



Attleboro Police Department

Policies and Procedures

Chapter 11, Section 1

Subject:

Vehicular Pursuit

References:

Massachusetts Police Accreditation Standards
41.1.3; 41.2.1; 41.2.2; 41.2.3

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The signature of Kyle P. Reagney, Chief of Police, in cursive ink.

Distribution:

All sworn members and civilian employees of the
Attleboro Police Department

I. General Considerations and Guidelines:

Vehicular pursuits are necessary to effectuate the enforcement of criminal and motor vehicle laws. Many of these pursuits are inherently dangerous and therefore create some risk of injury to the pursuing officer(s), the occupant(s) of the pursued vehicle, and the public at large.

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 emergency warning equipment in an attempt to effectuate a lawful motor vehicle stop or when following and observing a motor vehicle.ⁱ Motorists occasionally may not immediately see or hear an officer's emergency warning equipment, or may not realize that they are the target of the officer's efforts. 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.ⁱⁱ

In determining whether or not to pursue, officers and supervisors must consider many factors and must weigh the risk of a pursuit against the necessity to apprehend a vehicle's occupant(s).

A practice of prohibiting all pursuits would encourage operators so inclined to simply not stop when signaled to do so. Furthermore; allowing pursuits under all circumstances would unnecessarily put people at risk.

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 supervisor whenever possible.

II. POLICY:

It is the policy of the Attleboro Police Department that law violators be apprehended whenever the apprehension can be accomplished safely under existing circumstances. A vehicular pursuit is authorized when the need to apprehend a suspect fleeing in a motor vehicle outweigh the risk created by the pursuit. The policy and procedure shall be followed, unless otherwise authorized by the Chief of Police.

III. DEFINITIONS:

- A. **Authorized Police Vehicle**: Any department issued vehicle whose use is authorized by a supervisor or the chief of police that is equipped with operable emergency warning equipment, to include a marked or unmarked cruiser. [41.1.3a]
- B. **Caravanning**: Any combination of three or more police vehicles involved in the pursuit.
- C. **Densely Populated Area**: An established area of a city or town that is thickly settled and/or comprised of a business district or school zone marked by compactness, with pedestrian and vehicular traffic.
- D. **Patrol Supervisor**: Responsible for mobile supervision of patrol officers during patrol shifts.
- E. **Primary Unit**: An authorized police vehicle that is the first vehicle behind the pursued vehicle, and is engaged in attempting to apprehend a fleeing suspect that is actively attempting to elude the pursuing officer.
- F. **Secondary Unit**: An authorized police vehicle that is actively involved in the pursuit behind the primary unit as backup.
- G. **Shift Commander**: The OIC, officer-in-charge or other person-in-charge of the shift.
- H. **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 motor vehicle, when the officer reasonably believes that the driver of the target vehicle is resisting apprehension by increasing the vehicle's speed, intentionally ignoring the officer, or otherwise attempting to elude the officer.

IV. PROCEDURE:

A. Prohibited Practices

1. No officer shall continue a pursuit after having been directed to discontinue or “terminate” the pursuit by the Shift Commander, Patrol Supervisor, Captain or Chief of Police.
2. No officer shall continue a pursuit after having lost communication with the communication center, unless authorized by the Shift Commander or Chief of Police.
3. No officer shall initiate or continue a pursuit on a divided highway opposite the direction of the flow of vehicular traffic.
4. Caravanning – Unless 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.
5. No officer shall participate in a pursuit with a civilian or a detainee present in the authorized police vehicle. [41.1.3a, 41.2.2d]
6. No officer shall participate in a pursuit of a motorcycle or ATV for minor traffic violations or a violation for refusal to stop for a police officer (Chapter 90 §25) whether the officer knows the motorcycle’s registration number or the identity of the operator or not. [41.1.3a, 41.2.2d]
7. No officer operating a department motorcycle will participate in a vehicular pursuit unless, the officer reasonably believes that failure to apprehend the suspect in the target vehicle will likely result in the death of, or serious bodily injury to another person. If a motorcycle officer is involved in a vehicular pursuit, the motorcycle officer must relinquish the pursuit to an authorized police vehicle as soon as it is safe to do so. [41.1.3a, 41.2.2d]
8. Vehicles other than authorized police vehicles may not participate in any pursuit.

B. Pursuit Decisions

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: [41.2.2a]

<u>THE RISK TO PUBLIC SAFETY IN THE ABSENCE OF PURSUIT</u>	<u>THE RISK TO PUBLIC SAFETY ARISING FROM THE PURSUIT</u>
<ul style="list-style-type: none"> • Severity of crime/offense believed to have been committed by one or more occupants of the pursued vehicle. • Do the occupants of the target vehicle pose a risk of physical harm to the public or others? • Nature and degree of the threat to public safety should the vehicle not be stopped. • Alternatives to the pursuit. • Whether or not the identities of the occupants are known to the point where later apprehension is possible and applicable. 	<ul style="list-style-type: none"> • Densely Populated Area (Residential or commercial area, school zone and the presence of pedestrians). • Traffic volume, density and speed. • Officer's familiarity with the area. • Driving skills of the officer and the performance capabilities of the target vehicle. • Operational status of emergency warning equipment. • Quality of communications. • Environmental, road and weather conditions. • Time of day or night. • Presence of other persons, weapons or dangerous items in the pursued vehicle.

Failure to Stop for a Police Officer:

- Officers should take into consideration when deciding to pursue a vehicle the maximum penalty of Chapter 90 Section 25 is a \$100 fine (see c.90 s. 25 below).

MGL Chapter 90, Section 25:

Any person who, while operating or in charge of a motor vehicle, shall refuse, when requested by a police officer, to give his name and address or the name and address of the owner of such motor vehicle, or who shall give a false name or address, or who shall refuse or neglect to stop when signaled to stop by any police officer who is in uniform or who displays his badge conspicuously on the outside of his outer coat or garment, or who refuses, on demand of such officer, to produce his license to operate such vehicle or his certificate of registration, or to permit such officer to take the license or certificate in hand for the purpose of examination, or who refuses, on demand of such officer, to sign his name in the presence of such officer, and any person who on the demand of an officer of the police or other officer mentioned in section twenty-nine or authorized by the registrar, without a reasonable excuse fails to deliver his license to operate motor vehicles or the certificate of registration of any motor vehicle operated or owned by him or the number plates furnished by the registrar for said motor vehicle, or who refuses or neglects to produce his license when requested by a court or trial justice, shall be punished by a **fine of one hundred dollars**.

C. Pursuit Operations

1. 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, s. 7B (Operation of Emergency Vehicles). [41.2.1]
2. Upon engaging in a pursuit, the primary unit and, if involved, secondary unit shall activate audio/visual emergency warning equipment until the pursuit concludes or is terminated by the primary unit or any supervisor having such authority.
3. No officer will drive with reckless disregard for the safety or other road users.
4. Any authorized police vehicle may initiate a pursuit.
5. An unmarked, authorized police vehicle, or authorized police motorcycle may initiate a pursuit but shall relinquish primary unit status as soon as the circumstances present it safe enough to do so, and the officer is aware of the participation of a marked police vehicle. [41.2.2d]

D. Personnel Responsibilities

1. **Primary Unit, 41.2.2b**
 - a. The primary unit is usually the officer who initiates a pursuit and becomes the first police vehicle behind the target vehicle being pursued.
 - b. The primary unit involved in the pursuit shall activate all audio/visual emergency warning equipment present in an authorized police vehicle, and keep emergency warning equipment activated throughout the duration of the pursuit.
 - c. Once the primary unit has made the decision to pursue a target vehicle, he or she shall notify dispatch of the following circumstances:
 - The location where the pursuit was initiated
 - A description of the target vehicle including registration plate, if known
 - The reason for the pursuit
 - The direction of travel of the target vehicle
 - Traffic conditions
 - The estimated speed of the target vehicle
 - The number of occupants inside the target vehicle, (if known)

2. The Primary Unit shall update dispatch at a minimum of 30 second intervals, until relieved of his duty by the secondary unit.
 - a. The following information shall be communicated to dispatch:
 - Direction of travel (location)
 - Speed
 - Traffic conditions (Heavy / Medium / Light)
3. 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 the pursuit 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. [41.2.2g]
4. The primary unit shall notify dispatchers in the communications center when it is likely that a pursuit will continue into a neighboring jurisdiction.

C. **Secondary Unit, 41.2.2c**

1. The secondary unit shall maintain a safe distance behind the primary unit, but should remain close enough to provide assistance if required.
2. The secondary unit shall assume radio communications, allowing the primary unit to concentrate on driving.

D. **Shift Commander, 41.2.2f**

1. Immediately upon becoming aware of the pursuit, the **Shift Commander** shall respond to Dispatch and take command over the pursuit.
2. The **Shift Commander** 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 **Shift Commander** concludes that a pursuit should continue, he or she shall monitor incoming information and coordinate activities as needed to ensure that proper procedures are followed.
3. The **Shift Commander** shall continually evaluate the need to continue the pursuit and terminate the pursuit, at any time, especially when he or she 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. [41.2.2g]

4. The **Shift Commander** may authorize additional officers to engage in the pursuit and/or a parallel pursuit, in exceptional circumstances if the Shift Commander reasonably believes that there is a substantial likelihood of serious physical injury or death should additional officers not participate.
5. The **Shift Commander** may authorize the resumption of a pursuit when he or she believes that circumstances have changed, thereby warranting the resumption of the pursuit in accordance with the criteria of this policy.
6. The **Shift Commander** shall evaluate whether forced stopping techniques are required and determine which method shall be utilized.

E. Patrol Supervisor, 41.2.2f

1. The **Patrol Supervisor** shall not be in charge of the pursuit.
2. The **Patrol Supervisor** shall monitor incoming information and respond to the vicinity of the pursuit.
3. The **Patrol Supervisor** shall respond to the location where a vehicle has been stopped following a pursuit and coordinate / oversee post-stop procedures.
4. The **Patrol Supervisor** has authority to terminate a pursuit.

F. Dispatcher 41.2.2e

1. Immediately upon being informed of a pursuit in progress, the dispatcher shall:
 - a. Inform the **Shift Commander**.
 - b. Receive and record all incoming information on the pursued vehicle and provide all relevant information to other units.
 - c. Repeat all radio transmissions from the Primary Unit; and/or secondary Unit
 - d. Advise all other units that a pursuit is in progress and minimize all other radio traffic to allow the primary (and/or) secondary unit with access to communicate.
 - e. Perform relevant record and motor vehicle checks as expeditiously as possible.
 - f. Coordinate assistance of other officers under the direction of the Shift Commander.
 - g. Notify affected law enforcement agencies over appropriate communications systems and seek their assistance if the pursuit is proceeding into another jurisdiction.
 - h. Notify all affected agencies when a pursuit has been terminated or if apprehension has been made.
 - i. Monitor the current GPS location of the patrol units and advise the shift commander.

G. Inter-Jurisdictional/Intra-Jurisdictional Pursuits, 41.2.2h

1. Pursuits Initiated by this Department
 - a. Pursuit initiated by members of this department may continue into another jurisdiction when done in conformance with applicable Massachusetts General Laws, department policies, and inter-jurisdictional agreements.
 - b. Outside the Commonwealth: On fresh and continued pursuit, a police officer may pursue a person who has committed a felony into any neighboring state and arrest that person.ⁱⁱⁱ
 - c. Within the Commonwealth: A police officer may make an arrest outside of his/her jurisdiction on fresh and continued pursuit provided:
 - The offense is one for which the officer would have the right of arrest without a warrant within his/her jurisdiction;
 - The offense was committed in the officer's presence; and
 - The offense was committed within the officer's jurisdiction.^{iv}
2. Requests 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.
 - a. 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.
 - b. 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, when possible, seek the assistance of, and be prepared to relinquish the pursuit to, the other agency.
3. Pursuits Initiated by Other Departments: Intra-jurisdictional: Officers shall not become involved in another agency's pursuit without notifying and specifically receiving authorization from the Shift Commander, Patrol Supervisor or the Chief of Police.

H. Termination of a Pursuit, 41.2.2g

1. Termination:
 - a. A pursuit shall be terminated if 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.
 - b. 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 and acknowledge the termination message.
 - c. It is recognized that, upon terminating a pursuit, the pursuing units are not required to bring their vehicles to a stop and/or head in the opposite direction of the former target vehicle. The primary and secondary units may continue to operate their vehicles in the same direction as the previously pursued vehicle, so long as they maintain a safe distance, and their actions do not constitute an active attempt to continue the pursuit.
 - d. Resumption of a Terminated Pursuit: Once a pursuit has been terminated, the Primary, Secondary and any other authorized unit aware of the pursuit may not re-engage the pursuit without authorization from the Shift Commander or Chief of Police.

I. After-Action Reporting

1. Reporting [41.2.2i; 41.2.3e]
 - a. Whenever an officer engages in a pursuit, the primary officer shall complete a written report detailing the circumstances of the incident. Said report shall be delivered to the Chief of Police prior to the end of the officers' tour of duty, unless otherwise authorized by the Chief of Police.
 - b. The Shift Commander on duty during the pursuit shall submit APD Form #AC-01, Officer-In-Charge Pursuit Policy Compliance Review Form, to the Chief of Police, prior to the end of the tour of duty unless otherwise authorized by the Chief of Police.
2. Evaluation and Analysis
 - a. After action reports shall be evaluated by the Chief of Police or his designee to determine if there has been compliance with departmental policies and procedures. 41.2.2i; 41.2.3e
 - b. The department shall annually analyze pursuit activities for the purpose of identifying any improvements in this pursuit procedure and shall implement modifications to this procedure if warranted. A review of incidents involving vehicle pursuits may reveal patterns or trends that indicate training needs and/or policy modifications. Such reviews may include: [41.2.3(e); 41.2.2(j)]

V. INTERVENTION TACTICS

- A. **Purpose:** Intervention tactics are actions associated with the forcible stopping of a moving vehicle to prevent death or serious bodily injury to the operator or the general public. [41.2.3a, 41.1.3a]
1. **Tire Deflation Devices:** A department authorized device (such as “spike strips”) intended to be placed in the roadway that, when driven over, cause one or more tires to deflate in a slow and safe manner.
 - a. Deployment of tire deflation devices must be approved by the Shift Commander.
 - b. Tire deflation devices shall be deployed in accordance with Ch. 11, sec. 4 of the Attleboro Police Department Policies and Procedures manual.
 2. **Boxing-In:** An active attempt to terminate a pursuit by surrounding the pursued vehicle with the primary, secondary, and/or other units which are then slowed to a stop.
 - a. Boxing-in may be utilized only when there is a determination that the pursued vehicle must be immediately stopped because the driver and/or occupants of the vehicle pose a clear and immediate threat of death or serious physical injury to the public and/or other occupants of the pursued vehicle.
 - b. This tactic may be utilized only when authorized by a shift commander or the Chief of Police, and it is reasonable to believe that allowing the vehicle to escape will not reduce the perceived risk of death or serious physical injury to the public and/or the occupants of the pursued vehicle.
 - c. Boxing-in may not be utilized when tire deflation devices are a viable option.
 3. **Heading Off:** 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.
 - a. Heading off may be utilized only when there is a determination that the pursued vehicle must be immediately stopped or diverted from a potential hazard such as a school, hospital or other densely populated area.
 - b. Heading off may be utilized when authorized by a shift commander or the Chief of Police, and it is reasonable to believe that allowing the vehicle to escape will not reduce the perceived risk of death or serious bodily injury to the public and/or other occupants of the pursued vehicle.
 - c. Heading off may be utilized when other attempts to stop the target vehicle have been unsuccessful.
 - d. Heading off may not be utilized when the use of tire deflation devices are a viable option.

4. **Roadblocks:** An active attempt to terminate a pursuit through the use of a restriction or obstruction in the roadway that is intended to prevent the free passage of motor vehicles on a roadway. Roadblocks shall not be utilized by this department unless otherwise authorized by the Chief of Police. [41.2.3a]
5. **Vehicle Contact Action:** 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. Vehicle contact may only be utilized when deadly force is justified, or when authorized by the Chief of Police.
 - a. Vehicle contact action may only be utilized when the use of deadly force is justified and such action is taken in conformance with the departmental policy on the *Use of Deadly Force*.
 - b. This tactic may not be utilized when any of the tactics authorized in this section are viable options. [41.1.3a]

6. **Use of Firearms:**

- a. Discharging a firearm at a moving vehicle by an officer is prohibited except to defend said officer or another when the occupant of the pursued vehicle is employing deadly force, which the officer reasonably perceives as an immediate threat of death or physical injury and the officer reasonably believes that [s]he will not endanger innocent persons.
- b. Shooting at a fleeing vehicle or a vehicle that is going away from the officer and is no longer an immediate threat is prohibited. Under such circumstances, officers should be aware of the potential inability of a bullet to penetrate metal or glass surfaces of an automobile and the likelihood of ricocheting bullets causing injury to innocent persons.

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

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

ⁱⁱⁱ M.G.L. c. 276, §10A.

^{iv} M.G.L. c. 41, §98A.