



GENERAL ORDER

DURHAM POLICE DEPARTMENT
DURHAM, NC

NUMBER:

4019 R-7

VEHICLE PURSUITS

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INTRODUCTION

The primary purpose of this policy is to secure a balance between the protection of the lives and safety of the public and police officers, and law enforcement's duty to enforce the law and apprehend violators. Since there are numerous situations that arise in law enforcement that are unique, it is impossible for this policy or any standard operating procedure to anticipate all possible circumstances. This policy is intended, therefore, to direct as well as to guide a police officer's discretion in matters of vehicular pursuit. New officers will receive training on this policy, and all sworn personnel will conduct a documented policy review annually.

Deciding whether to pursue a motor vehicle is among the most critical decisions made by law enforcement officers. It is a decision that must be made quickly and under difficult, often unpredictable circumstances. **In recognition of the potential risk to public safety created by vehicular pursuits, no officer or supervisor shall be criticized or disciplined for a decision not to engage in a vehicular pursuit or to terminate an ongoing vehicular pursuit based on the risk involved,** even in circumstances where this policy would permit the commencement or continuation of the pursuit.

GOVERNING AUTHORITY

NCGS § [20-145](#) - "Speed limitations shall not apply to vehicles when operated with due regard for safety under the direction of the police in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, nor to fire department or fire patrol vehicles when traveling in response to a fire alarm..... *This exemption shall not, however, protect the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.*"

NCGS § [20-156\(b\)](#) - "The driver of a vehicle upon the highway shall yield the right-of-way to police and fire department vehicles.... when operators of said vehicles are giving a warning signal by appropriate light and by bell, siren or exhaust whistle audible under normal conditions from a distance, not less than 1000 feet. When appropriate warning signals are being given as provided in this subsection, an emergency vehicle may proceed through an intersection or other place when the emergency vehicle is facing a stop sign, a yield sign, or a traffic light emitting a flashing strobe signal or beam of steady or flashing red light. *This provision shall not operate to relieve drivers of a police or fire department vehicle.... from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle.... from the consequences of any arbitrary exercise of such right-of-way.*"

DEFINITIONS

Emergency Equipment: Flashing, blinking, or alternating blue lights or a combination of blue and red, an operable siren, an air horn designed to give an intermittent signal, and flashing "wig-wag" headlights.

Involved Police Units: Those police vehicles using emergency lights and/or siren that are in active pursuit of the suspect vehicle.

- *Initiating Unit:* The police vehicle that initially becomes involved in a vehicular pursuit.
- *Primary Unit:* Any unit that assumes control of the pursuit as the lead vehicle (the first police vehicle immediately behind the fleeing suspect).
- *Secondary Unit:* Any police vehicle, which becomes involved as a backup to the primary unit and follows the primary unit.

Legal Intervention: The use of police vehicles, or other techniques, to forcibly slow and/or stop a suspect vehicle. This may include, but not be limited to, ramming/forcing off the road, or rolling or stationary roadblocks.

Parallel Pursuit: Proceeding in the same direction at approximately the same speeds as the suspect vehicle on streets parallel to the chase route.

Stationary Roadblocks: A barricade or other obstruction across a roadway set up to prevent the escape of a fleeing vehicle.

Support Units: Police vehicles that are in the general area of the suspect vehicle to assist in legal intervention or arrest procedures.

Termination of Pursuit: Disengagement by turning off all emergency equipment and resuming the speed limit.

Vehicular Pursuit: The active pursuit of an operator of a vehicle who is resisting detention or arrest by refusing to stop.

DECIDING WHETHER TO PURSUE

A police officer has the authority, at all times, to attempt the stop of any person reasonably suspected of being about to commit, committing, or having committed any criminal offense or infraction. It is clear that while it is the officer who initiates the stop, it is the violator who initiates the pursuit.

Officers are authorized to engage in a vehicle pursuit within the limits of N.C.G.S. § [20-145](#) and N.C.G.S. § [20-156](#) in order to apprehend fleeing law violators; however, the decision to pursue must be based on a reasonable officer's conclusion that the immediate danger to the public created by the pursuit is less than the immediate or potential danger to the public should the suspect remain at large.

Vehicle Pursuits *are* allowed when:

- The police officer reasonably believes that the violator has committed a violent felony, such as murder, rape, armed robbery, kidnapping, felonious assault;

AND

- The officer reasonably believes that by the nature of the crime(s) committed, the violator poses a threat of serious injury to the public or other police officers if they are not apprehended immediately.

Vehicle Pursuits *are not* allowed:

- For suspects of nonviolent crimes, such as breaking and entering and larceny, fraud, felonious or misdemeanor larceny, or motor vehicle theft;
- For motor vehicle offenses, suspected or actual, to include DWI violators;
- When circumstances are such that, in the opinion of the primary unit, the hazard created by the pursuit outweighs the necessity of immediate apprehension;
- When the pursuing officer can identify the suspect and apprehension at a later date appears reasonably possible, and the suspect is not reasonably believed to pose a threat of serious injury to the public or other police officers if they are not apprehended immediately; (or)
- When the pursuing officer's vehicle cannot be safely operated at pursuit speed.

Police vehicles transporting any passenger other than a sworn law enforcement officer shall not be actively involved in a pursuit until the officer has discharged the passenger.

PURSUIT CONSIDERATIONS

An officer's immediate obligation in a vehicle pursuit is to ensure the safety of the public without duplicating the irresponsible behavior of the fleeing suspect(s).

An officer involved in a pursuit must consider the risk created by the pursuit. Community members should not be needlessly endangered. The officer must consider, but is not limited to, the following factors in determining whether or not to continue the pursuit:

- * Likelihood of successful stop and apprehension based on the speed involved or the suspect's mode of transportation.
- * Whether the identity of the violator is known to the point where later apprehension is possible.
- * Degree of risk created by pursuit:
 - Volume, type, speed, and direction of vehicular traffic;
 - Population density and volume of pedestrian traffic;
 - Nature of the area: residential, commercial, school zone, open highway, etc.;
 - Environmental factors including, but not limited to, weather and darkness, which increase the hazard of a pursuit;
 - Road conditions including, but not limited to, construction, poor repair, extreme curves, ice, and/or major intersections.
- * Police officer characteristics:
 - Driving skills;
 - Familiarity with roads;
 - Condition of the police vehicle.

PURSUIT OFFICER RESPONSIBILITIES

The initiating unit shall immediately notify the Communications Center that a pursuit is underway and **the specific reason for the initial attempted vehicle stop**, i.e., initiating violation. If this information is omitted,

the officer's supervisor shall terminate the chase. In addition, the initiating unit will provide communications with the following:

- * Their patrol unit number;
- * The location, speed, and direction of travel of the fleeing vehicle;
- * The description and license plate number, if known, of the fleeing vehicle; and
- * The number of occupants in the fleeing vehicle, and descriptions, where possible.

The primary unit, if different from the initiating unit, shall provide communications with the above information to the extent the information has not already been provided.

SECONDARY UNIT RESPONSIBILITIES

Secondary units will attempt to keep the primary unit in sight while maintaining a safe distance. The secondary unit MAY handle radio communications (direction of travel, etc.) for the pursuit to allow the primary unit to focus on the activity of the vehicle being pursued. Secondary units should be prepared to provide immediate backup for the primary unit should the pursuit unexpectedly end (wreck, jump-and-run, etc.). The secondary unit should remain alert to report any property damage or personal injury to non-involved vehicles and community members. The secondary unit should be prepared to stop and render emergency assistance, if necessary. The secondary unit should immediately communicate this if they stop to render aid.

SUPERVISOR'S RESPONSIBILITIES DURING A VEHICLE PURSUIT

Upon notification that a pursuit is in progress, the supervisor in the district where the pursuit originated shall be responsible for the following:

- Acknowledging by radio and assuming command of the pursuit. If no acknowledgment is made, any supervisor shall assume command of the pursuit;
- Monitoring the information and conditions to determine whether the pursuit should be continued or terminated;
- Designating by radio the secondary unit;
- Responding immediately to the location where a vehicle is stopped or a suspect apprehended and assuming responsibility for police action at the scene.

SUPPORT UNITS

Officers may adjust their patrol activities within their district in order to provide potential support of intervention actions but shall not become actively involved in the pursuit unless specifically directed by the appropriate supervisor.

Support, backup, and/or intervention movements will be conducted at normal speeds and with due caution. The speed limit and right-of-way exemptions allowed in NCGS § [20-145](#) and NCGS § [20-156\(b\)](#) do not apply to support or backup officers; therefore, all support units shall obey all traffic laws.

Communications Center Responsibilities

Upon confirmation that a pursuit is in progress, Communications will:

- Ensure that a supervisor is aware of the pursuit and the essential information regarding that pursuit;

- Receive and record all incoming information on the pursuit and the pursued vehicle;
- Control all radio communications and clear the radio channels of all non-emergency calls;
- Coordinate and dispatch backup assistance under the direction of the supervisor;
- Notify neighboring jurisdictions and the State Highway Patrol when pursuit may extend into their locality.

PURSUIT RESTRICTIONS

Number of Vehicles Involved

Unless otherwise directed by a supervisor in charge of the pursuit, no more than **two** (2) vehicles will be actively involved in the pursuit. The primary unit officer is automatically designated as being actively involved in the pursuit. The secondary unit must be designated over the primary radio frequency by the appropriate supervisor. Officers are not otherwise permitted to join the pursuit team or follow the pursuit on parallel streets.

Unmarked Vehicles

Officers operating unmarked vehicles equipped with blue lights and siren may engage in a pursuit only when they are the initiating/primary unit or when directed to become involved in an existing pursuit by the supervisor of the pursuit. Whenever a marked vehicle becomes available to take over the pursuit, the unmarked vehicle shall disengage from the chase.

Police unmarked vehicles that are not equipped with blue lights and siren will not be operated on an emergency basis or in a pursuit and must obey all speed and right-of-way laws for the public at all times.

Department Motor Units

DPD Motor Units will not participate in vehicle pursuit as an initiating/primary or support unit.

USE OF EMERGENCY EQUIPMENT

Each unit authorized to engage in vehicular pursuit is required to activate and continuously use headlights and all emergency vehicle warning devices throughout the pursuit.

LEGAL INTERVENTION

Legal intervention substantially increases the inherent risk in a vehicle pursuit and is permitted only under extraordinary circumstances. Tactics employed are justified only to stop a threat to the safety of the public or police officers. Except for stationary roadblocks established to allow a fleeing suspect the opportunity to react and stop a vehicle, legal intervention is considered an application of deadly force by the Department. Deadly force legal intervention must meet the constitutional, statutory and department policy criteria as set out by General Order [4008 - Use of Force](#).

The Watch Commander or his/her designee will evaluate the circumstances and the available information and determine whether a stationary roadblock is warranted. When considering the use of a stationary roadblock the factors that need to be considered include, but are not limited to:

- Number of officers available;
- Seriousness of the suspected crime;

- The danger to public safety (escape of fleeing vehicle v. risks of forcible stopping);
- The rate of speed of the pursuit. Stationary roadblocks are most effective for pursuits where the speed of the fleeing vehicle is such that the operator can reasonably maintain control of the vehicle.

When establishing a stationary roadblock the following procedures will be followed:

- Only a marked vehicle with lights activated will be utilized.
- Marked vehicles will be positioned at a location that allows the fleeing vehicle to identify the roadblock and provide an opportunity for the fleeing vehicle to stop.
- No officer is to remain inside a blocking vehicle. Once the vehicles are positioned, use of natural or man-made structure to provide cover is encouraged.
- All officers involved in the stationary roadblock will position themselves on the same side of the roadway in the event of gunfire to avoid a cross-fire situation.

Any forcible stopping technique that results in a collision shall be processed and investigated in accordance with G.O. [3005 – Department Vehicle Collision](#), G.O. [4008 – Use of Force](#) and G.O. [1014 – Internal Affairs](#).

Tactics specifically prohibited when using legal intervention are:

- * Parallel pursuits; and
- * Driving opposite the flow of traffic (i.e.: driving northbound in the southbound lanes of a divided highway).

APPROACHING INTERSECTIONS

Upon approaching an intersection controlled by traffic signals or signs, or any other location at which there is a substantially increased likelihood of a collision, the operator of any pursuit vehicle shall, prior to entering the intersection, reduce the vehicle's speed and control the vehicle so as to reasonably avoid collision with another vehicle or a pedestrian. The officer shall observe that the way is clear before cautiously proceeding through the intersection.

REDUCING THE LEVEL OF THE PURSUIT

The primary pursuit unit shall reduce the level of the pursuit to that of a secondary unit where another vehicle has been assigned primary pursuit responsibility.

Any primary or secondary unit sustaining damage to, or failure of essential vehicular equipment during a pursuit, shall not be permitted to continue in the pursuit. The unit shall notify Communications so that another unit may be assigned to the pursuit.

TERMINATION OF PURSUIT

The pursuit may be terminated at any time by the initiating/primary pursuit officer, the supervisor who assumed command of the pursuit, or higher authority. The supervisor shall be responsible for terminating a pursuit when they can determine that the threat created by continued pursuit exceeds the necessity of immediate apprehension of the suspect.

Pursuit shall be terminated immediately in any of the following circumstances:

- * The violator is operating a motorcycle;

- * The weather, traffic conditions, or road conditions substantially increase the danger of pursuit;
- * The distance between the pursuit and fleeing vehicle is so great that further pursuit is futile;
- * The officer loses radio contact with Communications or other officers;
- * The need to apprehend the suspect is outweighed by the danger to the public, the officers, or the suspect posed by continuing the pursuit;
- * The violator's identity is established so that later apprehension may be accomplished and where there is no immediate threat to the safety of the public or police officers;
- * If there is a clear and unreasonable danger to the police officer or the public. A clear and unreasonable danger exists when the pursuit requires that the vehicle be driven at excessive speeds or in any other manner which exceeds the performance capabilities of the pursuing vehicles or police officers involved in a pursuit; (or)
- * If the officer is ordered to do so by higher authority.

No officer will be disciplined or criticized for deciding to terminate a pursuit.

Officers and supervisors will be held accountable for continuing a pursuit when it is determined that it should have been terminated.

CONTINUATION OF PURSUIT OUTSIDE OF JURISDICTION

Officers of the Durham Police Department (DPD) shall not continue their involvement in a pursuit beyond the territorial jurisdiction (the City Limits plus one (1) mile) unless specifically authorized to do so by the District Supervisor.

PURSUIT INITIATED BY ANOTHER LAW ENFORCEMENT AGENCY

Officers will not become involved in a pursuit initiated by an outside agency unless assistance is specifically requested.

In the event another law enforcement agency engaged in a pursuit within the city limits, or is headed toward the city limits, requests assistance from the DPD, Communications will determine the location, reason, and the number of vehicles involved in the pursuit. Communications will then notify the district supervisor. If two or more allied agency vehicles are pursuing a violator, Durham officers will not become involved unless authorized by the District Supervisor.

The district supervisor shall be responsible for determining whether or not the DPD will assist in the pursuit. The district supervisor shall also be responsible for determining the type and amount of assistance that will be provided.

The DPD units assisting in such pursuits will adhere to departmental rules and regulations. DPD officers will terminate their involvement in the pursuit if so, directed by a supervisor or if, at the discretion of the officers involved, it is appropriate to do so.

WRITTEN REPORT OF THE PURSUIT

As soon as reasonably possible, but within twenty-four (24) hours of the initiating incident, the supervisor will generate the Vehicle Pursuit Report in Blue Team and, at minimum, include the following known information:

- Incident Details (include the date, time, location, and IR#)
- Brief Summary (not the full investigation, just a brief overview)
- Individuals involved (both officers and community members)

Supervisors will have fifteen (15) calendar days to prepare and submit the final Vehicle Pursuit investigation to their chain of command. Requests for additional time must be approved by the Professional Standards Division (PSD) Commander or designee prior to the 15th day. Failure to initiate or complete a Vehicle Pursuit Report in accordance with the above time frames may constitute a violation of [G.O. 4028 – Report Writing](#).

The district supervisor will, as soon as practical, meet with those involved (including the communicator, when possible) in the pursuit. In this meeting, they should constructively and jointly critique their decisions and actions. If possible, a recording of the pursuit may be used. Upon completing the meeting, the involved supervisor shall complete the [Vehicular Pursuit and Critique Report](#) and attach it to the Blue Team report, with related incident and accident reports (if available at the time of submission) attached.

On an annual basis, the PSD will conduct an analysis of the previous calendar year's Vehicle Pursuit and Refusal to Stop Reports. The analysis will include:

- An analysis of the data compiled from the reports and identification of any possible trends. If trends are identified, recommendations to appropriately address the trends, including modifications to the Department training program, will be made.
- Identification of any changes to the pursuit policy that occurred that year. The policy will be reviewed, and if appropriate, recommendations for modification will be made.
- A review of reporting procedures will be conducted and, if appropriate, recommendations to the procedures will be made.
- The analysis will be submitted to the Chief of Police for review.

REPORTING OF VEHICLES FAILING TO STOP

A [Vehicle Refusal to Stop Report](#) will be completed by any officer who encounters a situation in which vehicles fail to stop, and a pursuit is not authorized. It is important that the Department keep track of the frequency of these refusals and the conditions existing in each situation. The completed form shall be submitted through the chain of command to the PSD.

SEIZURE AND TOWING OF FELONY SPEEDING TO ELUDE ARREST SUSPECT VEHICLES

North Carolina law mandates that the vehicles of certain felony speeding to elude arrest offenders be seized by the officer charging the felony speeding to elude arrest offense. These vehicles are then sold at auction by the State of North Carolina, with the proceeds going to the school district of the county in which the vehicle was seized.

Eligible Vehicles for Felony Speeding to Elude Arrest Seizure

Any vehicle driven by an eligible offender shall be seized, except for mopeds as defined by N.C.G.S. § [20-4.01 \(23\)](#), stolen vehicles, and rental vehicles that are either: 1) not operated by a driver authorized by the rental agreement; or 2) operated by a driver authorized by the rental agreement, but the rental car company had no actual knowledge of the person's driver's license revocation at the time the rental agreement was executed.

Eligible Offenders for Felony Speeding to Elude Arrest Seizure

A vehicle may be seized from a suspect that is charged with felony speeding to elude arrest pursuant to N.C.G.S. § [20-141.5](#)(b) or (b1).

Felony Speeding to Elude Arrest Seizure Procedures

If a suspect qualifies to have his or her vehicle seized, the charging officer shall seize the vehicle and the key(s) to the vehicle. The charging officer shall obtain a wrecker to take possession of the vehicle. In order to do this, the charging officer shall contact Communications and request a "10-51 for a Speeding to Elude Seizure." Communications shall then contact a wrecker service that is authorized by the State of North Carolina to tow and store felony speeding to elude arrest seizure vehicles. No other type of wrecker (owner's request, regular rotation, etc.) shall be used in these cases.

The charging officer shall also affix a green speeding to elude arrest seizure sticker to the driver's side of the windshield. These stickers are available from the Department supply unit.

In addition to any other required paperwork, the charging officer shall complete an [AOC-CR-323B](#) form, entitled "Officer's Affidavit for Seizure and Impoundment and Magistrate's Order" and provide this form to the magistrate when the suspect is presented for his or her appearance before the magistrate. If the suspect is not arrested at the time the vehicle is seized, the officer shall provide this form to the magistrate immediately following the seizure of the vehicle.

The magistrate shall determine if probable cause exists for the seizure of the suspect vehicle. If the magistrate determines that there is no probable cause for the seizure, the charging officer must notify the towing service as soon as possible that the vehicle may be returned to the suspect, once the suspect pays whatever fees are required by the towing company.

It is possible that a suspect may elude immediate arrest with the vehicle. If this occurs, appropriate charges shall be taken out against the suspect. The charging officer shall complete the [AOC-CR-323B](#) form, entitled "Officer's Affidavit for Seizure and Impoundment and Magistrate's Order," and provide this form to the magistrate. After the magistrate signs this form, the charging officer shall attempt to locate the vehicle and seize it, in accordance with the same procedures as if he or she was seizing the vehicle at the time of the arrest. Once executed by the magistrate, the [AOC-CR-323B](#) form authorizes an officer with jurisdiction to enter the property of the suspect to seize the motor vehicle. If, however, the vehicle is located within an enclosed structure on the defendant's property, such as a garage, the officer shall obtain valid consent or a search warrant to enter the property and seize the vehicle. If the suspect vehicle is on the private property of another, it is necessary to obtain valid consent to enter the property to seize the vehicle. If consent cannot be obtained, then the charging officer shall attempt to obtain a search warrant to enter the property to seize the vehicle.

If the motor vehicle is subject to seizure for both (1) Felony Speeding to Elude Arrest and (2) DWI with revoked license or DWI with no license and no insurance, then the officer shall complete both applicable affidavits ([CR-323A](#) and [CR-323B](#)) and request that the magistrate sign both orders. The statutes provide that the vehicle "shall" be seized for both offenses, and since the motor vehicle is now towed to the same location, both statutes should be used. This will allow the District Attorney the broadest authority to have the vehicle forfeited.

DMV Notification

After a vehicle is seized under these procedures, the DMV must be notified of the seizure within 24 hours. The charging officer shall contact the Warrant Control / DCI Unit and have a DCI operator fill out the "Seized Vehicle N.C.G.S. § [20-28.1](#) (VSEZ)" online form with the appropriate information and transmit it to the DMV

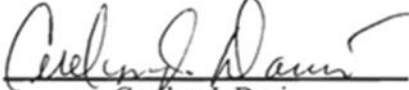
through a DCI terminal. The charging officer will need to provide the DCI operator with detailed information about the suspect, the vehicle, and the owner.

Tow Documentation and Reporting Requirements

The charging officer shall enter the vehicle's information into OSSI, in accordance with the General Order. Additionally, the charging officer shall complete a vehicle report (code2), either in paper or electronic form.

Court Date for Initial Appearance

The charging officer shall set the initial court date for the charges that precipitated the seizure of the vehicle within 30 days of the charge being filed.


Cerelyn J. Davis
Chief of Police