

Police Pursuits:

Balancing the Safety of Citizens with the Apprehension of Criminals

Corporal Randy Wood

Bentonville Police Department

Criminal Justice Institute

School of Law Enforcement Supervision

Session XXXIV

November 16, 2009

Police Pursuits:

Balancing the Safety of Citizens with the Apprehension of Criminals

Since the dawn of time, law enforcement officers have been chasing suspects. In the old west pursuits were on horse back. As transportation and technology improved along with vehicle speed abilities increasing, more criminals are taking extra risks to do whatever it takes to get away. Vehicle pursuits are one of the most dangerous actions police officers take. Everyday, law enforcement officers across the nation have to make the difficult decision as to whether or not pursue vehicles that are attempting to evade them.

The goal for the criminal is to get away fast, by any means necessary. Usually this is done without any consideration for their own safety, let alone others. Many times, traffic lights, stop signs, and the legal flow of traffic are totally disregarded for the selfish reason of not wanting to take responsibility for one's actions. The Police Officer's goal is just as simple in theory, catch the bad guy. However, the way they go about it is much more complex.

Officers must balance the severity of the violation and whether it even warrants pursuit in the first place. They must consider their department's policies and procedures, and continuously judge all actions to ensure compliance. One of the most important considerations that is often forgotten though, is the safety of themselves, the safety of the public, and the potential tragedies involved with

police pursuits. Movies, television shows, and video games portray police pursuits as dramatic and exciting. The media projects the horrific images of vehicle crashes associated with pursuits, and juries hear civil lawsuits against departments for monetary damages. Law enforcement and government administrators work to limit liability to their agencies by providing training and instituting policies. Meanwhile, technology companies are trying to manufacture and market different ways to safely end pursuits. How do we balance the safety of our citizens with the apprehension of criminals?

Dangers of Pursuit

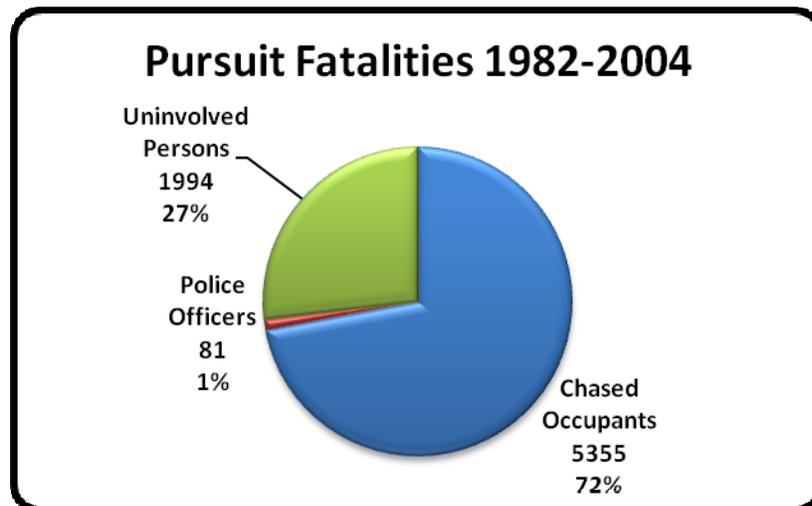
During ten years at the Bentonville Police Department, I have been involved in five vehicle pursuits. One particular pursuit, I was standing at a gas station speaking to the clerk at 3am. A small car drove by, skidded to a stop, and the driver turned around in the middle of the road and left. I got into my police car and went after them, with all intentions of conducting a simple traffic stop to see why this person decided to make a skidding U-turn in the middle of the road. As I got closer and activated my lights, the early model Ford Escort sped away, at times topping 90 miles per hour. After a few miles, the driver lost control of the small car and crashed into a highway bridge embankment. After catching the seventeen

year old after he ran away from the car, it was still a while later that we learned of his actual crime. He had stolen the car just minutes prior. The owners were at home, asleep. Had this kid just drove past the gas station like nothing had happened, I most likely would have never become involved. However, had our current policy been in place when this pursuit occurred, I would have had no justification to pursue and most likely would never have found out who actually stole the vehicle. During my pursuit, there was one car on the opposite side of the road that had stopped after seeing my lights. We had only one intersection to cross that had a green light for our traffic. Though the pursuit was during the early morning hours, and there were no injuries, there was always a chance. The fleeing vehicle driver could have been hurt or killed after he crashed, I could have wrecked my patrol car as well and been hurt. Or worse, an innocent uninvolved person or family could have been hit. I would say that the result of this pursuit is the exception, not the rule.

Many other pursuits occur in high traffic areas at rush hour. Police pursuits are dangerous and many law enforcement officers, offenders, and innocent bystanders are injured or killed as a result. National Highway Traffic Safety Administration (NHTSA) statistics reported that between 1982 and 2004 there were a total of 881,733 vehicle crashes resulting in 987,523 deaths (1.12 deaths per

crash). Of those crashes 6,336 or .7% were related to police pursuits. Those pursuits caused 7,430 deaths (1.17 deaths per crash) (Huston et al., 2009).

Police pursuits are labeled many times as reckless on the part of the officers. Police pursuit crashes cause only .7% of deaths and regular civilian drivers causing 99.3% of the deaths. With the general public causing vehicle crashes that resulted in more than 139 times more fatalities the argument can be made that people are more likely to die by the hands of their fellow drivers than by the result of a police pursuit. Of the pursuit deaths, the majority is chased occupants, followed by uninvolved persons, then police officers. See chart below.



All deaths are unfortunate. Although they lived very different lives, Brian Batchelder, Hanna Abdugar, and Troy Rigsbee have one thing in common. They were all killed as a result of a police pursuit.

On Tuesday, January 28, 1997, Bentonville Police Officer, 22 year old Brian Batchelder died in the line of duty. He had been a police officer for one year. Although the exact



circumstances are unknown, Batchelder lost control of his police car and struck a tree. It is believed by most officers working at the time that Batchelder was attempting to stop a fleeing vehicle. This is because Batchelder had stopped another traffic violator at the same location the previous day. Though the violation of the offender is unknown, was it really worth him loosing his life? Brian died while doing his job by enforcing the law. He left behind his father, a Bentonville Police Detective, his wife, and six week old son.

In Minneapolis, MN, on Sunday, April 6, 2008, a 15 year old boy fled from police after a traffic violation. Officers learned during the chase that he was in a stolen car. After a dozen blocks or so, a supervisor called off the pursuit due to safety concerns. A witness estimated the boy's speed at 60mph. Approximately one-half mile in front of the officers, the juvenile crashed into Hanna Abukar's vehicle, killing her. Abukar was driving her son along with a neighbor boy to Sunday school. Abukar was 26 years old (Havens, 2008).

On Saturday, August 8, 2009, 23 year old Troy Rigsbee, of West Haven, Connecticut died after fleeing from police. Rigsbee was driving a vehicle suspected as being involved in a stabbing. When police attempted to stop Rigsbee,

he sped away, hitting a police car, then a police officer. He ended up driving over “stop sticks,” a pursuit termination device. The stop sticks worked and flattened his tires. Rigsbee chose to continue driving on the vehicle’s bare wheels. He lost control on a curve, struck a guard rail, then a tree, where the car exploded into flames (Bass, 2009).

Unfortunately, hundreds more people die each year due to police vehicle pursuits. How can we, as police officers, pursue a suspect in a way that is safe for the public, but at the same time not allow criminals to run free?

Lawsuits

Offenders, their family members and victims of police pursuits often file lawsuits against police agencies. Many times, the offender sues, alleging civil rights violations under the Fourth or Fourteenth amendments to the U.S. Constitution. The Fourth amendment is “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized” (Constitution, 2000) The Fourteenth amendment states that “No State shall make or enforce any law which

shall abridge the privileges or immunities of the citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of the law, nor deny to any person within its jurisdiction the equal protection of the laws” (Constitution, 2000).

These arguments are made by fleeing offenders alleging that police, in the first place, had no right to stop them, or that their actions, in attempting to stop them when they flee, is also unjust. Many times victims file suit against departments alleging negligence or recklessness on part of police. Victims have also claimed that departments have violated their own policies. Most of these lawsuits seek monetary damages, usually for injuries incurred during a police pursuit.

In 2007 a vehicle driven by Ronisha Kelley was stopped by Seattle police. Kelley was pulled over for failing to stop at a red light. Kelley was driving without a license at the time and was worried she would be caught driving her employers’ vehicle and took off. She was working as a nanny and was driving with the 23-month-old child she was paid to watch. Seattle police pursued, fearing that the child in the car had been kidnapped by Kelley. After a short four block chase, Kelley struck the vehicle of Ronald and Jeanette Ashley who were visiting the city. Kelley estimated that when she entered the intersection her speed was approximately 80mph. Both Ashleys suffered severe, lasting damage to their legs

and were awarded \$4.5 million in damages where the jury ruled the city was partly liable, and dictated they pay \$457,400 to the Ashleys. However, the city is also responsible for ensuring Kelley pays the \$4.1 million due to the Ashleys, otherwise the city must also pay the balance (Pulkkinen, 2007).

In this case the jury held the offender mostly liable, but with life changing injuries and the need for financial compensation to make up for lost wages, many times cities are held financially liable due to the fact that they are able to pay.

Officers have also been civilly sued in their personal capacity. When it is found that either the officer violated department policies, or the police agency fulfilled all of its supervisory and training obligations regarding the pursuit, some victims sue the officer. Unfortunately many times, there are large monetary judgments against officers who have barely any means to pay. With these cases in mind, it is extremely important that departments provide clear guidelines for what offences officers can pursue for. Agencies must also provide continuous training for their officers to ensure understanding and compliance.

Policies

Because of the dangers and consequences of pursuits, many departments have changed their policies regarding pursuits in recent years making them more

restrictive or eliminating pursuits all together. The goal of the more restrictive policies is to help limit liability of the department and the officer.

Woods (2001) states that policies regulating pursuits generally fall into one of three categories: Judgmental, Restrictive or Discouragement. The judgmental policy leaves most of the decisions on whether or not to pursue or continue pursuit to the officer involved. These policies are usually vague and provide little guidance on when to pursue, other than to terminate the pursuit when things become “too risky.” Judgmental policies also require a lot of supervision. Restrictive policies place limitations on officer’s judgment. Policies like this usually prohibit pursuing for specific things such as minor traffic offenses and pursuing juvenile offenders. They usually restrict speed, distance, and duration of pursuits. The restrictive policy requires thorough knowledge by officers to ensure compliance. Discouragement policies limit officer discretion and are specific. They discourage pursuits and only allow them in certain circumstances, such as chasing a known offender of a serious crime.

Based on Woods’ three descriptions, I believe The Bentonville Police Department’s pursuit policy falls into the restrictive category. This policy allows for pursuits, but contains certain guidelines where officers can pursue, instances when a pursuit should be terminated, and considerations while pursuing.

Bentonville Police Department pursuit policy specifies that an officer may pursue only when they reasonably believe the offender has committed a serious felony, or when the suspect is an immediate threat to the general public or other officers (sec. 41.2.1). The policy states that “Serious Felonies for purposes of pursuit are restricted to the following offenses: Robbery, Burglary, Kidnapping, Rape, Extortion, Aggravated Assaults, Battery in First degree, Battery in Second Degree, Felony domestic cases, and any other felony which involves the use or threat of physical force or violence against another person” (sec. 41.1J).

In addition to the specific crimes described that can be pursued, there are restrictions in place to balance the safety of the officers and public with the need to catch fleeing suspects. These restrictions specifically state police vehicles cannot drive the wrong direction on a divided highway, no police vehicles can be involved that are carrying prisoners or civilian passengers, and no more than two police cars can become directly involved in the pursuit. Unmarked police vehicles and police sport utility vehicles cannot be involved in pursuits unless there is a life threatening circumstance. This is only allowed as other appropriately marked police vehicles are responding. It further specifies that officers shall not pass pursued vehicles, drive on adjacent streets along the pursuit route (paralleling), box in suspect vehicles, create a roadblock, or bump or ram. Shooting at fleeing vehicles is also unauthorized except as a last resort where deadly force is authorized (sec. 41.4).

Besides the specific cases and restrictions regarding pursuits in Bentonville, there are other guidelines on when an officer is required to terminate a pursuit. Officers must stop pursuing if they are directed by a supervisor, if communication with dispatch is lost, if there is injury during the pursuit and no immediate aid is available, if the suspect's identity is determined and they can be apprehended safely at a later time, if the officer believes the danger of the pursuit outweighs the need for an immediate arrest, or if there is a "clear and unreasonable danger to the police officer or public." 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" (sec. 41.3). While most of this pursuit policy makes sense, this portion seems to leave the individual officer open to scrutiny. Stating that a clear and unreasonable danger is when a police vehicle is driven at excessive speeds leads the officer to have to articulate to a judge and jury what is and is not excessive. That opinion will vary widely with the judges and juries, especially when most all pursuits exceed the posted speed limit.

The pursuit policy for Bentonville Police Department prior to September, 2006 lined out the risks and potential consequences of pursuits but gave officers and their supervisors the ability to use their own discretion on whether or not to pursue. While this policy was in effect, as a young officer, I was engaged in a

pursuit with a motorcycle. The pursuit reached 120mph in dense fog on city streets. It was based on another agencies attempted stop for a taillight out. Nobody was injured, but looking back now as a supervisor, that pursuit should have ended before it ever began.

There is no specific pursuit policy that will work for any one police agency. Case law, state law, and the public's perception of pursuits along with the agency's need to apprehend criminals provides the framework on how liberal or restrictive pursuits can be in a certain area or region. What works for us in Bentonville, Arkansas will not necessarily work in other cities.

Solutions

Besides implementing policies to either prohibit or restrict pursuits, departments must work to consider different opportunities to still make an arrest of the fleeing suspect while keeping its citizens safe. One of the common issues brought up when it comes to police pursuits is training. Though officers cannot control all the actions of offenders, they can learn to drive more efficiently and safely. Many police officers receive little if any tactical driving or pursuit training outside of the academy. Alpert (1997) states:

“Although 60 percent of the agencies reported providing entry-level training at their academies, the average time devoted to these skills was estimated at less than 14 hours. Once in service, the amount of additional training offered averaged only slightly more than 3 hours per year and focused on the mechanics of defensive and/or pursuit driving rather than on issues that should be considered when deciding to continue or terminate pursuits. Respondent agencies may have spent at least some time teaching officers how to pursue, but training devoted to when, or why, to pursue appears to have been minimal or non-existent” (Thompson, 2005).

I attended the Arkansas Law Enforcement Training Academy (ALETA) in 2000. During the academy, we were trained in a few different special techniques of driving, but nothing involving keeping lookout for other vehicles while pursuing or or legal considerations involving starting or stopping pursuits. Since the academy I have not received any further law enforcement driver’s training.

There have been many technologies invented to help mitigate the risks of police pursuits. One of the most popular devices is called the “spike strip” or “stop stick.” This is a tire deflation system, with the goal to safely slow, and stop fleeing vehicles. These devices use hollow spikes allowing penetration of the tire to safely drain the air in the tire. The spikes are usually in a roll with an accordion base or mounted inside of a triangular shaped stick. The spike strips are thrown across a

predicted path of a fleeing vehicle by a police officer. The fleeing vehicle then drives over the strip, and the spikes puncture the tires. Ultimately the tires flatten and the speed of the suspect vehicle slows dramatically. At this point the suspect is expected to give up and stop, or the vehicle slows to the point it is not much of a danger. Unfortunately though, as mentioned earlier, some suspects still try to push the vehicle beyond its capabilities, thus causing a crash. "Spike strips allow for predictable and total deflations every time: cars in less than 1/4 mile, trucks, buses and 18 wheelers in under 1 & 1/4 mile and run-flats in less than 2 & 1/4 miles" (Phoenix).

The dangerous part of deploying tire deflation devices is that usually the officer must stand outside along the roadway and wait for the fleeing vehicle to pass. The officer then throws the strips out prior to the suspect vehicle passing, and pulls them back after they pass to prevent other vehicles, especially pursuing officers, from also running over the spikes. There have been many injuries to these officers by fleeing vehicles and other passing motorists. These devices are relatively inexpensive at about \$300 a set, and probably one of the most popular pursuit ending tools among law enforcement. But some agencies still do not have enough funding to equip a fleet of vehicles to ensure adequate coverage for a situation that is unpredictable.

The Hillsborough County Sheriffs Office (HBCSO) in Tampa, Florida developed a concept that requires more tactical thinking rather purchased equipment. This technique is called the “Vehicle Intercept.” It is designed to stop vehicles, not that are fleeing a routine traffic stop, but that are felony suspects or impaired drivers who pose a threat to public safety. It is believed that these categories of people are more likely to flee in the first place so the goal is to stop the pursuit before it ever starts. HBCSO strategy involves positioning police vehicles in a tactical manner in front of and behind the target vehicle that is slowing, stopped, or just beginning to move. The police cars do not activate their lights until they maneuver into position and block the car. This is to keep from frightening the driver and ending up in a chase.

To be successful and safe, this technique takes training and anticipation of the target vehicle’s route and actions, and consideration of road conditions. Out of approximately 60 intercepts that were performed, only two vehicles broke through. Post-pursuit data indicated a 50 percent drop in pursuits since HBSCO Deputies were trained in vehicle interception. This approach, though not appropriate for all situations, is a viable alternative and eliminates some dangerous chases (Eisenberg & Fitzpatrick, 1996).

Although stop sticks are one of the most popular devices to end pursuits, and the HBCSO found a way to eliminate some pursuits, there are many other

technologically advanced devices inventors are working on. These devices, some still in the imagination phase, include deploying electromagnetic pulses to disable the vehicle's electronic components and others employ small rockets that shoot into the rear of the vehicle with a GPS device for tracking and future apprehension. Hopefully in the future, some of these devices can become a cost efficient reality to help end vehicle pursuits

Conclusion

There's no doubt in anyone's mind that police pursuits are extremely dangerous. Vehicles are more powerful and can reach sometimes unimaginable speeds. Many law breakers have little to lose by running from the police. With more and more vehicles and pedestrians on the roadways, police agencies have to learn to mitigate risks to the public and to reduce criminal and civil liability. Police are made out to be irresponsible many times when their pursuits result in crashes, especially when they result in death. Too many people, hundreds each year are killed, either directly involved in police pursuits or innocently driving to church on a Sunday morning. But how do we balance safety with the need to apprehend criminals and prevent a feared society of lawlessness? I envision in the future a GPS based way of communicating with vehicle's internal computer to make the engine shut down

and slowly stop. Unfortunately true criminals will find a way to circumvent the system and still get away. Lawmakers need to make the crime of fleeing in a vehicle either a serious felony, or even a federal offense. The ultimate goal of police agencies should be developing ways to prevent pursuits by utilizing tactics, legislation, and technology. If this can be achieved, many lives can be saved and criminals will be held accountable for their actions.

References

- Bass, P. (2009, August 10). Fleeing suspect dies in crash. New Haven Independent [Newspaper, article in archives]. Retrieved October 28, 2009 from the World Wide Web:
http://www.newhavenindependent.org/archives/2009/08/fleeing_suspect.php
- Bentonville Police Department Policy and Procedure Manual. (2006, September 27) Chapter 41. Vehicle Pursuits
- The constitution of the united states with index and the declaration of independence. (2000). Washington D.C.: US Government Printing Office
- Eisenberg, C., & Fitzpatrick, C. (1996, August). An alternative to police pursuits. [Article posted on Web site Findarticles]. Retrieved November 3, 2009 from the World Wide Web:
http://findarticles.com/p/articles/mi_m2194/is_n8_v65/ai_18701407

Havens, C. (2008, April 6). Teen fleeing cops crashes; a mom dies. Star Tribune [Newspaper, article in archives]. Retrieved October 29, 2009 from the

World Wide Web: <http://www.startribune.com/local/17342729.html>

Huston, H., Rice, P., Jr., Chana, J., Kyriacou, D., Chang, Y., & Miller, R. (2009, July 25). [A review of police pursuit fatalities in the united states from](#)

[1982- 2004 \[Article posted on Web site lib\]. Retrieved October 29, 2009](#)

[from the World Wide Web: http://lib.bioinfo.pl/pmid:17613900](#)

Phoenix International Ltd. [Information posted on Web site Magnumspike].

Retrieved November 2, 2009 from the World Wide Web:

<http://www.magnumspike.com/welcome.html>

Pulkkinen, L. (2007, January 28). Seattle may owe \$2 million in police pursuit damages. [Article posted on Web site Policeone]. Retrieved November 3,

2009 from the World Wide Web: [http://www.policeone.com/suspect-](http://www.policeone.com/suspect-pursuit/articles/1207285)

[pursuit/articles/1207285](http://www.policeone.com/suspect-pursuit/articles/1207285)

Thompson, J. (2005, October 21) Police pursuits: Are no-pursuit policies the answer? [Article posted on Web site Cji] Retrieved October 23, 2009 from

the World Wide Web: <http://www.cji.edu/papers/Police%20Pursuits.pdf>

Woods, J. (2001). Evaluating police pursuit policies. Loss Bulletin, 1-8. Retrieved November 1, 2009 from the World Wide Web:

<http://www.omag.org/vertical/Sites/%7BA236071B-1605-46C2-93BA->

[811B45275272%7D/uploads/%7B31286CC3-435B-43B4-A81A-EFB0F00E1FBB%7D.PDF](#)