

## VEHICULAR PURSUITS

WILLIAMSTOWN POLICE DEPARTMENT POLICY & PROCEDURE NO. <b>1.04</b>	EFFECTIVE DATE: 02/24/2022
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: <b>41.1.3; 41.2.2; 41.2.3</b>	REVISION DATE: 02/23/2022
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### I. **POLICY**

Vehicular pursuit of fleeing suspects can present a danger to the lives of the public, officers and suspects involved in the pursuit. It is the policy of this Department to regulate the manner in which vehicular pursuits are undertaken and performed and that vehicular pursuits are authorized when the need to apprehend a fleeing suspect in a motor vehicle outweighs the risk created by the pursuit.

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

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

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

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<sup>1</sup>

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

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

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

## II. **DEFINITIONS**

A. *Authorized Police Vehicle:* Any department-issued vehicle, the use of which is authorized by a superior officer, equipped with operable emergency warning equipment. For the purposes of this policy, an authorized police vehicle shall include marked and unmarked police cruisers only, and shall not include motorcycles, bicycles, animal control vehicles, prisoner transport vehicles, and other such police vehicles.

B. *Primary Unit:* An authorized police vehicle that is the first vehicle behind the pursued vehicle.

C. *Secondary Unit:* An authorized police vehicle that is actively involved in the pursuit behind the primary unit as backup.

D. *Supervisor:* The supervisor or command staff member in-charge of the pursuit.

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<sup>2</sup>

*Commonwealth v. DaSilva*, 56 Mass. Ct. App. Ct. 220, 775 NE2d 1269 (2002).

E. *Vehicular Pursuit*: An active attempt by an officer in an authorized police vehicle, with emergency warning equipment activated, to apprehend one or more occupants of another moving vehicle, when the officer reasonably believes that the driver of the other moving vehicle is resisting apprehension by increasing the vehicle's speed, intentionally ignoring the officer, or otherwise attempting to elude the officer.

## PROCEDURE

### Pursuit Decisions [41.2.2(a)]

1. An officer may, within the posted speed, engage in a pursuit of any motor vehicle operating in conformance with posted speed limit and other traffic laws, under any circumstance justifying a lawful motor vehicle stop.
2. No officer shall engage in a vehicular pursuit that requires the officer to exceed the posted or applicable speed limit or that involves a target vehicle operating in violation of the posted or applicable speed limit or other traffic laws unless **the officer reasonably believes:**
  - a) That the continued operation of the vehicle or the occupant(s) of the vehicle the officer intends to stop poses a **significant risk of physical harm** to the officer, the public, or others; or
  - b) That the occupant(s) of the vehicle is/are wanted for the commission of **specific felonious acts involving violence that threaten, have threatened, or will threaten the health, life, or safety of a person or persons.**
3. For an officer to be authorized to engage in a vehicular pursuit requiring or involving the violation of the posted speed limit or other traffic laws, the officer should consider the following factors, when practicable: **[41.2.2 (a)]**
  - Severity of the crime/offense believed to have been committed;
  - Nature and degree of the threat to public safety;
  - Alternatives to the pursuit;
  - Whether the identities of the occupants are known;
  - Population density;
  - Nature of the area;

- Officer's familiarity with the area;
  - Road and weather conditions;
  - Time of day;
  - Speeds involved;
  - Driving skills of the officer and performance capabilities of the pursuit vehicle and the vehicle being pursued;
  - Operational status of emergency warning equipment;
  - Quality of radio communications; and
  - The presence of other persons in the pursued vehicle.
4. No officer shall initiate or continue a pursuit on a divided highway opposite the direction of the flow of vehicular traffic.
5. Officers should take alternative measures to pursuit for non-hazardous violators.
6. The circumstances justifying the decision to pursue must exist at the time of initiation, i.e. the circumstances must be present prior to the time that a pursuit is initiated.

#### A. Pursuit Operations Generally

1. Upon engaging in a pursuit, the primary unit and secondary unit (if applicable) shall activate all emergency lights, flashers and siren which shall remain activated during the duration of the pursuit.
2. The primary unit shall notify the dispatcher or communications center of the location, direction and nature of the pursuit, the description of the pursued vehicle, the reason for the pursuit and, if practicable, the estimated speeds of the vehicles. The officer should keep the dispatcher or communications center updated on the pursuit at regular intervals.
3. When engaged in a pursuit, officers shall exercise **due care for the safety of the public and shall comply with all of the provisions of G.L. c. 89, sections 7 and 7B, and G.L. c. 90, section 16.**
4. An authorized unmarked police vehicle shall relinquish primary unit status immediately upon becoming aware of the participation of an authorized marked police vehicle. [41.2.2 (d)]
5. Unless specifically authorized by a supervisor, no officer (other than the officers in the primary and secondary unit) shall engage in the main pursuit or pursue on parallel streets. (See 11 below) i.e. no trailing and caravanning

6. No officer shall participate in a pursuit with a civilian or a detainee present in the authorized police vehicle under any circumstances.

**[41.1.3 (a); 41.2.2 (d)]**

7. No officer operating a privately owned vehicle nor will the bicycle patrol participate in a vehicular pursuit. **[41.1.3 (a); 41.2.2 (d)]**

8. The officer may drive through an intersection contrary to traffic signs or signals if (s)he first brings the vehicle to a full stop and then proceeds with caution and due regard for the safety of persons and property.

9. No officer will drive with reckless disregard for the safety of other road users.

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

1. Upon becoming aware of the pursuit, the supervisor, shall evaluate the **totality of the circumstances** and decide, as quickly as possible, whether or not the pursuit should continue pursuant to the criteria of this policy.

2. If the supervisor concludes that a pursuit should continue, [s]he shall monitor incoming information and coordinate activities as needed to ensure that proper procedures and guidelines in this policy are followed.

3. A supervisor may authorize officers (in authorized police vehicles) in addition to the primary and secondary units, to engage in the pursuit and/or a parallel pursuit, in **exceptional circumstances** or if the supervisor reasonably believes that there is a substantial likelihood of serious physical injury or death should additional officers not participate.

4. The supervisor **shall continually reevaluate** the need to continue the pursuit and shall be in overall command.

5. The supervisor is **vested with the authority to terminate the pursuit, at any time**, especially when [s]he believes that the **foreseeable risks to the pursuing officers and to the public, arising from the continued pursuit, are greater than the foreseeable threat to public safety should the pursued vehicle be allowed to escape.** **[41.2.2 (g)]**

6. The supervisor may authorize the resumption of a pursuit when [s]he believes that **circumstances have changed**, thereby warranting the resumption of the pursuit in accordance with the criteria of this policy.
7. **A supervisor shall respond** to the location where a vehicle has been stopped following a pursuit.

### C. Responsibilities of the Primary & Secondary Units

#### 1. PRIMARY UNIT [41.2.2 (b)]

- a) Subject to the direction of a supervisor, the officer operating the primary unit is vested with the authority to decide and direct the pursuit actions.
- b) The officer operating the primary unit shall continually reevaluate and assess the pursuit. The officer shall terminate the pursuit, even in the absence of an order to terminate by a supervisor, when that officer reasonably believes that the foreseeable risks to the officer, the public or others arising from a continued pursuit is greater than the threat to public safety should the pursued vehicle be allowed to escape. [41.2.2 (g)]
- c) Upon receipt of a notice to terminate the pursuit from a supervisor, the primary unit shall immediately reduce its speed to within the posted speed limits and shall deactivate emergency warning equipment.

#### 2. SECONDARY UNIT [41.2.2 (c)]

- a) Notify dispatch of entry into pursuit.
- b) Once the pursuit is engaged, the secondary unit shall maintain a safe distance behind the primary unit, but should remain close enough to provide aid and assume radio communications if and when necessary.
- c) Upon receipt of a notice to terminate the pursuit from the primary unit and/or a supervisor, the secondary unit shall discontinue the pursuit and shall immediately reduce its speed to within the posted speed limits and shall deactivate emergency warning equipment.

**D. Responsibilities of the Dispatcher**

Upon being informed of a pursuit in progress, the dispatcher shall:

**[41.2.2 (e)]**

- A. Immediately inform the Officer-in-Charge;
- B. Receive and record all incoming information on the pursued vehicle;
- C. Advise all other units that a pursuit is in progress, providing all relevant information and updates where necessary;
- D. Perform relevant record and motor vehicle checks as expeditiously as possible;
- E. Coordinate assistance of other officers under the direction of the supervisor;
- F. Notify affected law enforcement agencies over appropriate communications systems and seek their assistance if the pursuit is proceeding into another jurisdiction; and
- G. Notify all affected agencies when a pursuit has been terminated or if apprehension has been made.
- H. Assign an incident number and log all pursuit activities.

**E. Intervention Tactics**

1. Intervention tactics refers to the following actions set forth in this section and Section F associated with the forcible stopping of a moving vehicle to prevent death or serious injury to the operator or the general public.
2. The Intervention tactics listed below in Section E only shall not be used by the Williamstown Police Department. **[41.2.3 (a)]**
3. The only intervention tactic authorized by the Department is Forced Stopping by means of Tire Deflation Devices as set forth in Section F.

**BOXING-IN**

Boxing-in is an active attempt to terminate a pursuit by surrounding the pursued vehicle with the primary, secondary, or

other units which are then slowed to a stop. **Boxing-in tactics are prohibited.**

#### HEADING OFF

Heading off is an active attempt to terminate a pursuit by the primary unit pulling ahead of the pursued vehicle in a manner to force the pursued vehicle to come to a stop or risk collision with the primary unit. **Heading off tactics are prohibited.**

#### ROADBLOCKS

Roadblocks are an active attempt to terminate a pursuit through the use of a restriction or obstruction in the roadway that is intended to prevent free passage of motor vehicles on a roadway. **Roadblocks shall not be utilized by the department.**

#### VEHICLE CONTACT ACTION

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

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

#### USE OF FIREARMS:

Officers shall refer to the departmental policy on Use of Force with respect to discharging a firearm at or from a moving vehicle.

### F. Forced Stopping

#### TIRE DEFLATION DEVICES

Officers may use tire deflating devices in certain circumstances to reduce the speed and duration of pursuits in order to reduce the risk of injury to persons and/or damage to property. **[41.2.3(a)]**

**A.1.a.** Tire deflation devices should be used, when practicable, where there is an agreement between the Shift Supervisor and the officer who will deploy the device. It will be the responsibility of the Shift Supervisor to authorize the use of stopping devices. The Shift Supervisor will monitor the situation until concluded. **[41.2.3 (d)]**

**A.1.b.** The officer deploying the tire deflation device shall only do so when that officer has been trained in its use and believes that the device can be deployed safely. **[41.2.3(c)]**

c. Tire deflation devices shall be secured in part of the trunk that is easily accessible in the event of an emergency.

d. Tire deflation devices may **not** be used to stop a motorcycle, tractor trailer, or bus carrying passengers.

**[41.2.3(b)]**Site Selection

The device shall not be used at intersections or in locations where geographic configurations (such as curves and steep embankments) increase the risk of injury to the suspect or occupants of other vehicles.

Communications

A tire deflating device may only be deployed after the pursuing officers have been informed of the location of employment and have acknowledged the information.

Deployment

The deployment officer:

1. Shall deploy the device as trained.
2. May use cruisers, in accordance with training standards, for the purpose of channelizing the fleeing vehicle. The device should be deployed across the remaining travel lane.
3. Shall select a safe location from which to deploy, standby as the targeted vehicle passes, and remove the device from the roadway.

Deployment Without Signaling Suspect

Situations where it is prudent to disable a vehicle with a device before making a suspect aware of police presence may include:

1. Stolen cars
2. Serious felony arrest warrants and/or charges
3. Hostage or kidnapping situations

Recovery

The tire deflating device must be removed from the road after the fleeing vehicle passes over it. The device shall not be left unattended in the roadway.

Pursuit Officer

On approach to the deployment area the pursuing officer(s) shall proceed cautiously and adjust vehicle speed as necessary because of the following:

1. to allow time for the removal of the device;
2. the fleeing vehicle may decrease speed rapidly as its tires deflate; and
3. To respond to sudden evasive or unpredictable maneuvers by the fleeing vehicle.

After clearing the deployment area, the officers may increase vehicle speed, if necessary.

Reporting

An officer shall report use of a device and the results of same on the Vehicle Pursuit/Tire Deflation Report. **[41.2.3(e)]**

The use of Tire Deflation Devices constitutes a use of force, requiring a use of force report *in addition* to the required Vehicle Pursuit/Tire Deflation Report and incident report.

### Damage to Vehicles or Property

The Chief or his designee shall investigate any related damage to any vehicle or property. Third party owners of any damages vehicle or property shall be advised to contact the Chief of Police for guidance in filing a claim.

### **G. Inter and Intra-Jurisdictional Pursuits [41.2.2 (h)]**

1. A pursuit may continue into another jurisdiction when done in conformance with applicable Massachusetts General Laws, department policies, and inter-jurisdictional agreements.

**a) Outside the Commonwealth:** On fresh and continued pursuit, a police officer may pursue and arrest a person who is wanted for the commission of specific felonious acts involving violence that threaten, have threatened, or will threaten the health, life, or safety of a person or persons into any neighboring state.

**b) Within the Commonwealth:** A police officer may make an arrest outside his/her jurisdiction on fresh and continued pursuit provided:

1. The offense is one for which the officer would have the right of arrest without a warrant within his/her jurisdiction;
2. The offense was committed in the officer's presence; and
3. The offense was committed within the officer's jurisdiction.<sup>3</sup>

2. Officers shall not become involved in another agency's pursuit unless specifically authorized by their supervisor.

### **Request for Assistance**

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

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<sup>3</sup>

G.L. c. 41, section 98A.

when possible, seek the assistance of, and be prepared to relinquish the pursuit to, the other agency.

Notification from another law enforcement agency of a pursuit in progress should not be assumed to be a request to join in their pursuit. The caller from the outside law enforcement agency shall be specifically asked whether they are making a request for assistance, or whether merely making a courtesy notification with NO participation desired.

Information obtained from the outside law enforcement agency should contain the same basic pursuit information that officers are required to provide.

**Pursuits Initiated by Other Departments: Intra-jurisdictional:** Officers shall not become involved in another agency's pursuit without notifying and specifically receiving authorization from their Supervisor.

Assistance to a pursuing agency will terminate at the town limits provided that the pursuing officers have sufficient assistance from other sources. Ongoing participation from this department may continue only until sufficient assistance is present.

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

1. TERMINATION: When a decision is made to terminate a pursuit, the primary and secondary units shall immediately reduce their speeds to within the posted speed limits and shall deactivate their emergency warning equipment.

2. RESUMPTION OF A TERMINATED PURSUIT: Once a pursuit has been terminated, the primary, secondary, and other units aware of the pursuit may not reengage the pursuit without first requesting specific authorization from a supervisor regarding the changed circumstances that have occurred.

3. No officer shall continue a pursuit after having been directed to discontinue the pursuit by a Shift Supervisor.

#### **I. After-Action Reporting**

1. Any officer involved in a pursuit, and the Supervisor shall file written reports on the incident detailing the circumstances. These reports shall be submitted to, evaluated and reviewed by the Chief of Police to determine if there has been compliance with departmental

policies and regulations and shall be filed with the LT/Chief for the purpose of conducting an annual analysis. If the Chief of Police is involved in the pursuit, then the Town Manager shall review all reports. [**41.2.2 (i); 41.2.3 (d); 41.2.3 (e)**]

Pursuit reports shall minimally contain the following information:

1. Whether any person involved in the pursuit or subsequent arrest was injured, specifying the nature of that injury and differentiating between the suspect driver, suspect passenger and the officers involved.
2. The violation(s) that caused the pursuit to be initiated.
3. The identity of the officer(s) involved in the pursuit.
4. The means or methods used to stop the suspect being pursued.
5. The charges filed with the court by the district attorney if known.
6. The conditions of the pursuit, including, but not limited to all of the following:
  - I.1.a.1.a.i.a. Duration
  - I.1.a.1.a.i.b. Mileage
  - I.1.a.1.a.i.c. Number of officers involved
  - I.1.a.1.a.i.d. Maximum number of units involved
  - I.1.a.1.a.i.e. Time of day
  - I.1.a.1.a.i.f. Weather conditions
  - I.1.a.1.a.i.g. Maximum speeds
7. Whether the pursuit resulted in a collision and a resulting injury or fatality to an uninvolved third party and the corresponding number of persons involved.
8. Whether the pursuit involved multiple agencies.
9. How the pursuit was terminated.

2. The department shall on an annual basis, complete an analysis of pursuit activities for the purpose of identifying any improvements in this pursuit procedure, which shall be documented and maintained pursuant to the Department's records retention schedules. This analysis shall also be used to determine whether to implement modifications to this policy, if warranted. [**41.2.2 (j); 41.2.3 (e)**]

3. The department shall maintain for three years the original or a copy of the radio transmission recordings of pursuits involving personal injury or death which shall be kept in a file under the control of the Internal Affairs Unit.