

BERKELEY POLICE DEPARTMENT

DATE ISSUED: December 20, 2010

GENERAL ORDER V-6

SUBJECT: VEHICLE PURSUITS

PURPOSE

- 1 - The purpose of this Order is to set forth the responsibilities of all police personnel who are involved in any phase of a vehicle pursuit, and establish the objective standards that must be used by an officer to decide whether to initiate, continue, or terminate a pursuit. The policy set forth in this Order is intended to reduce potential hazards to the public and to pursuing officers generated by police pursuits of fleeing suspects while maximizing the opportunity for apprehension.

DEFINITIONS

- 2 - Acting Watch Commander: The senior patrol sergeant on duty is the acting watch commander, in the absence of a patrol lieutenant.
- 3 - Credible Threat: Information known by the officer at the time of initiating the pursuit that provides reasonable suspicion that the suspect, if allowed to escape, poses a threat of serious bodily injury or serious bodily harm. Sources of this information include, but are not limited to; information provided by victims, witnesses, and dispatchers, computerized criminal history, or confidential reliable informants.
- 4 - Deadly Weapon: Any gun, knife, club, or other object capable of causing serious bodily injury or death.
- 5 - Endpoint: The location where a vehicle pursuit ends through recovery of the suspect vehicle.
- 6 - Marked Unit: A patrol beat car, pool car, sergeant's car, or any car displaying the department emblem on the side doors, and outfitted with forward red emergency light(s) and siren.
- 7 - Monitoring Supervisor: The supervisory or command staff officer who advises dispatch that he or she is monitoring a pursuit. When possible, this supervisor should be the immediate supervisor of the primary officer.
- 8 - Motor Unit: A police motorcycle marked with the department emblem, and outfitted with forward red emergency light(s) and siren.
- 9 - Primary Officer: The officer who initiates a pursuit and/or has taken the position directly behind the fleeing vehicle during a pursuit.
- 10 - Primary Unit: The vehicle occupied by the primary officer.

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- 11 - Secondary Officer: A cover officer who has advised the dispatcher that he or she is participating in the vehicle pursuit, but is behind the primary unit and assisting the primary officer.
- 12 - Secondary Unit: A vehicle occupied by a secondary officer.
- 13 - Serious Bodily Injury: A serious impairment of physical condition including, but not limited to, the following: loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, or a wound requiring extensive suturing or serious disfigurement.
- 14 - Serious Bodily Harm: For the purposes of this Order, is defined as any mental or emotional condition that may result from being victimized during a serious crime that may not result in visible bodily injury as defined above.
 - (a) Examples of crimes in this category include, but are not limited to rape, robbery, kidnapping, and other sexual assaults.
- 15 - Specialized Vehicle: The Mobile Command Vehicle, prisoner transportation vehicles, and any other truck, van, car, or motorcycle not equipped with forward emergency red light(s) and siren.
- 16 - Unmarked Unit: Any Drug Task Force, Traffic, Command Staff, or specialized unit motor vehicle that is not marked with the department emblem, but is outfitted with forward red emergency light(s), and siren.
- 17 - Vehicle Pursuit: An event involving one or more officers attempting to apprehend or detain a suspect, who is either driving or is a passenger in or on a motor vehicle, and the driver of that motor vehicle is attempting to avoid detainment or arrest. The driver may use high speed, evasive tactics, or simply drive in a legal manner, but willfully fail to yield for the officers signal to stop.
- 18 - Watch Commander: The on-duty Patrol lieutenant.

POLICY

- 19 - Berkeley Police Officers may initiate and/or continue a vehicle pursuit, only when the potential danger to the public posed by the fleeing suspect remaining at large, is greater than the potential danger to the public created by the pursuit itself. Strict supervisory control shall be maintained from the onset of any pursuit, and continue through the termination of a pursuit or the endpoint. **All sworn personnel shall certify in writing that they have received, read, and understand the Department's vehicle pursuit policy.**

INITIATING A PURSUIT – THRESHOLD STANDARD

- 20 - A vehicle pursuit may only be initiated when there is reasonable suspicion to detain, or probable cause to arrest, a suspect in a fleeing vehicle during any of

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the following situations:

- (a) A violent crime involving serious bodily injury or serious bodily harm.
- (b) A violent crime involving the use of a deadly weapon against a person.
- (c) A credible threat of serious bodily injury, serious bodily harm, or use of a deadly weapon against a person.

INITIATING / CONTINUING A PURSUIT – FACTORS TO BE CONSIDERED

- 21 - The following factors must be considered while making the decision to initiate, continue, or terminate a pursuit. These factors and conditions should be continually evaluated considering the totality of circumstances by the primary officer, monitoring supervisor, and/or patrol watch commander involved in the pursuit.
- (a) The seriousness of the original crime or circumstance.
 - (b) The quality and quantity of information leading to the reasonable suspicion to detain or probable cause to arrest that justifies the pursuit as listed in paragraph 20 above.
 - (c) The danger posed to the community and/or victim by the fleeing suspect, should he or she remain at large.
 - (d) Whether the suspect can be identified and will likely be apprehended at a later time, if the pursuit is terminated.
 - (e) The volume of vehicle and pedestrian traffic in the area of the pursuit.
 - (f) The safety of the public in the area where the pursuit is moving (i.e., schools, parks, commercial districts).
 - (g) The speeds involved in the pursuit, and the extent to which the suspect's speed exceeds the flow of traffic.
 - (h) Whether the weather conditions, such as rain or fog, create an unreasonable risk of injury to the public.
 - (i) Road conditions (e.g., slick pavement).
 - (j) Time of day (e.g., visibility at night).
 - (k) The primary officer's familiarity with the surrounding area and his/her driving capabilities.
 - (l) The quality of radio transmissions between pursuing units, the dispatcher, and monitoring supervisor.

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- (m) The capabilities of the police vehicles involved.
- (n) The availability of assisting units.
- (o) The safety of pursuing officers.
- (p) The availability of air support.

PURSUIT RESTRICTIONS

- 22 - Every officer participating in a vehicle pursuit shall adhere to the policies governing emergency vehicle operations set forth in General Order V-4.
- 23 - Number of vehicles - all pursuits should be limited to 3 pursuing units (1 primary unit and 2 secondary units) and a monitoring supervisor.
 - (a) If, due to the seriousness of the crime, number of suspects, or other circumstances, the monitoring supervisor feels additional units are necessary, he/she may direct additional units to assist.
- 24 - Type of vehicles - whenever possible, marked units should occupy the primary and secondary positions in a pursuit.
 - (a) When an unmarked vehicle or motor unit is involved in a pursuit, they shall withdraw when marked units are in position to take over.
 - (b) Specialized vehicles, off road motorcycles, or any other vehicle not outfitted with proper emergency equipment, shall not initiate or participate in a pursuit.
- 25 - Primary or secondary officers are the only units authorized to drive Code-3 in a pursuit, unless others are directed to do so by the monitoring supervisor or watch commander. (reference General Order V-4(5)(e))
 - (a) The monitoring supervisor and watch commander may to drive Code-3 at their discretion as authorized in General Order V-4(6).
- 26 - When actively involved in a pursuit, officers shall have emergency lights and siren activated at all times. If a pursuing unit's emergency lights or siren fails during a pursuit, or a unit's radio contact completely fails, that officer shall immediately withdraw from the pursuit.
- 27 - No officer shall attempt to pass other police units involved in a pursuit unless the passing officer is directed to do so by the primary unit or the monitoring supervisor.
- 28 - Officers with prisoners, victims, witnesses, or other civilian passengers in their vehicles, shall not become involved in pursuits.

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- 29 - Firearms shall not be discharged at or from a moving vehicle unless the circumstances fall within the provisions of General Order U-2.
- 30- Police use of helicopters in support of a vehicle pursuit is generally not permitted based on City Council policy. (Resolution No. 51,408 N.S.)
 - (a) Other agencies may utilize helicopters when they are engaged in a pursuit in Berkeley or when a Berkeley pursuit enters another jurisdiction. In these situations, observations from the aircraft should be used to adjust tactics for the purposes of enhancing safety as well as apprehending the suspect(s).

TERMINATING A PURSUIT – STANDARD

- 31 - The monitoring supervisor, patrol watch commander, or primary officer may terminate a vehicle pursuit at any time. The primary officer shall terminate a pursuit when the standard requiring termination of the pursuit arises, or upon being ordered by a supervisor.
- 32 - A pursuit shall be terminated when:
 - (a) Considering all the factors outlined in paragraph 21, the primary officer, monitoring supervisor, or patrol watch commander, should reasonably conclude that the immediate danger to bystanders and other drivers created by the vehicle pursuit itself is greater than potential danger to the public and/or victim posed by the fleeing suspect remaining at large.
- 33 - A pursuit should be terminated when:
 - (a) The suspect can be identified to the point where later apprehension will likely be accomplished, and the pursuing officers reasonably believe that the public and/or victim are not placed in greater danger by the suspect remaining at large.

TERMINATING A PURSUIT – PROTOCOL

- 34 - Whenever a pursuit is ordered terminated, the order shall:
 - (a) Be broadcast over the radio.
 - (b) All primary and secondary officers shall acknowledge the order, deactivate all emergency equipment and return to normal driving.

PURSUIT INTERVENTION AND TIRE DEFLATION DEVICES

- 35 - The use of a police vehicle to block, ram, or use a PIT (pursuit intervention technique), or otherwise interfere with a fleeing vehicle, is authorized only in extreme circumstances as outlined in General Order U-2.

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- 36 - When practical, the use of tire deflation devices to stop a fleeing vehicle may be authorized by the monitoring supervisor or watch commander and shall be deployed in accordance with T&I Bulletin #257.

PURSUIT ENDPOINT PROTOCOL

- 37 - When a pursuit ends, the primary officer is responsible for coordinating the response of other units until relieved by a supervisor.
- 38 - The monitoring supervisor shall proceed directly to the endpoint of any pursuit in our jurisdiction to confer with the primary officer and provide for supervision/coordination of responding units.
- 39 - Officers shall employ vehicle contact and subject control tactics appropriate for and commensurate with the circumstances surrounding the initiation, conduct and conclusion of the vehicle pursuit, and person(s) immediately associated with the pursued vehicle.
- (a) When appropriate, officers should follow the High Risk Vehicle Stop guidelines from Training and Information Bulletin #171.

PURSUIT THAT LEAVE OUR CITY

- 40 - When a pursuit leaves our city and enters another agency's jurisdiction, the monitoring supervisor shall decide whether to continue, terminate, or relinquish the pursuit, considering the factors listed in paragraph 21.
- 41 - The monitoring supervisor shall ensure the primary officer has a sufficient number of secondary officers in position to provide cover. Once this is established, the monitoring supervisor should direct all other units to remain within the city limits. Notification of the pursuit shall be made to the agency of jurisdiction as information only. Any request to assist or take over the pursuit shall be made by the monitoring supervisor.
- 42 - If the monitoring supervisor wishes to continue the pursuit, but due to the circumstances wants assistance from the agency of jurisdiction, a formal request for such assistance shall be made directly to the agency (e.g., telephone, radio, etc.), if available, or through the Communication Center. The jurisdiction should be told specifically what we are asking for and provided with any other information requested.
- 43 - If the monitoring supervisor wishes the pursuit to continue, but due to the circumstances wants the neighboring agency to take over the pursuit, the request should be made directly to the agency, if available, or through the Communication Center. The other agency should be told the reason for the pursuit and any related officer safety information. When confirmation is received that the neighboring agency agrees to take over the pursuit, the monitoring supervisor shall ensure that their units are in position to take over prior to

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relinquishing the pursuit.

- 44 - Once the pursuit is relinquished, it becomes the assuming agency's responsibility. BPD officers shall not re-enter the pursuit without approval of the monitoring supervisor. The primary officer and monitoring supervisor shall trail the pursuit to the endpoint and assist the assuming agency with any information necessary for the arrest of the suspect. If the distance to the endpoint makes this impractical, the initiating officer should arrange to meet the arresting officer at the jail or other detention facility where the arrested party will be taken.
- 45 - BPD shall assume responsibility for prosecution of the original crime that resulted in the pursuit.
- 46 - Other non-traffic violations witnessed during the pursuit by the assuming agency shall be prosecuted by that agency.
- 47 - If numerous serious violations occur during the pursuit, the agency witnessing the most serious crime should retain custody of the suspect.

PURSUIT THAT ENTER OUR CITY

- 48 - When a pursuit from another jurisdiction enters our city, a patrol team sergeant shall advise the dispatcher that he or she is monitoring the pursuit. If this does not occur, the patrol watch commander or acting watch commander is responsible for monitoring the pursuit. Officers shall only drive Code-3 in response to or otherwise join the pursuit if directed to do so by the monitoring supervisor.
- 49 - If the outside agency does not request BPD assistance, the monitoring supervisor shall drive toward the area of the pursuit and be prepared to direct units in the event a request is made, or other circumstances arise that require our assistance.
- 50 - If the outside agency does not wish to relinquish a pursuit, but requests BPD assistance, the monitoring supervisor shall:
 - (a) Confirm the request directly, if available, or via the Communication Center.
 - (b) Determine if the crime or circumstance precipitating the pursuit conforms to this Order, and direct our officers as necessary to:
 - (1) Join the pursuit as secondary officers if it meets our criteria.
 - (2) Drive toward the area of the pursuit and be in position to assist as needed at the endpoint, if it does not meet our criteria.

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- 51 - If the outside agency makes a formal request for BPD to take over their pursuit, the monitoring supervisor shall confirm the request via dispatch. Mere notification of a pursuit from an outside agency shall not be considered a request to take over or participate. In considering the decision to take over, the monitoring supervisor shall consider the following:
- (a) Whether the crime precipitating the pursuit and the ongoing circumstances of the pursuit are within our policy.
 - (b) The availability of BPD personnel.
- 52 - If the monitoring supervisor elects to take over the pursuit, he or she shall confirm the decision with the outside agency directly, if available, or through the Communication Center, and then direct BPD officers into the primary and secondary positions.
- 53 - When any outside agency pursuit ends in our jurisdiction, the monitoring supervisor shall proceed Code-3 at his or her discretion to the endpoint, and make contact with the outside agency's supervisor or primary officer on scene. In absence of the monitoring supervisor, the first BPD officer to arrive should determine what if any assistance is needed, and begin to coordinate the response of other BPD units if necessary.
- (a) The supervisors at the endpoint should determine each agency's responsibility for reporting, transporting, booking, and prosecution using the guidelines listed above.
 - (b) All media inquiries should be directed to the initiating agency.

SUMMARY OF RESPONSIBILITIES

- 54 - Primary officer:
- (a) Determine that the threshold standard for initiating a vehicle pursuit is met.
 - (b) Make the appropriate initial radio broadcasts:
 - (1) Request Code-33 to limit radio traffic.
 - (2) When the air has been cleared, advise the dispatcher that you have initiated a pursuit and provide the crime or circumstance justifying it.
 - (3) Broadcast your current location, suspect vehicle description, direction of travel, and speed.
 - (4) Listen for a supervisor to acknowledge the pursuit.

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- (5) Continue to update above information and any officer safety information such as weapons, number of occupants, etc.
 - (c) Continually evaluate the necessity of the pursuit against developing circumstances considering the factors outlined in paragraph 21.
 - (d) Transfer radio responsibilities to a secondary unit when one is in position behind you, if practical.
 - (e) Coordinate the response of other officers at the endpoint of the pursuit, if necessary.
 - (f) Operate the patrol vehicle in a safe manner, maintaining safe distances, and utilizing lights and siren at all times while engaged in the pursuit.
- 55 - Secondary officer:
- (a) Notify the dispatcher when you join a pursuit and verify your position.
 - (b) Provide cover and assistance to the primary unit during the pursuit.
 - (c) Assume responsibility for maintaining radio contact and for providing updated information regarding pursuit speeds, direction, and conditions.
 - (d) Be prepared to stop and assist any victim of injury or accident that occurs during a pursuit, if the primary officer has sufficient cover.
 - (e) If the primary officer does not have sufficient cover, the secondary officer shall request another unit to respond to the accident or injury.
- 56 - Monitoring supervisor: (usually a patrol sergeant)
- (a) Upon becoming aware of a pursuit by an officer on your team, immediately notify the communications center that you are monitoring the pursuit.
 - (b) Determine if the pursuit conforms to the criteria of this Order.
 - (1) Terminate the pursuit if the pursuit does not conform to this Order.
 - (c) Continually evaluate the necessity of the pursuit against the factors outlined in paragraph 21, and take appropriate action as circumstances unfold.
 - (d) Ensure that proper number and type of police units are involved in the pursuit.
 - (e) Ensure that radio communications are maintained with pursuing units and that proper radio procedures are followed.

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- (f) Ensure that affected neighboring agencies are notified.
- (g) Ensure that the provisions of this order are followed if the pursuit moves into other jurisdictions.
- (h) Follow the pursuit to the endpoint, assume responsibility for controlling police activity at the scene, and ensure department policies are followed.
- (i) Ensure that all necessary documentation relating to the incident are properly filled out and turned in prior to the primary officer going off duty.
- (j) Complete the CHP Form 187A and insure it is forwarded to the California Highway Patrol by fax or mail.
- (k) Document the circumstances of the pursuit in the daily log and attach copies of relevant documentation (e.g. CHP Form 187A, police report, etc.) for review by the Watch Commander and Chain of Command.
- (l) If any issues arose during the pursuit or aftermath that upon review are in violation of policy or a potential problem, the supervisor shall take steps as soon as possible after the incident to provide training, advice, or initiate additional administrative review.
- (m) Notify the watch commander or acting watch commander if:
 - (1) Any person suffers an injury requiring medical attention during a pursuit.
 - (2) A collision occurs during a pursuit.
 - (3) Major property damage occurs as a result of a pursuit.
 - (4) Policy violations occur during a pursuit.

57 - Watch commander: (or acting watch commander)

- (a) Ensure that a patrol sergeant acts as the monitoring supervisor during any pursuit.
- (b) Monitor the pursuit along with the supervisor.
- (c) Act as the monitoring supervisor when patrol sergeants fail or are unavailable to do so, or for any pursuit initiated by a patrol sergeant.
- (d) Terminate any pursuit that does not conform to this Order.
- (e) Make any necessary chain of command notifications if a serious accident or injury results from the pursuit.

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- (f) Coordinate with, and assist the monitoring supervisor as necessary.
- (g) Review the monitoring supervisor's daily log report of the vehicle pursuit as well as any relevant documentation attached thereto for compliance with this Order and route to the Chief of Police via the chain of command.
 - (1) Initiate additional administrative review, if appropriate, when the conduct of the pursuit does not conform to this Order.

58 - Dispatcher:

- (a) Upon being advised of a pursuit by an officer, immediately activate the emergency tone and begin a Code-33.
- (b) Wait for a patrol team sergeant to advise that he/she is monitoring the pursuit. If there is no response after a reasonable interval, advise a supervisor of the pursuit.
- (c) Monitor the pursuit, maintain and observe the Code-33, repeating only pertinent information like location, direction, or any officer safety information, until the pursuit ends and Code-34 is declared.
- (d) Run the license plate of the vehicle or name of the suspect if it is known.
- (e) Broadcast any relevant wants regarding the suspect or officer safety information only. (If there are no hits, and only registered owner information is available, hold it until it is requested.)
- (f) Anticipate when a pursuit may leave the City and notify the appropriate jurisdiction.
- (g) Immediately dispatch an officer to any collision or other injury resulting from the pursuit.

References: California Vehicle Code §§165(b)(1), 17004.7, 14602.1, 21055, 21056 and 21807

California Penal Code §13519.8

City of Berkeley Council Resolution No. 51,408 N.S.

General Orders C-2, P-14, P-26, P-29, R-3, R-31, U-2 and V-4

Training and Information Bulletins 171 and 257

California Law Enforcement Vehicle Pursuit Guidelines

Alameda County Law Enforcement Inter-Agency Vehicular Pursuit Guidelines