

**CITY OF OAKLAND**  
**AGENDA REPORT**

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OFFICE OF THE CITY CLERK  
OAKLAND

2009 OCT 15 PM 6:43

**TO:** Office of the City Administrator  
**ATTN:** Dan Lindheim  
**FROM:** Police Department  
**DATE:** October 27, 2009

**RE:** An Informational Report From the Office of Chief of Police Detailing Current Policy, Procedures, and Precautions Used for Vehicle Pursuits in the City of Oakland

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**SUMMARY**

As requested by the Rules and Legislation Committee, staff has prepared an informational report which details the Department's current pursuit policy. This report provides the Police Department's procedures when officers are engaged in a police pursuit and the precautions officers take once a police pursuit has been initiated.

**FISCAL IMPACT**

This is an informational report; therefore, no fiscal impacts have been included.

**BACKGROUND**

On April 18, 2000, the Oakland Police Department (OPD) published a combined pursuit and emergency driving policy (identified as Department General Order J-4), which regulated the circumstances of when an officer could initiate and continue with a vehicle pursuit. The policy was more restrictive than the pursuit policy in existence prior to April 2000, which allowed police officers complete discretion when to initiate and continue a pursuit. Although the April 18, 2000 policy restricted pursuits to felony suspects and firearm related offenses, it required supervisor or commander approval to authorize an officer to pursue vehicles for misdemeanor and traffic offenses.

On May 30, 2007, OPD published a revised pursuit policy which included recommendations from the *Police Pursuit Task Force* comprised of members from the Citizens Police Review Board (CPRB), Citizens Police Advisory Board (CPAB) and OPD. The task force was created as a result of a CPRB investigation involving a fatal OPD police pursuit. The primary focus of the task force was to make recommendations on the specific criteria for when an officer could initiate a vehicle pursuit. The 2007 pursuit policy incorporated several of the recommendations from the task force and resulted in a change in circumstances for when officers could initiate a vehicle pursuit; specifically, it allowed for officers to initiate a pursuit for a person who had committed a felony or firearm related offense, or was a dangerous driver under the influence.

Item: \_\_\_\_\_  
Public Safety Comte.  
October 27, 2009

The 2007 pursuit policy also mandated annual policy training in accordance with California Vehicle Code §17004.7<sup>1</sup> (all sworn personnel were trained on the new policy).

On December 1, 2008, OPD published a revised pursuit policy which again changed the criteria for when officers could initiate a vehicle pursuit. The 2008 policy allowed officers to initiate a pursuit “when there is reasonable suspicion that a person committed a violation of federal, state, or local statute and when there is no immediate unreasonable threat to the public or the officer from initiating the pursuit.” The revised initiating factors provided more discretion to the officer, versus the offense based policies from 2000 and 2007; all sworn members were trained on this revised policy.

On September 1, 2009, OPD published a revised pursuit policy that contained one minor change from the 2008 policy, to address supervisor timeline requirements for submitting pursuit investigation reports. The remainder of the 2008 pursuit policy was not modified, and is the Department’s current guide for conducting vehicle pursuits. All sworn members are currently being trained and tested on the Department’s pursuit policy through a computer based training program.

## **KEY ISSUES AND IMPACTS**

### ***Training***

In accordance with California Vehicle Code §17004.7, all sworn members are trained annually on the Department’s pursuit policy. This is completed by utilizing a combination of lecture and computer based training modules to test the officer’s comprehension of the policy. Sworn members are given additional training every 18 to 24 months on the pursuit policy and pursuit driving techniques as part of their Continuous Professional Training (CPT). Sworn supervisors are given additional pursuit supervision training during the Sergeant’s Transition Course (STC), before they are promoted to sergeant, and specific training on supervising pursuits during CPT.

### ***Oversight Process***

Every vehicle pursuit involving an Oakland police officer is investigated by a supervisor. At the conclusion of a pursuit, a field supervisor responds to the termination point and interviews the involved officers. Depending on the severity of injuries or property damage (if any), a Level One, Two or Three pursuit investigation is completed. Each level of investigation involves more investigative steps and procedures.

A Level One investigation is a pursuit that results in a fatality; a Level Two investigation is a pursuit that results in an injury or property damage; and a Level Three investigation is a pursuit where no injuries or property damage occurred.

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<sup>1</sup> This Vehicle Code section became effective July 1, 2007 and grants civil immunity to law enforcement agencies that have policies and training procedures that comply with the elements set forth by the Vehicle Code Statute. Many of the 2007 policy revisions were mandated by California Vehicle Code §17004.7 in order for jurisdictions to maintain immunity from civil liability.

<sup>2</sup> Oakland Police Department General Order J-4 (1 Dec 08), Pursuit Driving Purpose Statement, Pg. 1.

The pursuit investigation is reviewed by the first level commander then forwarded to the Internal Affairs Division (IAD) for record keeping. If the supervisor or first level commander decides the pursuit does not comply with the pursuit policy, the report is forwarded to the Department Safety Officer for review by the Department Safety Committee. If the violation is exceptionally serious, the supervisor or commander has the ability to send the pursuit report to IAD for immediate investigation.

*In addition to potential out-of-policy pursuits, all Level Two pursuit investigations are reviewed by the Department Safety Committee to determine if the pursuit was in compliance with Department policy and if any training or policy updates need to be implemented. If the pursuit is ruled as out of policy, it is forwarded to IAD for investigation and discipline proceedings.*

The Department Safety Committee is comprised of the following permanent members:

- Commander, Training Division (Chair)
- Department Safety Coordinator (assigned to Training Division)
- Traffic Division Administrative Sergeant
- Fleet Coordinator
- City Attorney representative (non-voting)

The Chief of Police appoints four temporary members to the Department Safety Committee on January 15 and July 15, for six-month terms. The temporary members consist of one captain, one lieutenant, one sergeant and one officer.

All Level One investigations are jointly investigated by the Homicide Section, Traffic Section and IAD. Once all three investigations are completed, the report is presented to the Executive Review Board.

The Executive Review Board is comprised of the following members:

- Voting Board Members
  - Bureau of Services Deputy Chief (Chairperson and responsible for Executive Review Board report)
  - Bureau of Field Operations Deputy Chief
  - Bureau of Investigations Deputy Chief
- Non-Voting Members
  - Discipline Officer
  - Deputy City Attorney
  - Use of force policy expert
  - Appropriate subject matter expert
  - Training Division member
  - Division commander/manager of subject
- Required Presenters

- IAD representative
- Homicide Section Investigator
- Traffic Section investigator

The Executive Review Board reviews the pursuit for policy compliance; if the board determines the pursuit was not in compliance with policy the Discipline Officer begins the disciplinary hearing process.

All supervisors and commanders have access to the Internal Personnel Assessment System (IPAS), which allows an officer's direct supervisor to review the number and type of pursuits in which an officer has been involved. IPAS allows the supervisor to compare the officer to his/her peers in relation to pursuits ending in property damage. Further, it allows the supervisor to access records from when the officer has engaged in a pursuit within the past five years.

**General Statistics Involving OPD Pursuits in 2009**

<b>Initiating violation for 112 pursuits occurring from Jan 1, 2009 – Sep 23, 2009</b>		
<b>Nomenclature</b>	<b>Number</b>	<b>Percentage of Total</b>
Be-On-The-Lookout	3	3%
Infraction	41	36%
Misdemeanor	13	12%
Felony	53	49%
Pursuit Turned Over to Other Agency	2	2%

<b>52 Violations were charged at the conclusion of 112 pursuits occurring from Jan 1, 2009 - Sep 23, 2009</b>		
<b>Nomenclature</b>	<b>Number</b>	<b>Percentage of Total</b>
Hit and Run with Injuries	1	2%
Murder	1	2%
Stolen Vehicle	14	26%
Evading Police Officer	9	17%
Carjacking	5	10%
Robbery	1	2%
Assault with Deadly Weapon	3	6%
Drugs for Sales	5	10%
Concealable Firearm	1	2%
Burglary	1	2%
Receiving Stolen Property	7	14%
Shooting at Dwelling	1	2%
Loaded Firearm in Public	1	2%
Other VC Infractions	2	4%

Item: \_\_\_\_\_  
Public Safety Comte.  
October 27, 2009

<b>Of the 112 pursuits reported from Jan 1, 2009 - Sep 23, 2009, the following event concluded the pursuit</b>		
<b>Nomenclature</b>	<b>Number</b>	<b>Percentage of Total</b>
Suspect Vehicle Stopped	14	11%
Forcible Stop	2	2%
Suspect Vehicle Became Disabled	4	3%
Pursuit Aborted by Law Enforcement	36	33%
Suspect Vehicle Became Involved in a Collision	23	21%
Suspect Vehicle Escaped Patrol Vehicle	12	11%
Suspect Abandoned Vehicle and Fled on Foot	19	17%
Pursuit Turned Over to Other Agency	2	2%

<b>Of the pursuits in 2009:</b>	
<b>Nomenclature</b>	<b>Number</b>
Number of Pursuit Intervention Technique Maneuvers Attempted (PIT)	2
Number of PIT Maneuvers used to Complete the Pursuit	1
Number of Suspect Vehicles Blocked In	1
Average Time for All Pursuits	2.37 min.
Average Distance for all Pursuits	3.08 miles
Number of Pursuits Ruled Out of Compliance	2
Collisions Involving Property Damage	33
Collisions Involving Officers Injured	2
Collisions Involving Suspect Drivers Injured	15
Collisions Involving Suspect Passengers Injured	4
Collisions Involving 3 <sup>rd</sup> Party Members Injured	5
Total Collisions Involving Injuries	19
Collisions Involving Fatalities	1

**General Statistics Involving OPD Pursuits in 2008**

<b>Initiating violation for 98 pursuits occurring from Jan 1, 2008 – Dec 31, 2008</b>		
<b>Nomenclature</b>	<b>Number</b>	<b>Percentage of Total</b>
Be-On-the-Lookout	4	4%
Infraction	19	20%
Misdemeanor	4	4%
Felony	71	72%

<b>78 Violations were charged at the conclusion of 98 pursuits occurring from Jan 1, 2008 - Dec 31, 2008</b>		
<b>Nomenclature</b>	<b>Number</b>	<b>Percentage of Total</b>
Stolen Auto	27	34%
Evading Police Officer	7	9%
Car Jacking	3	4%
Robbery	2	3%
Assault with Deadly Weapon	1	1%
Terrorist Threats	1	1%
Parole Violation	2	3%
Drugs for Sales	8	11%
Concealable Firearm	1	1%
Other Vehicle Code	6	7%
Other	20	26%

<b>Of the 98 pursuits reported from Jan 1, 2008 – Dec 31, 2008, the following event concluded the pursuit</b>		
<b>Nomenclature</b>	<b>Number</b>	<b>Percentage of Total</b>
Suspect Vehicle Stopped	15	15%
Forcible Stop	1	1%
Suspect Vehicle Became Disabled	4	4%
Patrol Vehicle Became Disabled	1	1%
Pursuit Aborted by Law Enforcement	33	34%
Suspect Vehicle Became Involved in a Collision	13	14%
Suspect Vehicle Escaped Patrol Vehicle	10	10%
Suspect Abandoned Vehicle and Fled on Foot	16	16%
Pursuit Turned Over to Other Agency	5	5%

<b>Of the 98 pursuits in 2008:</b>	
<b>Nomenclature</b>	<b>Number</b>
Number of Pursuit Intervention Maneuvers Attempted	1
Number of PIT Maneuvers used to Complete the Pursuit	1
Number of Suspect Vehicles Blocked In	0
Average Time for All Pursuits	2.52 min.
Average Distance for all Pursuits	1.83 miles
Number of Pursuits Ruled Out of Compliance	6
Collisions Involving Property Damage	13
Collisions Involving Officers Injured	1
Collisions Involving Suspect Drivers Injured	4
Collisions Involving Suspect Passengers Injured	1
Collisions Involving 3 <sup>rd</sup> Party Members Injured	2
Total Collisions Involving Injuries	8
Collisions Involving Fatalities	0

## **PROGRAM DESCRIPTION**

### ***Pursuit Objectives and Priorities***

As stated in Department General Order J-4: "Pursuit Policy" (2009), the purpose of all vehicle pursuits is: "to safely apprehend violators when they refuse to voluntarily comply with the law without unnecessarily endangering the public, members, occupants in fleeing vehicles, and property."

The policy further states: "The protection of human life shall always be the primary consideration and, the immediate apprehension of the violator is never more important than the safety of the public or the officers."

### ***General Pursuit Provisions***

The current pursuit policy allows officers to initiate a pursuit whenever an officer has reasonable suspicion the fleeing driver has committed a violation of federal, state or local statute; however, the decision to initiate a pursuit involves weighing the gravity of the offense and the need to apprehend the suspect in relation to community safety and public welfare. Once a vehicle pursuit is initiated by an officer, he or she must continuously observe and weigh a variety of risk factors to determine whether to continue with the pursuit. The most important risk factors are the following:

- Safety of the public in the area of the pursuit;
- Speeds involved;
- Volume of vehicular and pedestrian traffic in the area;
- Safety of the pursuing officers;
- Road and weather conditions;
- Availability of air or field support;
- Whether the suspect is known and can be apprehended at a later time;
- Whether the suspect is known to be a juvenile; and
- Safety of occupants in the fleeing vehicle

Once a pursuit has been initiated, all sworn personnel involved in the pursuit are equally accountable for continuously assessing the gravity of the offense, the risk factors observed during the pursuit and safety to the public. Furthermore, the initiating officer must announce via radio communications they are engaged in a pursuit and a field supervisor must acknowledge they are monitoring the pursuit. The duty of the supervisor is to ensure that officers are not driving at unjustified speeds, the proper number of units are involved, and to determine if the police helicopter should be engaged or if another law enforcement agency should be notified.



### *Termination of Pursuits*

It is mandated by policy that at any given time during the pursuit, if any of the involved officers or the monitoring supervisor believes the danger involved in the pursuit is excessive in light of the multiple risk factors, then any one of them will terminate the pursuit. Both officers and supervisors frequently exercise their discretion to terminate pursuits. For example, in 2008 there were a total of 98 vehicle pursuits, and 34% (n 33<sup>2</sup>) of those pursuits were terminated by the officer or supervisor. Furthermore, from January 1 to September 23, 2009, there have been a total of 112 vehicle pursuits, and 33% (n 36) were terminated by the officer or supervisor.

Once a pursuit has been terminated, the pursuing officers must deactivate their lights and siren, obey all speed and traffic laws, and disengage the pursuit by turning off from the pursued vehicle's direction of travel or pulling to the curb; officers will not continue to follow the pursued vehicle. However, the helicopter or other police vehicles travelling at normal speeds may continue to monitor the general location of the fleeing vehicle.

### **SUSTAINABLE OPPORTUNITIES**

Economic: The Department's pursuit policy is structured to serve as an effective management tool to reduce or prevent the City's exposure to incidents of civil liability by comporting with §17004.7 of the Vehicle Code; OPD meets or exceeds all of the criteria listed within §17004.7 of the Vehicle Code.

Environmental: None noted.

Social Equity: Vehicle pursuits are inherently dangerous. They are used to apprehend violators who refuse to comply with the law and pose a danger to Oakland residents. However, OPD's pursuit regulations and training are designed to ensure that no pursuit shall continue at the expense of the safety of bystanders and responding officers.

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<sup>2</sup> (n) represents the number of pursuits that produced the percentage.

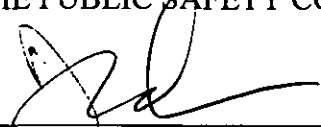
**DISABILITY AND SENIOR ACCESS**

There are no ADA or senior citizen access opportunities identified in this report.

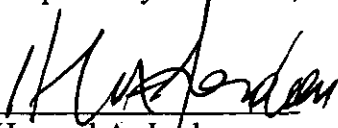
**RECOMMENDATION**

Staff recommends acceptance of this informational report.

APPROVED AND FORWARDED TO  
THE PUBLIC SAFETY COMMITTEE:

  
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Office of the City Administrator

Respectfully submitted,

  
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Howard A. Jordan  
Assistant Chief of Police

Prepared by:  
Captain David Downing  
Personnel, Training and  
Technology Division

Reviewed by:  
Ms. Cynthia Perkins  
Legislative Analyst  
Oakland Police Department