

## Vehicle Pursuits

### 304.1 PURPOSE AND SCOPE

The purpose of this general order is to provide information and establish policy for members of the Cheektowaga Police Department concerning pursuit. It is imperative you are guided by prior knowledge of the Department policy in making decisions regarding pursuits.

Members must understand that the successful application of this policy depends on your full realization that:

- (a) A high speed pursuit is one of the most hazardous tasks police undertake;
- (b) The patrol car has the capabilities of causing serious physical injury or death;
- (c) Your life and the lives of others may depend on your ability to remain relatively calm and to use good judgment under conditions of great stress and excitement.

### 304.2 POLICY

The decision for initiating a pursuit rests solely with the individual officer. He must exercise sound judgment and weigh the possible consequences.

Decision for the continuation or termination of a pursuit rests with:

- (a) The Officer involved in the pursuit and/or
- (b) The Duty Supervisor

It is the policy of this department that pursuit at high speeds is justified only when the officer knows or has reasonable grounds to believe the violator has committed a felony or any offense involving the endangerment of human life.

Vehicle and traffic violations and violations for other offenses not involving endangerment of human life do not justify high-speed pursuits. An officer attempting to stop a motorist for a minor offense or a V&T violation may pursue at a reasonable speed for a reasonable distance. However if it is determined, by the officer and/or the patrol supervisor, that the risk involved outweighs the justifications for the pursuit it will be terminated.

The fact that an officer is engaged in pursuit of a violator does not relieve him of, nor protect him from, the consequences of a disregard for the safety of others.

#### 304.2.1 PURSUIT DEFINED

An active attempt by a law enforcement officer, on duty, driving an authorized vehicle, using audible and visible emergency equipment, to apprehend one or more occupants of a moving vehicle, providing the driver of such vehicle is aware of the attempt AND is resisting apprehension by maintaining or increasing his speed or by ignoring the officers attempt to stop him.

### 304.3 DETERMINING FACTORS REGARDING COMPLIANCE

When initiating or continuing a pursuit, officers and supervisors must consider the following factors:

# Town of Cheektowaga Police Department

## Policy Manual

### *Vehicle Pursuits*

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- (a) Potential threat to public and personal safety;
- (b) Possible alternative action;
- (c) The seriousness of the criminal activity;
- (d) Road and weather conditions (dry, wet, icy);
- (e) Traffic conditions (heavy or sparse);
- (f) Time of day or night.

#### 304.3.1 PUBLIC SAFETY

While section 1104 of the New York State Vehicle and Traffic Law exempts a police vehicle from certain Vehicle and Traffic Law requirements, when involved in emergency operation, the operator has to be aware of his legal responsibilities. Subdivision 4(e) of Section 1104 states: "The foregoing provisions should not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect a driver from the consequences of his reckless disregard for the safety of others."

Members are directed to thoroughly familiarize themselves with section 1104 of the New York State Vehicle and Traffic Law.

Since pursuits involve some risk, an officer should look towards possible alternatives.

- (a) No Pursuit
  1. When a violator has too much lead time.
  2. If the identity of the operator is known and his behavior is not endangering others, a high-speed pursuit is needless and unjustified.
- (b) Following at a Safe Speed
  1. It will sometimes be advantageous to follow a vehicle at a reasonable speed and not initiate a pursuit until other back-up units are available and a tactical vehicle stop can safely be made. e.g. Suspect vehicle is reported stolen. Officer knows the driver or occupants are wanted.

#### 304.4 INITIATING A PURSUIT

- (a) No more than two vehicles will be directly engaged in the pursuit at any one time unless authorized by a supervisor.
- (b) When an officer initiates a pursuit, he will notify the dispatcher by verbally transmitting the following information if possible
  1. Department vehicle number
  2. Location and direction of travel
  3. Reason for pursuit
  4. Description of vehicle being pursued, including registration number, if possible
  5. Any identification of suspects in vehicle or weapons

# Town of Cheektowaga Police Department

## Policy Manual

### Vehicle Pursuits

---

6. Update location and direction of travel as often as possible
  7. Request of notification to another jurisdiction when it becomes apparent that the pursuit will enter that jurisdiction
- (c) Once a vehicle has committed itself to a pursuit, emergency lights and siren will be activated.
  - (d) The shift supervisor will be immediately advised of the situation by dispatch and monitor the pursuit.
  - (e) If other officers find themselves in an advantageous position adjacent to or ahead of the pursuit after notifying the radio dispatcher and if possible, with permission from a supervisor, they may set up a roadblock. (see Road Block Policy)
  - (f) Ramming - Any member of the Cheektowaga Police Department who engages in the "ramming" of a pursued vehicle must realize his actions may be viewed as deadly physical force as defined in Art. 35 of the New York State Penal Law. It must be remembered that any ramming technique is a high risk maneuver, the higher the speed the greater the risk.
  - (g) During the pursuit, other units will not use the radio for other than emergency messages.
  - (h) If an officer receives a command from a Dispatcher or from the shift supervisor to stop the pursuit, he/she shall do so immediately and report the final location and direction of travel of the pursued vehicle to the dispatcher.
  - (i) The pursuing officer shall terminate the pursuit if he/she determines his/her safety and/or the safety of the public is seriously in danger. Also, conditions of the road, weather, traffic or other factors may justify the termination of a pursuit. They shall notify the dispatcher of their decision and relay the final location and direction of travel of the pursued vehicle at the time of termination.
  - (j) Other factors that warrant abandonment of a pursuit are as follows:
    1. When the officer loses visual contact with the suspect vehicle;
    2. After a reasonable distance when the only known reason for the pursuit is minor offenses and/or V&T violations not involving endangerment to human life.
    3. When the violator can be identified to the point where an apprehension can be more safely made at a later time.
    4. When there is a clear and unreasonable danger to the officer and other users of the highway.

#### Pursuit Continuance into Another Jurisdiction

If a pursuit initiated by the Cheektowaga Police Department enters another jurisdiction, a Supervisor will make the determination regarding the continuation or termination of the pursuit based on the same factors governing its inception

# Town of Cheektowaga Police Department

## Policy Manual

### *Vehicle Pursuits*

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#### **304.4.1 PURSUIT INITIATED BY OUTSIDE AGENCY**

If a pursuit initiated by another jurisdiction enters the Town of Cheektowaga, the Cheektowaga Police Department may assist in the pursuit within the town limits. Generally assistance will be limited to one or two vehicles and a supervisor will be immediately notified. Police Department vehicles will terminate the pursuit as soon as practical upon leaving the town unless authorized to continue by a shift supervisor.

#### **304.5 PATROL SUPERVISORS**

Patrol Supervisors shall assist in a pursuit to whatever extent is practical. They should not be concerned with over-taking the units in direct pursuit but rather, should be concerned with preventing excessive response and loss of control of the pursuit.

Supervisors will review vehicle pursuits and report the outcome of these pursuits to the appropriate Captain.

Disciplinary action shall be initiated whenever members unreasonably fail to comply with Department policy or by failing to comply with the directives of a radio dispatcher or supervisor.

Patrol Supervisors will be responsible to order the discontinuation of a pursuit that they know falls outside of departmental policy.

#### **304.6 UNMARKED UNITS**

Unmarked Units will not engage in direct pursuit except in matters of immediate urgency. An unmarked unit will make every reasonable attempt not to initiate a pursuit. When sufficient marked units become available the unmarked unit will discontinue. The unmarked unit will activate available emergency equipment.

#### **304.7 POLICE MOTORCYCLES**

Officers operating police motorcycles will not engage in high-speed pursuit under any circumstances. He may follow a subject that he suspects has been involved in a crime until such time as a marked unit can commence a car-stop or pursuit.

#### **304.8 FIREARMS**

Firearms shall not be used in an attempt to stop a pursued vehicle. This applies to roadblocks as well as pursuing units. Officers should realize it is usually ineffective. Nothing in this policy prohibits an officer from using deadly physical force in conjunction with the guidelines set forth in Article 35 of the New York State Penal Law.