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POLICE PURSUIT & EMERGENCY VEHICLE OPERATION

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CRITICAL CONCEPTS

Statement of Value & Limitations

Value. Principles and guidelines are valuable because they help us when we are called on to make judgments rapidly during moments of high stress. If you learn and reflect on them now, you stand a good chance of exercising your discretion wisely.

Limitations. We provide this information to guide your discretion – not to replace it. While some human activities lend themselves to total regulation, high speed pursuit and emergency driving do not. There are just too many variables — the reason for pursuit, road conditions, operator skill — just to name a few. With so many variables, principles guide but do not control. Principles blend with discretion, experience and intuition in the field. The product is good judgment and, more often than not, a good result.

Disclaimer. These principles and guidelines do not create any legal standard of care, nor do they replace or modify any departmental policy. They are presented to encourage thought about a police activity that poses a risk of danger to officers, citizens and offenders.

Definitions

Pursuit occurs once your speed exceeds the legal limit, or you drive contrary to traffic signs and signals, in order to follow a vehicle with the intent to engage its driver or passengers in any form of police activity.

Emergency vehicle operation (EVO) occurs when your speed exceeds the legal limit, or you drive contrary to traffic signs and signals, in order to perform a police function – but you are not pursuing a vehicle.

Sensible Mindset Toward Pursuit and EVO

The minimum standard of care. G.L. c. 89, § 7B establishes: (1) the authority of police officers to engage in pursuit or EVO; and (2) the minimum restrictions placed on those activities. As a result:

- **Right of way.** You, as a police officer, have the right of way when responding to a call; and
- **Emergency operations and limitations.** In an emergency, you, like other first responders, may:
 - *Cautiously exceed speed limits* if necessary for public safety;
 - Drive contrary to signs and signals after *fully stopping at and proceeding with caution through any intersection*;
 - Not pass a school bus with flashing lights that has stopped to let children on or off – unless a police officer signals otherwise.

Most police crashes happen at intersections – so stopping and only proceeding when safe is the most important safeguard when engaged in pursuit or EVO.¹ This is the paramount command of 89, § 7B!

Know your department policy intimately because it is usually more restrictive than 89, § 7B. You *must* be able to explain your decisions in relation to the provisions contained in your department policy. Otherwise, discipline and liability may follow.²

Any pursuit or EVO poses a risk of danger. There is no such thing as a “safe” pursuit or EVO. For one thing, you never know the driving skill of the operator in the car being chased, or the skill of other operators on the roads you travel. Their reactions can jeopardize everyone’s safety — sometimes more than a weapon can. On average, 329 people die in police pursuits each year in America.³

Oftentimes the risk of pursuit or EVO is not worth it. It may make sense to allow a suspect to temporarily escape, or to incrementally slow your response to a call for service.⁴

Assess your emergency driving ability because all officers do not have the same skill. Be realistic. Know your limitations!

Never pursue or engage in EVO for “entertainment.” Let’s face it, high speed operation can be exciting. This is why you have to consciously avoid the temptation to see pursuit or EVO as entertainment. It is too dangerous, with the potential for too many unanticipated tragedies.

Never see flight as a “challenge” to your authority. The most disastrous pursuits often stem from the pursuing officer’s “ego.” A mindset that promotes poor judgment is the belief that a fleeing vehicle makes you “look bad.” Do not take it personally; the authority you exercise is granted to you by the community.

Deciding Whether to Pursue or Engage in EVO

The fundamental questions:

- Is the risk from pursuit outweighed by the risk of allowing a suspect to escape apprehension?
- Is the risk from EVO outweighed by the risk of possibly allowing a suspect to escape and/or delaying intervention with a victim(s) on scene?

Abandoning Pursuit or EVO

It is always up to you to stop. You are in the best position to decide whether to continue.

Recognize that a supervisor, who is not in the heat of the moment, may be able to exercise better judgment. We are all human, and it is easy to get caught up in the pursuit and to lose sight of the bigger, public safety picture. That is why every department empowers supervisors to suspend a pursuit or EVO. Do not view this oversight as a lack of trust in your judgment. Rather, this policy provides an appropriate safeguard against the human tendency to lose perspective in high stress moments.

Consider these factors in evaluating whether to continue.

- Nature of the violation/offense and potential hazard created by pursuit.
- Likelihood of successful apprehension.
- Volume, type, speed, and direction of traffic.
- Nature of the location (e.g., residential? business? school?).
- Weather and road conditions.
- Your driving skills and type of police vehicle.

PURSUIT

Preventing Pursuit & Encouraging Apprehension

Recognize potential pursuits before they happen. You know from experience that certain people take off — drug dealers, car thieves, teenage traffic offenders, and so forth. While you cannot anticipate every pursuit, pay attention for signs that a pursuit may be brewing (e.g., back seat passenger keeps looking back at you).

Consider alternatives to discourage flight.

- **Is a traffic stop necessary?** During investigations, try to structure your encounters — e.g., approaching a suspect, engaging in an undercover deal, etc. — away from his vehicle.
- **Are you taking precautions during the stop?** Do you call for backup early so that extra police presence discourages flight? Do you wait to turn on lights and/or siren until you are at a good location to pull the vehicle over, or until the vehicle has stopped in the ordinary course of travel (e.g., blocked at a red light or parked at a destination)? During a traffic stop with potential flight, do you ask the operator to immediately turn off the engine and give you the keys?ⁱ These are a few strategies to consider.

Remain alert for information that will facilitate later enforcement. Even if you have to abandon the pursuit for safety reasons, you will feel better if you have an alternative enforcement method. Before pursuit, engage in surveillance to gain information about the car and suspect so you have a backup plan if pursuit ends prematurely. For instance, on a vehicle infraction, if you radio the plate number and car description, dispatch can alert you to the vehicle owner. A glimpse of the driver often proves it is the owner. G.L. c. 90C, § 2 allows citations to be mailed. Justice delayed is not necessarily justice denied! The same holds true for obtaining a later arrest warrant.

Conducting Pursuit

Communicate completely. Immediately inform dispatch of:

- Call sign of your unit.
- Description of pursued vehicle and its occupants.
- Reason for pursuit.
- Direction of travel, estimated speed, and roads being used.

ⁱ See *Comm. v. Moses*, 408 Mass. 136 (1990).

Drive defensively & sensibly. You should:

- **Always conform to the requirements of 89, § 7B.**
- **Activate warning lights and siren.**
- **Yield to a marked cruiser if conducting pursuit in an unmarked unit or on a motorcycle.**
- **Avoid:**
 - *Pursuing a vehicle the wrong way on a divided highway or one-way street* (unless necessary to prevent a clear and present danger).
 - *Deliberate contact with a pursued vehicle* (unless there is an immediate and realistic threat of death or serious bodily injury and all other apprehension methods have failed or would be ineffective).
 - *Discharging a weapon toward a moving vehicle* (unless absolutely necessary for protection of life). There is too much danger to others from ricocheting bullets and, equally important, bullets are unlikely to disable a moving vehicle — even shots to the tires.⁵
 - *Pursuing with a non-law enforcement passenger in your cruiser* (unless absolutely necessary).
 - *Using a personal vehicle* (unless absolutely necessary because felonious conduct is involved and, if undertaken, obey all traffic laws).

Elevated risk from tire deflation devices and assisting cruisers. Officers who deploy tire deflation devices are at risk. Some have been hit retrieving the devices from their trunks, or by passing police, suspect, or citizen vehicles. There is also increased danger from police cruisers rushing to assist an ongoing pursuit, or rushing to get ahead in order to set up a roadblock or deploy tire deflation devices.⁶

Enter another jurisdiction with permission. You should pursue into another jurisdiction only after notifying dispatch and, if feasible, receiving permission from your supervisor. Communicate with the receiving jurisdiction (either directly or through dispatch) to prevent collisions or other dangerous accidents that often occur without proper coordination.

Documenting Pursuit

The decision to pursue, and the conduct and result of a pursuit, must be fully and accurately documented in your incident report. It is your greatest protection against being second-guessed in a later judicial proceeding. Full disclosure is critical.

EMERGENCY VEHICLE OPERATION (EVO)

Classification Systemⁱⁱ

Recommended call for service classification system.⁷

- **Priority 1:** Immediate response is critical because the call for service involves:
 - A threat of death or serious bodily injury;
 - Possibility of major property damage;
 - A felony or violent misdemeanor that recently occurred (within 15 minutes), and it is possible that suspect(s) may be apprehended;
 - A domestic violence incident;
 - Exigent circumstances demanding an immediate response (e.g., explosive device, gas leak).

- **Priority 2:** Immediate response not critical:
 - A recent crime or incident not posing a significant threat to life or property;
 - Suspect(s) fled scene (longer than 15 minutes);
 - An incident involving damage that presents a traffic hazard.

- **Priority 3:** Response could be delayed for a reasonable period of time without adverse effect.

ⁱⁱ Even if your department does not have a classification system, the concepts offered here can be implemented on an informal basis. In other words, correlating your response with the emergency nature of the call makes sense in all situations.

EVO activation.

- **Priority 1:** EVO recommended.
- **Priority 2 or 3:** You must notify dispatch of your intention to engage in EVO, and it is expected that you can articulate a reason(s) for this elevated response level. *Note:* Departments often have a broadcast term for EVO, such as “responding Code 3.”
- **Self-initiated traffic stop or call for service.** You do not have to notify dispatch of EVO until you engage in pursuit.

Conducting EVO

Drive defensively & sensibly. You should:

- **Always conform to the requirements of 89, § 7B.**
- **Activate warning lights and/or siren.** *Note:* Lights alone may be sufficient.
- **Yield to a marked cruiser if conducting EVO in an unmarked unit or on a motorcycle.**
- **Avoid:**
 - ***Driving the wrong way on a divided highway or one-way street*** (unless necessary to prevent a clear and present danger).
 - ***Using a personal vehicle*** (unless absolutely necessary because felonious conduct is involved and, if undertaken, obey all traffic laws).
 - ***Pursuing with a non-law enforcement passenger in your cruiser*** (unless absolutely necessary or the individual has been pre-approved for a “ride along”).

Upgrading response or downgrading response.

- **An emergency response may be upgraded or downgraded by you, a supervisor, or a dispatcher.** Any disagreement shall be resolved by the highest ranking officer involved in the decision. You must stop EVO immediately if no longer authorized and proceed to the scene without lights or siren and in compliance with all traffic laws.
- **Change in response.** If you elected to engage in EVO for a lower priority call, which you had to communicate to dispatch, then you must also inform dispatch if you decide to downgrade your response.

- **Tactical response modifies EVO.** If, at any time during an emergency response, you decide that you would gain a tactical advantage by turning off lights and/or siren, you must – at that point – obey all traffic laws.

¹ Charles Swanson et al., *Police Administration : Structures, Processes, and Behaviors* (9th ed. Pearson) at pg. 484. The danger of intersection accidents is so well known that the Boston Police Department reminds all officers of this risk in their policy – Rule 302, Emergency Driving.

² Failing to obey the mandates of 89, § 7B does not subject officers to criminal consequences, although their driving behavior may qualify as criminal conduct (e.g., operating to endanger). Violations of 7B restrictions may subject officers to internal departmental discipline and/or may be grounds for allegations of negligence in civil lawsuits. See *DeStefano v. Panebianco*, 32 Mass. App. Dec. 48 (1965).

³ Swanson, *Police Administration* at pg. 483.

⁴ 89% of police pursuits in California, for example, involved civil traffic infractions as the initial basis for the stop. *Id.*

⁵ A Drug Enforcement Administration (DEA) training video presents dramatic evidence that shooting at vehicles is a remarkably ineffective and dangerous apprehension tactic.

⁶ Johnson, “Dangers of Vehicle Pursuit: Emerging Issues” (IACP Magazine, July 2014) at pg 24.

⁷ These recommendations are based on the current version of the Boston Police Department’s Rule 302, Emergency Driving.