.
3. It will only be used as a last resort.
4. Only marked patrol vehicles will be used and officers will not remain inside any vehicle.
5. When using patrol vehicles, the emergency lights, headlights, and flashers will be operating.
6. The roadblock must be clearly visible and provide adequate warning to allow vehicles to a safe stop (at least 1000 feet visibility in both directions).
7. The roadway will not be completely blocked unless the use of deadly force would be authorized
8. There must be means provided that will allow civilian vehicles to avoid becoming caught by the roadblock unexpectedly.
9. If weather and road conditions do not allow visibility as prescribed, the roadblock will not be used.

Once the decision has been made to utilize a roadblock, the communications dispatcher will announce on all radio frequencies the location of the roadblock and the situation requiring its use. The dispatcher will also ensure that the pursuit units acknowledge the location of the roadblock. If they do not acknowledge the existence of the roadblock, it will be immediately abandoned.

The following methods will only be used on a violator who is maintaining a legal speed or less but is willfully failing to stop.

- creating slow moving traffic
- channelization

The PIT maneuver is not considered a deadly force option and may be used by an officer that has been trained in the proper method with the permission of the watch supervisor. The supervisor shall consider the seriousness of the offense and the likelihood of injury to a third party if the PIT maneuver is authorized as well as the likelihood of injury to a third party if the PIT maneuver is not authorized. Only officers receiving departmentally authorized PIT maneuver training are authorized to use the PIT maneuver.

The Stinger may also be used to stop fleeing vehicles traveling at any speed. The Stinger is not a deadly force instrument. Stingers are available in most patrol cars and officers employing the stinger must coordinate with the pursuing patrol officer. The Stinger will not be used on fleeing motorcycles.

#### **J. Prohibited Practices**

1. Officers will not pursue violators the wrong way on a freeway.
2. Officers will not discharge their weapons at a moving vehicle unless the use of deadly force is justified.
3. Units will, at all costs, avoid intersecting the path of an on-coming high speed vehicle.
4. Officers will not attempt to force the vehicle from the roadway by driving alongside or in front of the fleeing vehicle.
5. Officers will not bump or ram a fleeing vehicle.
6. Except for the primary and secondary unit directly involved in the immediate pursuit, there shall be no caravanning by other units.
7. There will be no attempt to pass the primary pursuit unit unless the passing officer receives specific permission from the primary pursuing officer or supervisor.

#### **K. Interjurisdictional Pursuits**

Before leaving the city limits of LaGrange the pursuing officer(s) will inform the supervisor who will make the decision to continue or terminate the pursuit. Pursuing

officer(s) will also inform the supervisor when crossing the state line and the supervisor will decide to continue or terminate the pursuit. Before entering another jurisdiction, including another state, the communication center (911) will notify the other agency with the following information:

1. Pursuit is about to enter their jurisdiction
2. Reason for the pursuit and nature of violation
3. Location and direction of pursuit
4. Complete description of occupants and vehicle
5. Number of units involved in pursuit
6. Whether or not assistance is needed
7. When applicable, notify agency when pursuit is leaving their jurisdictional boundaries, or the location of termination.

#### **L. Pursuits Entering LaGrange From Other Jurisdictions**

1. The initiating agency will remain in control of any pursuit that crosses into this jurisdiction and will remain responsible for the pursuit.
2. When requested to assist another agency entering LaGrange, officers will assist in clearing intersections and may enter the pursuit if it is known the violator fits the requirements set forth in this policy.
3. LaGrange Police Department Officers will not continue with the pursuing vehicles once the pursuit has left the City of LaGrange.

#### **M. Reporting and Review Process**

It will be the responsibility of every officer initiating a pursuit to obtain a case number and complete the LaGrange Police Department Pursuit Information Report. All pursuits will be reported whether or not the suspects are arrested or identified.

1. The report will be reviewed by the supervisor on duty who will determine if the pursuit was within departmental guidelines. The supervisor will make specific written comments on the supervisors review sheet to justify his conclusion.
2. The officer will place the video tape of the pursuit into departmental property and evidence. The supervisor will forward a copy of the incident report, tape custody log and the pursuit information report to the Office of Professional

Standards, The Patrol Commander, and The Chief of Police.

3. The Office of Professional Standards will review the pursuit to determine if it was within departmental policy and make a written report to the Chief of Police specifically supporting the conclusion.
4. The purpose of the review is to determine if:
  - a. The pursuit was necessary and within departmental procedures.
  - b. There are training needs to be considered.
  - c. Any procedure changes requiring consideration.

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**Louis M. Dekmar**  
**Chief of Police**

**Date**

# **APPENDIX G**



## Appendix G

### Analysis of Mechanical Systems.

Type of Mechanical Systems	Description	Strengths	Limitations
Tire Deflation-Spiked Strips	Hollow spiked strips affixed to a deployment platform in path of pursued vehicle- spikes puncture tires, reducing vehicle performance	<ul style="list-style-type: none"> <li>• Widely used</li> <li>• Widely available</li> <li>• Relatively inexpensive</li> <li>• No sudden loss of control by vehicle</li> <li>• Compact and fit easily in patrol cars</li> <li>• Can be deployed by a single officer</li> <li>• Can be easily removed</li> <li>• Handheld devices available as preemptive tools</li> </ul>	<ul style="list-style-type: none"> <li>• Not recommended for use on motorcycles</li> <li>• Some locations may not provide sufficient cover to protect them from aggressive actions of pursued driver</li> <li>• Difficult to deploy by a single officer on roadways wider than two lanes</li> <li>• Devices can bounce if passed over at high speeds</li> <li>• May not stop a pursued vehicle (car can be driven on wheel rims)</li> <li>• Successful deployment requires good timing and removal</li> </ul>
Tire Deflation-Caltrop	Devices with four projecting strips that, when deployed, rest on three spikes with the fourth pointing upward	<ul style="list-style-type: none"> <li>• Can be deployed in large numbers</li> </ul>	<ul style="list-style-type: none"> <li>• Inability to control placement accurately in rapid deployment</li> <li>• Must account for and quickly retrieve each component</li> <li>• Create a hazard to following vehicles</li> <li>• Does not ensure controlled tire deflation</li> </ul>
Vehicle Taggers	Attaching a vehicle tagging technology, by	<ul style="list-style-type: none"> <li>• Recovery of tagged vehicles</li> </ul>	<ul style="list-style-type: none"> <li>• Require police to</li> </ul>

	<p>firing a non-lethal projectile or by other means, onto a pursuing vehicle, and tracking the vehicle without having to engage in pursuit</p>	<p>even if suspect(s) are allowed to escape</p> <ul style="list-style-type: none"> <li>• Officers can locate vehicles, even extremely hazardous road conditions</li> <li>• Allow officers in agencies with restrictive pursuit policies to conduct follow-up investigations when suspects flee merely by locating the vehicle used to get away</li> </ul>	<p>have vehicle tracking devices</p> <ul style="list-style-type: none"> <li>• Easier for suspects to elude capture unless aided by air support, such as helicopters (however, if helicopters are readily available, need for taggers is mitigated)</li> <li>• Deployment system requires high degree of accuracy</li> <li>• Do not cause a reckless or fleeing vehicle to stop—dangerous acts can continue unabated.</li> </ul>
<p>Barriers (fixed, movable, cable, inflatable)</p>	<p>Place an obstacle—either pre-emplaced or retractable—in the path of the moving vehicle that it cannot pass through</p>	<ul style="list-style-type: none"> <li>• Best use may be for facility or site security applications</li> <li>• Relatively inexpensive as devices</li> </ul>	<ul style="list-style-type: none"> <li>• Considered most risky and least effective of technologies listed, based on federal opinion surveys—both of general public and line officers.</li> <li>• Potentially high damage and liability from collisions</li> <li>• May not cause a vehicle to come to a complete stop</li> </ul>
<p>Entanglers or nets</p>	<p>Fleeing vehicle contacts the entangler and becomes attached to it, activating an anchoring mechanism that brings the vehicle to a complete stop while entangling it to prevent escape</p>	<ul style="list-style-type: none"> <li>• Can be designed to stop most common vehicle types</li> <li>• Simple to set up and operate</li> <li>• No debris left on road surface</li> <li>• Relatively quick deceleration</li> <li>• Promising for fixed point applications, if lane-by-lane target specificity can ensure that whole roadways would not close</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of portability</li> <li>• Long set-up time (1.5 hours)</li> <li>• Quick deceleration may cause injury to unbelted passengers</li> <li>• Time required to free captured vehicle from net</li> <li>• Equipment is heavy and requires at least two persons to set up</li> </ul>
<p>Helicopters</p>	<p>Allow tracking by air</p>	<ul style="list-style-type: none"> <li>• Increase safety for ground</li> </ul>	<ul style="list-style-type: none"> <li>• Cost- expensive to</li> </ul>

	<p>without ground units having to engage in pursuits</p>	<p>personnel</p> <ul style="list-style-type: none"> <li>• Fleeing suspects often lower speed as ground-based chase units stop pursuing</li> </ul>	<p>purchase, maintain and fly</p> <ul style="list-style-type: none"> <li>• Best deployed in more populated areas where collision hazards are greatest</li> </ul>
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# **APPENDIX H**

## Appendix H

# Analysis of Cooperative Systems

Type of Cooperative System	Description	Strengths	Limitations
Global Positioning Technology (GPS)- Owner Activated	Pre-installed stolen vehicle recovery (i.e., Lo-Jack and Teletrack) using satellite technology	<ul style="list-style-type: none"> <li>• Tremendous potential for preemption or termination of pursuits.</li> <li>• If universally installed, any officer could stop a car in the same manner.</li> </ul>	<ul style="list-style-type: none"> <li>• Not ready for widespread use in the near future.</li> <li>• A high percentage of pursued vehicles would need to be equipped with the system</li> <li>• Law enforcement would need to know that a vehicle pursued or about to be pursued was equipped with such a system.</li> <li>• Law enforcement would need to be authorized to activate the system.</li> <li>• High cost associated with universal implementation.</li> <li>• Public opinion surveys suggest that concerns about privacy and criminal access to system activation are high.</li> <li>• Legislation may be required for implementation.</li> </ul>
GPS with telephone/pager activation	Same as above but activated by pager technology	<ul style="list-style-type: none"> <li>• Same as above</li> <li>• Widespread use of cellular phones makes such a</li> </ul>	<ul style="list-style-type: none"> <li>• Same as above</li> <li>• May have limitations in</li> </ul>

		system feasible	remote areas.
Laser activation	Use of a laser to activate an engine/fuel shutoff device placed at the rear of a vehicle	<ul style="list-style-type: none"> <li>• Same as above</li> </ul>	<ul style="list-style-type: none"> <li>• Same as GPS.</li> <li>• Would require all pursuing officers to be equipped with laser devices.</li> <li>• Requires additional research</li> </ul>

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