



Ohio Bureau of Criminal Identification & Investigation
INVESTIGATIVE REPORT

12/18/12 REVIEW OF CPD VEHICLE PURSUIT POLICY

Summary

On December 18, 2012, Ohio BCI Special Agent Thomas Verhiley assisted with the Cleveland Police Department officer involved shooting that occurred on November 29, 2012.

Details

During the course of this investigation, Special Agent Supervisor Dennis Sweet and Special Agent Thomas Verhiley reviewed the Cleveland Police Department Vehicle Pursuit Policy. A copy of the aforementioned policy 3.2.02 was obtained on December 18, 2012, with an effective date of August 5, 2010. Also the related Cleveland Police Department Order 3.203, Road Spikes is included. The portion of the policy regarding the use of vehicle pursuits reads as follows:

Cleveland Police Department Vehicle Pursuit Policy

The purpose of the Cleveland Police Department Vehicle Pursuit Policy is to establish guidelines for pursuit driving required by the Ohio Revised Code, Section 2935.031. *“Any agency, instrumentality, or political subdivision of the state that employs a sheriff, deputy sheriff, constable, marshal, deputy marshal, police officer, member of a metropolitan housing authority police force, state university law enforcement officer, or veterans’ home police officer with arrest authority under section 2935.03 of the Revised Code or that employs other persons with arrest authority under the Revised Code, shall adopt a policy for the pursuit in a motor vehicle of any person who violates a law of this state or an ordinance of a municipal corporation. The chief law enforcement officer or other chief official of the agency, instrumentality, or political subdivision shall formally advise each peace officer or other person with arrest authority it employs of the pursuit policy adopted by that agency, instrumentality, or political subdivision pursuant to this section.” Effective Date: March 14, 2003*

Ohio Revised Code Section 4511.041 establishes certain exceptions for public safety vehicles; however, this section does not relieve the driver of an emergency vehicle or public safety vehicle

File Number: SI-18-12-82-1493	File Title: Timothy R. Russell (S) Malissa A. Williams (S)
Case Agent: Mark Kollar	Authoring Agent: Verhiley, T. #76 <i>TV</i>
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Investigative Activity: Review of Cleveland Police Vehicle Pursuit Policy	Supervisor Approval: Dennis Sweet <i>[Signature]</i> JAN 10 2013

from the duty to drive with due regard for the safety of all persons and property upon the highway.

Cleveland Police Officers may initiate a vehicle pursuit when **all** of the following criteria are met:

1. The suspect operating the vehicle refuses to stop at the officer's direction and flees apprehension for an alleged felony or misdemeanor offense for which a full custody arrest is authorized.
2. The immediate danger of the pursuit is less than the immediate or potential danger to the public if the suspect remains at large.
3. The officer is operating an authorized emergency vehicle.

Before initiating a pursuit, Cleveland Police Officers shall take into consideration other factors such as weather, time of day, volume of vehicular and pedestrian traffic, road conditions, capability of the pursuit vehicle, population density, geographic location, officer familiarity with the area and proximity to certain areas (such as schools, parks, playgrounds, and venues associated with crowds) during those times when pedestrians are reasonably perceived to be active.

Pursuing officers shall become the back-up unit if driving an unmarked unit or if the unit is not equipped with a light bar, when a marked unit with a light bar and siren is available as the primary pursuit unit; or when the Aviation Unit becomes the primary pursuit unit.

Termination of the vehicle pursuit

Vehicular Pursuit Termination - Occurs when the pursuing vehicle advises the Communications Control Section (CCS) of its intent to cease the pursuit or when ordered to do so by a supervisor and does so by deactivating its emergency lights and sirens and returns to normal vehicular operations.

1. Officers must immediately terminate the pursuit if the level of danger to life and property outweighs the need for immediate apprehension.
2. A supervisor orders the officer to terminate the vehicle pursuit. Officers shall not follow a suspect vehicle after a pursuit has been terminated.
3. There is sufficient identifying information and high probability of arresting the fleeing suspect later and termination will not result in the loss of vital evidence.
4. The distance between the pursuing vehicle and the pursued vehicle is so great that continuing the pursuit is futile.
5. The pursued driver shows reckless and utter disregard for their own life or the lives of others. Indications of such behavior include but are not limited to: not attempting to slow for red lights or stop signs, driving left of center into oncoming traffic or speeds far in excess of safe limits relative to road and traffic conditions.
6. Remain on the channel of the district the pursuit began in, unless ordered to change channels by a sector or CCS supervisor.

Officers shall not

1. Join a pursuit in progress without permission from a sector supervisor. Acknowledgment from CCS of an officer's intent to join a pursuit shall not constitute permission to join a pursuit.
2. Engage in a pursuit with a vehicle that contains witnesses, suspects, complainants, ride-alongs, or other non-police personnel. Deviation from this directive requires specific, prior, written approval from the Chief of Police.
3. Pass the primary pursuit unit if acting as a secondary pursuit unit, unless the tactical advantage has clearly moved to the secondary pursuit unit due to a lapse in pursuit by the primary pursuit unit. All pursuit units shall maintain an assured clear distance from each other and the pursued vehicle.
4. Attempt to employ any procedure that involves physical contact between the pursuing vehicle and the pursued vehicle unless approved by the controlling pursuit supervisor.
5. Initiate or join a pursuit in an unmarked unit unless equipped with emergency red or blue lights and siren unless exigent circumstances warrant the initiation of a pursuit.
6. Follow a pursuit on parallel streets without permission from a supervisor.

Parallel pursuit is the act of a police vehicle traveling on a roadway parallel to the pursued vehicle. Following a pursuit on parallel streets is considered an active engagement in a pursuit and is prohibited for vehicles that are not the primary or secondary pursuit units. Other available vehicular units may place themselves or be placed by a supervisor in the general area of a pursuit or expected area of a pursuit, but they shall not parallel the pursuit without permission from the sector supervisor.

The Sector Supervisor shall

1. Immediately acknowledge via CCS that the supervisor is monitoring the pursuit and is affirming approval to continue pursuit while the supervisor determines whether the pursuit is to be authorized or terminated.
2. Permit no more than two police vehicles to directly engage in a pursuit, except under unusual and well-articulated circumstances.
3. Remain in command regardless of the area the pursuit enters.
4. Control the pursuit by:
 1. Monitoring and directing units into or out of the pursuit.
 2. Assigning support and back-up units.
 3. Approving or ordering alternative tactics.
5. Determine the need for any pursuit unit to engage in a parallel pursuit and grant permission to engage in such a strategy where the totality of circumstances warrants the use of such a strategy.
6. Coordinating with the Aviation Unit. When available, the Aviation Unit shall become the primary pursuit unit and may assist the sector supervisor in directing the secondary units as needed.
7. Be accountable for continuing a pursuit if circumstances indicate that the pursuit should be terminated.

8. Remain in charge if the pursuit enters another jurisdiction, unless control is requested by the other agency.
9. Complete the Vehicle Pursuit Report for every pursuit initiated, including those that are terminated without arrest or accident, and forward it to the Deputy Chief of Field Operations.

Road Spikes

The Cleveland Division of Police shall safely use road spikes whenever possible to end or slow a pursuit. Officers shall not operate road spikes without first completing training from the Police Academy. District Commanders shall be responsible for the issuance of Road Spikes to units within their districts. Operators of the Road Spikes shall deploy the spikes just prior to the suspect vehicle crossing them. Operators shall retract them immediately afterward, allowing pursuing vehicles to continue without interruption. The sector supervisor controlling a pursuit shall make the decision to use Road Spikes. Due to the quickly escalating circumstances of a vehicle pursuit, and the benefit of quickly ending a pursuit, officers may use Road Spikes before a supervisor's approval if they can so safely. When officers deploy Road Spikes before a supervisor's approval, the deploying officer shall immediately notify a supervisor of the deployment and location. The Aviation Unit shall assist in effective Road Spikes placement. Road Spikes may be used only on vehicles with four or more wheels and shall never be used on motorcycles.

Video recording of pursuits

Officers operating a division vehicle equipped with a video recording device (city owned or personal) that has participated in any aspect of a vehicle pursuit resulting in an accident involving injuries or property damage, shall immediately advise the sector supervisor of any captured recordings of the pursuit. The sector supervisor shall immediately take custody of whatever storage medium (memory card/stick, CD, DVD, tape) was used by the recording device (including the recording device itself if necessary [cell phone, digital audio recorder, regardless if it is City or member's personal property) and retain it until such time that a member of Pursuit Investigative Team or Accident Investigation Unit can take custody of the storage medium/recording device. When the data from the storage medium/recording device is transferred to another portable storage medium and/or hard drive, the original storage medium may be returned to the recording device. The transferred data shall be recorded onto a portable digital storage medium (such as a DVD), given a report number (RMS) and entered into evidence according to established procedures. Members' personal property shall be returned back to the member as soon as reasonably possible once the recordings have been saved into evidence. The existence of any video recordings of the pursuit is considered evidence and shall be noted on the Vehicle Pursuit Report.

On November 29, 2012 the Cleveland Police Department Aviation Unit did not participate in the vehicle pursuit. There were no alternative tactics used e.g. roadblocks, vehicle-to-vehicle (Pursuit Intervention Tactic Maneuver) or road spikes.

At the conclusion of all initiated vehicle pursuits, Cleveland Police Officers shall notify and complete various incident reports and forward them to the specific divisions within the police department.

A copy of the policy was submitted to this case file as an attachment to this report.
