

Law Enforcement Vehicle Pursuits: Is the Florida Highway Patrol Properly Addressing the Issue

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Abstract

This research looks at law enforcement vehicle pursuits and how the Florida Highway Patrol is addressing the issue. The research evaluates other Highway Patrol policies and compares them with the current FHP policy on pursuit. Officers who are sworn to uphold and enforce the law, are constantly struggling with agency policies and whether or not to assume and accept the inherent risks associated with pursuing fleeing suspects. The research looks at current pursuit data and uses a study group of first line supervisors within the Florida Highway Patrol. The current policies, data and new research are evaluated to reflect what is currently being done by the FHP and what is believed should be done, to effectively enforce the law we are sworn to uphold, while protecting our officers and the public.

Introduction

In regards to law enforcement vehicle pursuits “Nowhere else in law enforcement will police officers place themselves and the community at such risk of injury based on the unknown” (Noble, 1999). Law enforcement officers struggle with the issue of vehicle pursuits. Officers are sworn to uphold and enforce the law when crimes are committed in their presence, while administrators, citizens and legal minds focus on liability and safety. The law enforcement profession has historically found ways to intervene in issues that jeopardize officer and public safety. Our profession has spent billions of dollars on training, technology and equipment procurement, in an effort to give officers the necessary tools to remain safe and protect the public while stabilizing dangerous situations. Yet, we in the profession cannot come to a general consensus on how to control and stabilize a vehicle pursuit.

Agency policies differ in their approaches to dealing with vehicle pursuits. Some agencies pursue any and all violations. Other agencies only pursue suspects of violent criminal acts. Some agencies require a supervisor’s authority to actively pursue a suspect. If an officer does have the authority to pursue, does he/she have the tools and the training and experience to actively participate in and safely bring the pursuit to an end. So if law enforcement is going to pursue and pursue effectively, the question is what tools, training and authority do we give our officers to end a pursuit?

If law enforcement’s number one priority is public safety, the profession needs to address the issue of vehicle pursuits. We need to find common ground in our approach, when and who will be pursued, and what tactics will be considered acceptable to end pursuits. Is our profession willing to invest in the training and technology available to combat the issue and can the courts assist law enforcement in its continuing struggle with this controversial issue?

This document reviews pursuit policies for comparison on the issue of pursuit in four state highway patrol organizations, all of which devote the majority of their

resources to traffic safety and enforcement. It also evaluates existing data concerning pursuits across the nation and specifically attempts to answer the following questions:

1. What types of pursuits are occurring and what type of training, tactics and policies are being used to intervene?
2. To whom is the authority or discretion given in determining whether or not to pursue?
3. Is the Florida Highway Patrol properly addressing the issue of vehicle pursuits?

The research began by reviewing the little statistical data available on the topic. The policies of the Florida Highway Patrol, Georgia State Patrol, Alabama Highway Patrol and Tennessee Highway Patrol were all reviewed for similarities and differences on the topic of pursuits. A questionnaire was developed to retrieve original data from members of the Florida Highway Patrol, which is the target agency in this project.

Literature Review

In 2000, the International Association of Chiefs of Police (IACP) developed a pursuit database in collaboration with the National Institute of Justice (NIJ). The IACP collected pursuit data from 40 different law enforcement agencies across the country. The goal of the project was to supply agencies with information that would aid them in training, policy development and civil litigation. The project was named "Managing Police Pursuits". In the winter of 2004, project manager Laura J. Nichols published an executive brief which was comprised of statistical information in the database. On March 4, 2004, the database contained statistical information on 2,239 police pursuits. The database provided valuable information in the following areas:

- Reasons for Initiating
 - 53% of police pursuits were initiated for traffic violations.
 - 10% of police pursuits were initiated for violent felony crimes.
- Time and Distance of Pursuits
 - 60% of police pursuits ended in three minutes or less.
 - 67% of police pursuits covered 3 miles or less.
- Environmental Conditions
 - 95% of pursuits occurred on dry roads.
 - 77% of pursuits occurred in light traffic
 - 76% of pursuits occurred in urban areas
- Speeds Attained During the Pursuits
 - 22% of pursuits exceeded 91 mph.
 - 57% of pursuits never exceeded 70 mph.
 - 25% of pursuits never exceeded 50 mph.

- Termination Factors
 - 35% of pursuits were ended by the suspect/violator stopping.
 - 20% of pursuits were ended by police voluntarily terminating the pursuit.
 - 5% of pursuits were ended due to active police intervention. (PIT Maneuver, Roadblocks, Tire Deflators, etc.)

- Injuries Attributed to pursuits
 - 99% of pursuits ended with no injury to officers or uninvolved parties.
 - 95% of pursuits ended with no injury to the pursued suspect/violator.

The United States Supreme Court recently ruled on a Georgia pursuit case in which a deputy rammed a fleeing motorist, resulting in a crash that left the suspect a quadriplegic (Scott v. Harris, 2007). The injured party claimed that the deputy had used excessive force based on an unreasonable seizure under the Fourth Amendment. On April 30, 2007, in an 8-1 vote, the court ruled “That a police officer’s attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at risk of serious injury or death.” (Yates, 2007) The court clearly placed the blame on the fleeing suspect and went on to say “we are loath to lay down a rule requiring the police to allow fleeing suspects to get away whenever they drive so recklessly that they put other people’s lives in danger. It is obvious the perverse incentives such a rule would create.” The court went on to say that the incentive would be “escape” (Yates, 2007).

Current Florida Highway Patrol Pursuit Policy states that:

- “Vehicular pursuit of fleeing suspects presents a danger to the lives of the public. It is the policy of this Division to protect all persons’ lives to the extent possible when enforcing the law. In addition, it is the responsibility of the Division to assist members in the safe performance of their duties. To effect these obligations, it shall be the policy of the Division to strictly regulate the manner in which vehicular pursuit is undertaken and performed. Members are authorized to pursue suspects who are reasonably thought to be violent and pose a danger to the public at large. Therefore, members may pursue a suspect only if the member reasonably believes the suspect has committed or attempted to commit a crime of violence. **ALL OTHER PURSUITS ARE PROHIBITED**” (FHP Policy 17.05, 2007).

FHP policy also prohibits the use of any type of offensive tactic (contact) while the pursued vehicle is in motion. The use of partial and/or complete roadblocks and shooting at or from a moving vehicle during a pursuit are considered “deadly force” and must be authorized by a supervisor. FHP policy requires supervisors to take command and direct all pursuits. The only exception to this requirement is if a supervisor is not available, then the responsibility for policy conformity falls on the pursuing member. The policy does allow for the use of pursuit termination devices (PTD’s) in pursuit situations. These PTD’s (Stop Sticks) are only issued to first line supervisors (sergeants) within the ranks of the FHP. Pursuant to policy, a Florida Trooper has no

other means or tactics available to them during an “authorized” vehicle pursuit. PTD’s were issued to FHP sergeants and they received their training during the summer months of 2007.

The Georgia Department of Public Safety and the Georgia State Patrol Pursuit Policy states that:

- “Sworn members of the Department are expected to make reasonable efforts to apprehend violators who flee or otherwise attempt to elude. However, the Department recognizes and respects the value and special integrity of each and every human life. In vesting members with the lawful authority to use force in the protection of the public welfare, a special balancing of all human interests is required. Members, in the performance of their duty, must use only the force that is necessary to bring an incident under control. It is paramount that members exercise prudent and sound judgment in their actions when engaging in pursuits. Members must comply with existing laws governing vehicle pursuits. At the same time, they must use sound discretion and good judgment in each pursuit. It must be understood that every violator will not be apprehended. In some situations the most professional and reasonable decision would be to terminate a pursuit in the interest of their own and the public’s safety” (GDPS Policy 17.02, 2007).

Georgia Troopers are authorized to use tire deflation devices and rolling road blocks to stop a vehicle that refuses to stop for lights and siren. The precision immobilization technique (PIT Maneuver) may be used when Troopers in the pursuit determine that the fleeing vehicle must be stopped immediately to safeguard life and preserve public safety. The PIT Maneuver is not considered “deadly force” when executed by properly trained members under reasonable and prudent circumstances. GSP supervisor’s active involvement in pursuits is limited to authorizing stationary roadblocks and the use of firearms to end a pursuit. Georgia Troopers receive eight hours of pursuit driving training annually.

The Alabama Department of Public Safety and the Division of Highway Patrol Pursuit Policy Order states that:

- “A pursuit may be initiated to apprehend violators. Sworn officers of this Department are expected to make reasonable efforts to apprehend violators who flee or otherwise attempt to elude. Officers shall clearly indicate their intent to stop the vehicle. Visual and audible warning must be activated during the time the Department vehicle is actually engaged in pursuit. Sworn officers shall conduct pursuits in compliance with the laws of Alabama, sound professional judgment, and the procedures outlined in this policy order” (ADPS Policy Order 400, 2006).

Alabama’s supervisory responsibility is to determine if the pursuit conforms to Department policy and to order discontinuation if circumstances warrant. However, a supervisor may not overrule an officer’s decision to terminate a pursuit. Tactical operations used by Alabama Troopers mirror those set forth in GSP policy. The

exception would be that the PIT Maneuver and its use in Alabama is considered a use of force and shall only be used when the danger from the continued pursuit is greater than the danger associated with the use of the maneuver to end the pursuit.

The Tennessee Department of Safety and the Tennessee Highway Patrol Pursuit Policy states that:

- “It shall be the policy of the Department of Safety to apprehend fleeing violators when conditions do not endanger the lives, property or safety of motorists, citizens and employees. It shall further be the policy of this Department to permit commissioned members to operate a vehicle consistent with regulations as outlined when involved in pursuit or other emergency situations. At all times during emergency operation commissioned members will activate all emergency equipment including blue lights, sirens and headlamps” (TDS General Order 411, 1999).

The Tennessee policy is very similar to that of the FHP, except that Tennessee supervisors may authorize the use of a rolling roadblock in “deadly force” incidents. The Tennessee Department of Safety has currently drafted revisions to the pursuit policy. If approved, the revised policy would more closely resemble that of the highway patrol divisions in Georgia and Alabama.

Methods

There was a need to evaluate the opinions of first line supervisors within the Florida Highway Patrol. These sergeant’s are deciding whether their subordinates should pursue or not, and they are responsible for controlling and directing any pursuit that becomes authorized. They are also the only members of the FHP that have the tools (Stop Sticks) to intervene in an authorized pursuit. A questionnaire was developed based on the research. The questionnaire consisted of 15 questions and dealt with different aspects associated with vehicle pursuits (See Appendix A).

The questionnaire was sent to 25 % (48) of the sergeant’s within the Florida Highway Patrol. An alphabetical email list of the 198 sergeant’s within the FHP was obtained and the questionnaire was sent to every fourth name on the list. This provided a good cross section of officers both geographically and with various experiences. It also provided a realistic retrieval system and rate of return. The survey was sent to the field on September 21, 2007. Survey recipients were instructed that the questionnaire was for statistical purposes, that the data would be used to reinforce the current FHP policy, and/or to offer suggestions for improving the policy. Questionnaire recipients were also advised that their names would not be used in hopes that they would answer the questions truthfully and without fear of reprisals.

Results

The questionnaire was intended to allow the sergeants to express their opinions in regards to current FHP Pursuit Policy, its' strengths and weaknesses, and their personal desired changes in the policy. The survey was also intended to gather opinionated responses to topics of officer safety and training issues associated with vehicle pursuits. The survey resulted in a 67% response rate of those who were surveyed.

The survey results revealed that 50% of the respondents had previously been involved in an authorized pursuit and 22% had had the opportunity to cancel an authorized pursuit (See Appendix B). Only 37% of the respondents felt that law enforcement vehicle pursuits should be restricted to forcible felonies. An overwhelming majority of respondents (87%) believe that there are times when a decision not to pursue should outweigh the risks associated with pursuing a fleeing subject.

The majority of respondents (75%) felt that termination devices such as "stop sticks" were an effective tool for terminating pursuits, however, 56% felt that use of such devices placed officers in danger, exposing them unnecessarily to possible serious injury. The survey also revealed that 75% of respondents felt that these devices should either be issued to patrol officers or all sworn members of the agency, not just to first line supervisors.

A series of questions were directed at training and safety issues associated with law enforcement vehicle pursuits. More than 80% of the respondents believed that members of the FHP did not have adequate training in the area of pursuit driving and 69% of the respondents felt that they did not have an effective pursuit policy in place at the time of the survey. Only 31% of respondents felt that they had adequate tools and policies to effectively participate in and end an authorized vehicle pursuit. The other 69% who felt they needed additional training and tools were asked an additional question. This group unanimously (100%) stated that members of the FHP should have the ability by some means to aggressively terminate an authorized vehicle pursuit. And 68% of this group felt that the members of their agency should not become involved in pursuits if their agency offered no means in which to end an authorized pursuit.

Discussion

Statistical analysis, research and new data results seem to indicate that some officers have much more discretion than others when determining whether or not to engage in pursuits. It is clear that this topic remains controversial and approached in a variety of ways. It appears that administrators and policy makers have made and continue to make attempts to address issues concerning vehicle pursuits that politically address public concerns, liability, and officer safety, all of which are legitimate concerns. Recent Supreme Court decisions may also affect approaches to pursuits.

The survey results clearly show that officers don't mind being restricted by policies and actually believe that there should be restrictions concerning vehicle pursuits, the majority actually want guidelines and believe that they have a good policy concerning pursuits. The thing to remember concerning respondents is that these are supervisors who are going to have to respond to the results of any pursuit. Law

enforcement personnel believe that they need the ability to end a pursuit that they are authorized to be involved in. Law enforcement is undecided as a profession on who, when, how and why to pursue and therefore have not spent the time, money, or made the investment as a profession to professionalize this aspect of the law enforcement function.

It is clear that law enforcement personnel want the ability and training to give them the skills in which they can quickly end an authorized pursuit. They don't want to chase people until the crash occurs or the "wheels fall off", jeopardizing their safety as well as the safety of others. They don't want to be involved at all if their agency and policy offers no means in which to effectively end the pursuit. The central theme attached to this research seems to be discretion. Some agencies allow their officers to use it in pursuit situations and others don't. Why?

Recommendations

Statistical pursuit analysis and policy review of State Highway Patrol agencies would seem to indicate that the Florida Highway Patrol is somewhat less proactive than other highway patrol organizations in its policies and procedures concerning vehicle pursuits. Training is the key component of professionalism in law enforcement. It might prove beneficial to convene a policy committee to include sworn members of all ranks, trainers, legal staff and civilian representatives. A review of statistical data on vehicle pursuits, court rulings, agency pursuit policies, and statutory requirements of the Florida Highway Patrol, could help professionalize the traffic safety and enforcement efforts of the agency. It would be recommended that this committee focus on the following topics and how they relate to pursuits:

1. Training.
2. Available technology and tactics.
3. Officer Discretion – how, why and when it is limited in pursuit situations.

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Appendix A

FHP Sergeant Survey – Vehicle Pursuits

1. Have you ever been involved in an authorized vehicle pursuit?
 - a. Yes
 - b. no
2. As a supervisor, have you ever cancelled an authorized vehicle pursuit?
 - a. Yes
 - b. no
3. Do you feel law enforcement agencies should be restricted by policies in matters of vehicle pursuits?
 - a. Yes
 - b. no
4. Do you have knowledge of the recent Supreme Court ruling (Scott v. Harris) which stemmed from a Georgia pursuit case?
 - a. Yes
 - b. no
5. Do you believe that there are times when a decision NOT to pursue should outweigh the risks associated with pursuing a fleeing suspect?
 - a. Yes
 - b. no
6. Do you believe that law enforcement vehicle pursuits should be restricted to forcible felonies?
 - a. Yes
 - b. no
7. Do you believe that pursuit termination devices (PTD's) such as "stop sticks", are a useful and effective tool for terminating pursuits?
 - a. Yes
 - b. no
8. Do you believe that the use of such devices places officers in danger, exposing them unnecessarily to possible serious injury?
 - a. Yes
 - b. no
9. What members of your agency should be issued PTD's, for them to be considered an effective law enforcement tool?
 - a. Patrol Officers
 - b. First Line Supervisors
 - c. Administrative Officers
 - d. All Sworn Members
10. Do you believe the members of your agency have adequate training in the area of pursuit driving?
 - a. Yes
 - b. no
11. Do you feel your agency currently has an effective policy in place as it relates to vehicle pursuits?
 - a. Yes
 - b. no

12. Do you feel you have adequate tools and policies to effectively participate in and end an authorized vehicle pursuit? (If no, answer question 13, if yes, stop here)
- a. Yes
 - b. no
13. What tools and training do you need to be able to participate in and effectively terminate an authorized vehicle pursuit?
- a. Pursuit Intervention Technique (PIT) Maneuver
 - b. Boxing In Authority
 - c. Ramming Authority
 - d. Other, Specify: _____
14. Do you feel that members of your agency should have the ability by some means to aggressively terminate an authorized pursuit?
- a. Yes
 - b. no
15. Do you feel that members should become involved in pursuits if their agency policy offers no means in which to end an authorized pursuit?
- a. Yes
 - b. no

Appendix B

FHP Sergeant Survey – Vehicle Pursuits –Survey Results

1. Have you ever been involved in an authorized vehicle pursuit?
 - a. Yes 50%
 - b. no 50%
2. As a supervisor, have you ever cancelled an authorized vehicle pursuit?
 - a. Yes 22%
 - b. no 78%
3. Do you feel law enforcement agencies should be restricted by policies in matters of vehicle pursuits?
 - a. Yes 91%
 - b. no 9%
4. Do you have knowledge of the recent Supreme Court ruling (Scott v. Harris) which stemmed from a Georgia pursuit case?
 - a. Yes 44%
 - b. no 56%
5. Do you believe that there are times when a decision NOT to pursue should outweigh the risks associated with pursuing a fleeing suspect?
 - a. Yes 87%
 - b. no 13%
6. Do you believe that law enforcement vehicle pursuits should be restricted to forcible felonies?
 - a. Yes 37%
 - b. no 63%
7. Do you believe that pursuit termination devices (PTD's) such as "stop sticks", are a useful and effective tool for terminating pursuits?
 - a. Yes 75%
 - b. no 25%
8. Do you believe that the use of such devices places officers in danger, exposing them unnecessarily to possible serious injury?
 - a. Yes 56%
 - b. no 44%
9. What members of your agency should be issued PTD's, for them to be considered an effective law enforcement tool?
 - a. Patrol Officers 28%
 - b. First Line Supervisors 25%
 - c. Administrative Officers
 - d. All Sworn Members 47%
10. Do you believe the members of your agency have adequate training in the area of pursuit driving?
 - a. Yes 19%
 - b. no 81%
11. Do you feel your agency currently has an effective policy in place as it relates to vehicle pursuits?
 - a. Yes 31%
 - b. no 69%

12. Do you feel you have adequate tools and policies to effectively participate in and end an authorized vehicle pursuit? (If no, answer question 13, if yes, stop here)
- a. Yes 31%
 - b. no 69%
13. What tools and training do you need to be able to participate in and effectively terminate an authorized vehicle pursuit?
- a. Pursuit Intervention Technique (PIT) Maneuver 75%
 - b. Boxing In Authority 19%
 - c. Ramming Authority 22% *respondents gave more than 1 response
 - d. Other, Specify: 3%(electronic)
14. Do you feel that members of your agency should have the ability by some means to aggressively terminate an authorized pursuit?
- a. Yes 100%
 - b. no
15. Do you feel that members should become involved in pursuits if their agency policy offers no means in which to end an authorized pursuit?
- a. Yes 32%
 - b. no 68%