

41.2.2 PURSUIT OF MOTOR VEHICLES

A. Purpose

1. The purpose of this policy is to establish policy and regulations regarding police pursuit driving by officers of this department and to provide tactics and considerations when officers are involved in a pursuit.

B. Definitions

1. "PACING" means the positioning of a police vehicle a stable, fixed distance behind a speeding vehicle, in order to determine the speed of the violator.
2. "PURSUIT" means an attempt by a police officer in an authorized emergency vehicle to apprehend one or more occupants of another vehicle when the driver of the fleeing vehicle is attempting to avoid apprehension by maintaining or increasing his speed by ignoring the police officer's attempt to stop the vehicle.

C. General policy:

1. Pursuits at high speed are justified only when the individual officer knows or has reasonable grounds to believe the person being pursued has committed or attempted to commit a serious felony. A serious felony is one that involves an actual or threatened attack, which the officer has reasonable cause to believe, could result in death or serious bodily injury.
2. Pursuits are permitted, if necessary, to apprehend a motor vehicle which is involved in a traffic violation, other misdemeanors or felonies that do not involve an actual or threatened attack which may result in death or serious injury. However, in doing so, the manner of driving shall not be conducted in the same manner as enumerated for serious felonies.
3. No officer, at any time, shall operate a mobile police unit at such a rate of speed or manner that may cause an officer to lose control over the operation and/or direction of the vehicle.

D. Legal reference:

Ohio Motor Vehicle Laws Governing Operation of Emergency Vehicle:

1. Section 4511.03: The driver of an emergency vehicle or public safety vehicle when responding to an emergency call, upon approaching a red or stop signal or any stop sign shall slow down as necessary for safety to traffic, but may proceed cautiously past such red or stop sign or signal with due regard for the safety of all persons using the street or highway.
2. Section 4511.24: The prima facie speed limitations set forth in section 4511.24 of the Revised Code do not apply to emergency vehicles of public safety vehicles when they are responding to emergency calls and are equipped with and displaying at least one flashing, rotating, or oscillating light visible from a distance of five hundred feet to the front of the vehicle and the driver thereof sound an audible signal by bell, siren, or exhaust whistle. This section does not relieve the driver of an emergency or public safety vehicle from the duty to drive with due regard for the safety of all persons using the street or highway.
3. Section 4511.45: Upon the approach of a public safety vehicle, equipped with at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of five hundred feet to the front of such vehicle and the driver is giving audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right of way. This section does not relieve the driver of the public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

4. Section 2921.331:
- (A) No person shall fail to comply with any lawful order or directions of any police officer invested with authority to direct, control, or regulate traffic.
 - (B) No person shall operate a motor vehicle so as to willfully elude or flee a police officer after receiving a visible or audible signal from a police officer to bring his motor vehicle to a stop.

NOTE: Violation is a first degree misdemeanor, except a violation of section (B) when the following is proved beyond a reasonable doubt: (1) fleeing after the commission of a felony (2) the operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property, (3) the operation of the motor vehicle by the offender caused substantial risk of serious physical harm to persons or property, then fleeing becomes a felony of the fourth degree.

5. Section 2935.031: Mandates the adoption of a pursuit policy.

E. Considerations

1. The paramount consideration in the nature of police pursuit tactics that are employed as well as the decision to pursue is "REASONABLENESS". Each pursuit will ultimately be judged and possibly litigated on the basis of the Department's and the Officer's actions being not only within its legal authority but with regard to its "REASONABLENESS" in light of:
 - a. The seriousness of the offense for which the suspect was wanted initially.
 - b. The Officer's judgment with regard to the consideration contained herein and the decision to continue the pursuit.
 - c. The tactics, which are employed by the Officer in the course of the pursuit.
 - d. The outcome. Ultimately high-speed pursuits, which result in serious injury or death, especially to an otherwise innocent third party, will be closely examined at a number of levels within our system of justice, and the question of our responsibility in relation to the outcome of the pursuit.
2. Each Officer must overcome any perception or action predicated on a level of "PERSONAL CHALLENGE" and rationally and analytically evaluate the situation, as it develops, to provide that the risks and possible outcome is reasonable in relation to the seriousness of the offense for which the suspect is wanted.
3. The initiation and continuation of a high-speed pursuit shall consider the following factors. It shall be recognized that such pursuits represent a fluid, tactical situation during which conditions are rapidly changing and the decision to continue the pursuit, once initiated shall involve an ongoing, rational evaluation of these factors:
 - a. Vehicular and pedestrian traffic
 - b. Location of pursuit i.e., residential, business, highway
 - c. Time of day or night
 - d. Weather and road conditions
 - e. Reason for pursuit
 - f. Speeds involved

- g. Vehicle and driver capability

F. Procedure

1. Pacing Procedures:
 - a. While operating with due regard for the safety of others, Officers pacing a traffic offender may exceed the posted or prima facie speed limit in order to determine the speed of the violators' vehicle.
 - b. While pacing traffic offenders, Officers must exercise that care which a reasonably prudent man would exercise in the discharge of official duties of like nature under like circumstances.
 - c. Each officer must understand that the decision to pace a violator must involve a deliberate reasoning process that considers all existing circumstances. The Officer shall take into account the consideration listed in section "E" of this policy.
 - d. Throughout the pacing procedure, Officers must continually be evaluating their decision and be prepared to terminate the pace at any time public safety so requires.
 - e. Speeding while pacing a traffic offender is authorized by the ORC section 4511.24.* Under this section, Officers:
 - (1) Must not violate any traffic laws other than speeding:
 - (2) Must operate their vehicles with due regard for the safety of others.
 - (3) May operate their vehicles without using lights and/or siren, but must use a siren when necessary to warn innocent motorists or pedestrians.

* OMVL 4511.24 DOES NOT PROTECT OFFICERS OPERATING A POLICE VEHICLE FROM THE CONSEQUENCES OF A RECKLESS DISREGARD OF SAFETY.

2. Initiation of pursuit - any pursuit initiated shall cause immediate:
 - a. Notification to dispatcher as to location and direction, reason for pursuit, suspect vehicle and occupant description, and speeds involved.
 - b. Use of emergency lights and siren.
3. Pursuit procedures:
 - a. A maximum of two (2) marked police vehicles shall become actively involved in the actual pursuit at any given point in time, the primary unit and one (1) back-up unit.
 - b. The marked patrol vehicle initiating the pursuit shall normally be designated the primary unit.
 - c. The marked patrol vehicle in closest, strategic location shall normally be designated as back-up unit.
 - d. In the event the pursuit is initiated by an Officer in an unmarked vehicle, not equipped with lights and siren, it shall continue only when the occupant(s) has committed or there is reasonable cause to believe the occupant(s) has committed a serious felony: for without markings, lights and siren no protection is offered under the law should an accident result.

41.2.2 PURSUIT OF MOTOR VEHICLES

- e. In such cases, the unmarked vehicle shall withdraw from the pursuit at such point as a marked unit is in position to assume the primary role, provided the unmarked vehicle shall serve as the back-up position to assume such a role, at which time the unmarked unit shall assume such a role, at which time the unmarked unit shall withdraw and serve in a support function having resumed a safe and prudent speed.
4. Primary unit responsibility:
 - a. The primary unit shall assume responsibility for the pursuit and shall up date information as to pursuit factors and changes therein.
 - b. The primary unit shall have radio channel priority.
 - c. The primary unit shall constantly evaluate pursuit factor, changes therein, risks, and communicate same by radio.
 - d. The primary unit's decision to discontinue the pursuit shall immediately be communicated and obeyed by all other units, provided however, that the Shift Commander may order the pursuit terminated at any time.
 - e. The primary unit shall immediately comply with an order to terminate the pursuit.
 5. Back-up unit responsibility:
 - a. The back-up unit shall maintain a safe distance behind the primary unit, taking care to maintain a stopping/safe distance for evasive action but maintaining visual contact.
 - b. The back-up unit shall not pass the primary unit unless instructed to pass and assume the primary unit role by the primary unit.
 - c. In the event the primary unit experiences mechanical problems or is otherwise unable to continue, the back-up unit shall become the primary unit and another unit nearby shall be assigned to assume back-up responsibilities.
 - d. The back-up unit shall immediately comply with an order to terminate the pursuit.
 6. Dispatcher responsibility:
 - a. Designate or acknowledge the primary unit.
 - b. Identify, assign and designate a back-up unit.
 - c. Broadcast to all other stations and vehicles sharing the radio frequency that we have a "PURSUIT IN PROGRESS" and request the channel be kept clear for emergency traffic only. Control/coordinates any change for frequency and all call radio traffic.
 - d. Alert other Police Departments in the apparent path of the pursuit and coordinate communications.
 - e. Immediately notify the Shift Commander of the pursuit and of such other information as is available.
 - f. Obtain registration and warrant information if applicable for field units concerning the suspect vehicle.
 - g. Relay and repeat confirmation of compliance from each unit involved in order to terminate the pursuit.

7. Supervisor's responsibility:
 - a. The Shift Supervisor shall thoughtfully monitor the pursuit, evaluating the risks in view of all the known factors. The Shift Supervisor shall order termination of the pursuit if/when the Shift Supervisor's judgment dictates that the necessity for apprehension is outweighed by level of the risks being assumed or danger created by continuation of the pursuit.
8. Discontinuance of pursuit:
 - a. It shall be recognized that discontinuance of a vehicle pursuit may represent, in fact, the best judgment and most courage or perseverance.
9. Officers shall terminate a pursuit for the following reasons:
 - a. Officers shall terminate a pursuit whenever they reasonably believe the risks to themselves and others outweigh the benefit of apprehension or when ordered to discontinue the pursuit by a Supervisor.
 - b. When environmental, road or traffic conditions indicate the futility of the pursuit.
 - c. When the identity of the offender is known and the offense is not life threatening, unless the continued operation by the suspect driving the vehicle is causing an elevated risk of danger to the public. An officer may also continue to pursue a known offender for the preservation and recovery of property or evidence of a crime may be lost. If a pursuit is continued for these reasons the officer shall be governed by all other sections of this policy.
 - d. When information is available that the driver of the fleeing vehicle is a juvenile and the offense constitutes a misdemeanor or is not a serious felony as described in Section III, A.
 - e. Pursuit of vehicles that leave the roadway and enter parks, fields, etc., shall be discontinued immediately, except for cases of a serious felony.
 - f. Vehicles conveying witnesses, citizens, prisoners or suspects shall not become engaged in any pursuit situation.
- G.** The use of road spikes is permitted to disable a fleeing vehicle.
- H. Tactics** - It is the policy of this department to protect life and property. Engage in all activity, including high-speed pursuit, with that fundamental duty in mind.
 1. The tactics of "ramming", intentional collisions, forcing vehicle off the roadway, or blocking of the roadway with any vehicle, barrier or object shall not be utilized except in the following limited circumstances:
 - a. The fleeing suspect(s) is endangering the life of a citizen or pursuing Officers by use of a firearm.

DIRECT APPROVAL FOR THIS EXCEPTION MUST BE AUTHORIZED BY THE SUPERVISOR IN CHARGE.
 - b. In the event a "roadblock" is implemented:
 - (1) Vehicles will be positioned with due concern to the safety of innocent persons.
 - (2) Overhead emergency lights will be on.
 - (3) Vehicle(s) shall not be occupied.

c. Prohibitions:

- (1) Caravans of police vehicles in a pursuit situation are prohibited. Units not as signed a primary or back-up role shall remain on normal patrol unless otherwise directed.
- (2) As a General policy, officers should not pull alongside of, or attempt to overtake or pass a fleeing vehicle.
- (3) There shall be no paralleling of the pursuit route.
- (4) Additional officers may be assigned as back-up to the pursuit area at the discretion of the OIC.

I. Pursuit initiated by outside agency:

1. When a pursuit initiated by an outside police agency enters the jurisdiction of this department the initiating unit and jurisdiction remain responsible for the progress and conduct of the pursuit. Marion City Police personnel and vehicles shall become actively involved in any such pursuit only when circumstances warrant. The Chief or supervisory officer shall govern the conduct of this department's personnel and actions once committed.
2. Once the pursuit vehicle leaves our jurisdiction, all Marion Police Department units will abandon the chase, unless they have assumed the primary or back-up role in the pursuit.

J. Pursuits leaving the City of Marion

1. Pursuits originating within the City of Marion by officers of this department shall be terminated, within a reasonable distance, when the pursuit continues beyond the city jurisdiction, except on those cases where the crime is a serious felony.
2. Officers employed by other law enforcement agencies will be guided by the policy of their own department.

K. Accountability

1. All officers involved in vehicular pursuits may be held civilly, criminally, and departmentally accountable for continuing a pursuit when circumstances indicate that it should have been discontinued. Officers will neither be criticized nor disciplined when their decision is to terminate rather than to continue a pursuit.

L. Emergency escorts

1. No officers of this department shall engage in an emergency escort. If stopped by a citizen requesting an emergency escort, the officer will do the following:
 - a. Administer aid to the victim of the emergency and request an ambulance be dispatched to victims locations, or
 - b. If the officer believes the situation to be life threatening or time essential, then the victim will be transported in the patrol unit.
 - c. In the event of a request from another emergency unit, i.e. fire, ambulance, or other police agency, for an emergency escort, officers may stop traffic at major intersections for the requesting unit. However, officers shall not escort these units as it only adds to confuse the innocent driver or pedestrian.

M. Recorded radio traffic:

1. All pursuits shall be reviewed at a departmental staff meeting or Command Staff meeting, to determine if policy and procedures were followed.
 - a. In the event of a pursuit involving officers of this department, a tape of the recorded radio traffic concerning the pursuit shall be obtained from the recording device and will become part of the incident report.

N. Reporting and post analysis:

1. Officers of this department involved in a pursuit will submit a report of the pursuit to the Chief of Police. Shift supervisors and officers involved may review the pursuit to ascertain what may be learned.
 - a. All pursuits involving members of the Marion Police Department shall be reviewed by the Chief of Police and Staff Commanders to determine if within the policies and procedures.
 - b. The Chief and the command staff shall annually review, at the December Staff Meeting, all the pursuits from the year. This report then shall become part of the Annual Report.

O. Silent runs:

1. Silent runs, emergency lights only, will be authorized by the department only when responding to the following types of calls:
 - a. B&E in progress
 - b. Alarms at banking institutions
 - c. Life threatening felony-in progress calls
 - d. Alarms at businesses during normal business hours.
 - e. Emergency calls where the potential for the perpetrator(s) to take hostages exists.
2. The officers responding on a silent run must be extra cautious as to pedestrians and other drivers, and may need to sound the siren intermittently to warn them of this approach.

P. Department policy and officer liability:

1. Application of this order constitutes department policy and is not intended to enlarge the member's civil or criminal liability in any way. It shall not be construed as the creation of a higher legal standard of safety or care with respect to third party claims regarding the member's legal duty imposed by law.