

CITY OF OAKLAND

AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2003 DEC 30 PM 2:30

To: Office of the City Manager
Attn: Deborah Edgerly
From: Police Department
Date: January 13, 2004

Re: **Informational Report from the Chief of Police Comparing the Oakland Police Department's Policy, Procedures, and Precautions Used for Vehicle Pursuits to Those of Other Cities.**

SUMMARY

This report responds to the Committee's request for a comparison of the Oakland Police Department's pursuit policy with those of other law enforcement agencies.

FISCAL IMPACT

This is an information report, no fiscal impacts are included.

BACKGROUND

On October 14, 2003, the Public Safety Committee heard a report on the Oakland Police Department's current vehicle pursuit policy. The Committee directed the Police Department to conduct a "best practices" survey of vehicle pursuit policies in other cities of comparable size, in California and other states. Specifically, the Committee asked staff to evaluate the issue of pursuits in proximity to schools.

Since the mid-1990s, many police departments have re-evaluated their vehicle pursuit policies to limit and/or prohibit pursuits. In 1999, OPD conducted a re-evaluation of its policy and on April 18, 2000, published a revision to its vehicle pursuit governing document: General Order J-4, "Emergency Driving, Pursuit (Code 3), Pursuit Intervention, and Safety Belt Regulations." This order defines the conditions under which officers may pursue fleeing suspects, when a pursuit must be terminated, what types of force may be used to end a pursuit, what protocol will be followed, and sets forth procedures for departmental review of pursuits.

OPD compared General Order J-4 with the police department vehicle pursuit policies of the following cities:

- Boston, MA
- Cincinnati, OH
- Dallas, TX
- Hayward, CA
- Long Beach, CA
- Los Angeles, CA
- Minneapolis, MN
- Phoenix, AZ
- Pittsburgh, PA
- Sacramento, CA
- San Diego, CA
- San Francisco, CA
- San Jose, CA
- Seattle, WA

10.10 CC
ORA/COUNCIL
FEB 3 2004

Item: ~~7~~
Public Safety Comte.
January 13, 2004

OPD reviewed the policies of the above cities to compare best practices governing the authority to initiate a vehicle pursuit, supervisory authority, the number of vehicles permitted to take part in a pursuit, uses of force that are specifically allowed or prohibited to end a pursuit, and any restrictions regarding proximity to schools. In addition, the Department consulted pertinent studies conducted by the National Institute of Justice (NIJ) and the United States Department of Justice.

KEY ISSUES AND IMPACTS

Danger, effectiveness, and liability

High-speed vehicle pursuits are of perpetual concern to law enforcement agencies nationwide due to the high risk of accident and injury. Though inherently dangerous, pursuits may be necessary and may provide the most effective means for capturing violent and/or dangerous suspects. In recent years there have been a number of high-visibility civil judgments against jurisdictions for negligence arising out of pursuit cases. However, eliminating high-speed pursuits altogether could expose police agencies to "failure-to-protect" lawsuits. The police departments surveyed for this report have responded to this "Catch-22" situation by crafting pursuit policies that narrowly define initiation causes for high speed pursuits. These policies provide instruction for limiting risk, define the levels of supervision required during the pursuit, provide post-incident review of the pursuit, and limit the types of force available to officers.

Based on a review of the pursuit policies of the 14 cities surveyed, OPD's policy is among the most conservative and is consistent with best practices for vehicle pursuits. Attachment A provides an outline of the major features of each policy surveyed.

Weighing dangers of pursuits versus need to apprehend suspects

Every vehicle pursuit policy reviewed for this report included language describing the officer's duty to weigh the need for apprehension against the public's safety. In all cases, the officer who would be initiating the pursuit was given some degree of discretion. Some policies contained vague language about "reasonable, professional judgment" while others were much more specific, listing the level of crimes for which pursuits may be justified, as well as the conditions under which pursuits were forbidden. Other agencies, including OPD, specifically prohibit pursuits when the only offense is a vehicle code violation or a non-firearm-related misdemeanor. Most policies also provided guidance to officers in determining when to terminate an active pursuit - - usually when the risks generated by the pursuit are greater than the problems solved by its continuance.

OPD's policy requires that pursuits *shall be terminated immediately* under certain circumstances, including:

Item: ~~7~~
Public Safety Comte.
January 13, 2004

- dangerous weather or traffic conditions,
- the presence of children going to and from school,
- the presence of pedestrian or vehicular traffic that necessitates frequent maneuvering of the police vehicle,
- lengthy pursuits, and
- high speeds when traffic conditions impede safe vehicle operation.

OPD's limitation on pursuits is consistent with the practices of the other agencies surveyed for this report.

Supervision and review of pursuits

Oakland, like most of the agencies reviewed for this report, specifies who is authorized to provide supervision of active vehicle pursuits. Because of the heightened emotional state that high speed pursuits can evoke for participants, it is imperative that a non-involved supervisor:

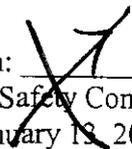
- maintain control of the pursuit,
- coordinate all involved resources (helicopter, other pursuit vehicles, uses of force, etc.) and, most importantly,
- terminate the pursuit when the dangers of the pursuit become too great.

OPD is the only agency surveyed that specifically states that officers "are not required to continue any pursuit" and that "no command officer or supervisor will be criticized or disciplined when his/her decision is to terminate rather than continue a pursuit." This emphasis puts Oakland's policy among the most conservative. OPD has the only policy that speaks to the culture of police which has historically glorified reckless, high-speed, dangerous pursuits, and provides assurance that such activity will not be tolerated or rewarded by the Oakland Police Department.

Oakland is a leading agency in its command review of vehicle pursuits. Department policy requires prompt analysis of the pursuit by a supervisory or command officer and completion of a Pursuit Report, which is reviewed by the Office of Chief of Police and the Departmental Safety Coordinator. A Departmental Safety Committee is convened whenever injuries occur during a pursuit, when a Pursuit Intervention Maneuver was employed, or whenever the Chief, or anyone in the direct chain of command, deems it necessary. These reviews help maximize compliance with policy, identify officers with propensities for reckless driving/behavior, and identify training needs within the Department.

Restrictions on maneuvers and types of force

This issue provided a wider variance among surveyed policies than any other. Some policies limit all uses of force under pursuits, while others place no specific limitations. The most

Item: 
Public Safety Comte.
January 19, 2004

common practice is to prohibit the most dangerous uses of force and limit other uses to certain specific circumstances, or limit the use of force to officers with specialized training.

The types of force available to officers largely depended on an agency's ability to train and supervise their personnel, as well spatial limitations of their particular city. For example, a city with broad, open avenues can utilize different intervention techniques than can be employed on the narrow roadways of a congested city, making a use of force comparison imprecise.

Oakland provides training on channelization, boxing in, and the Pursuit Immobilization Technique (PIT), and limits the use of those techniques to specifically trained officers. Ramming and roadblocks are not permitted. Oakland's policy is consistent with other agencies in this respect.

Number and types of vehicles used

Many, but not all of the surveyed policies restrict the number of vehicles to be used in pursuits to two or three. Some place no restriction at all on the number of vehicles, and some leave it up to the supervising officer. Oakland's limit is two vehicles, unless directed by the supervisor or commander. Oakland is consistent with best practices in this respect.

Oakland's policy is a model for its involvement of helicopters in pursuits. When the helicopter is airborne and available, it is directed to assist in the pursuit by focusing on the pursued vehicle and informing Communications Division of its route, direction, and speed. Use of the helicopter has significant potential to minimize hazards on the ground. Often, vehicles being pursued slow when they perceive that OPD vehicles have terminated chase. The helicopter unit can maintain visual contact with the vehicle, directing ground units to areas of safety for a more controlled apprehension of suspects.

Schools

No other policy reviewed for this report placed specific limitations on pursuits within proximity of schools or any other type of educational establishment. Most included language alerting officers to be aware of the presence of pedestrians when deciding to engage in a pursuit. Oakland's policy specifically notes the presence of children going to and from school, making it consistent with practices of the surveyed agencies.

Summary

Oakland's vehicle pursuit policy is among the best of those surveyed for this report. It provides appropriate guidance to officers, details limitations on pursuits, and establishes procedures for supervision and review. As with many issues affecting law enforcement agencies, the challenge is in establishing *compliance* with written policies. First line supervisors, Sergeants of Police typically, set the tone for a tempered response and can identify training and/or discipline needs.

Item: _____
Public Safety Comte.
January 13, 2004

OPD leadership ensures compliance by providing on-going training and monitoring the driving habits of its officers. The Department shall continue to employ its Safety Review Board to monitor vehicle pursuit responses.

SUSTAINABLE OPPORTUNITIES

Economic

The Department's pursuit policy is structured to serve as an effective management strategy to reduce or prevent the City's exposure to incidents of civil liability and litigation.

Environmental

There are no identified environmental opportunities contained in this report.

Social Equity

Vehicle pursuits are inherently dangerous and are used to apprehend violators who refuse to comply with the law and pose a danger to Oakland residents. The Police Department's pursuit regulations are designed to ensure no pursuit shall continue at the expense of the safety of bystanders and responding officers.

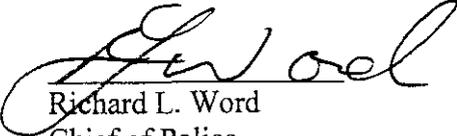
DISABILITY AND SENIOR CITIZEN ACCESS

There are no identified disability and senior citizen access issues contained in this report.

RECOMMENDATION(S)

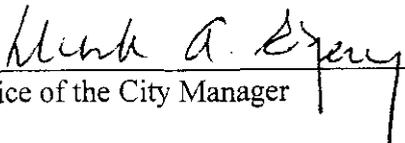
OPD recommends the Public Safety Committee receive the information report.

Respectfully submitted,


Richard L. Word
Chief of Police

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Research & Planning and Training Divisions
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APPROVED AND FORWARDED TO
THE PUBLIC SAFETY COMMITTEE:


Office of the City Manager

10.10CC
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Item: 
Public Safety Comte.
January 13, 2004

| Agency | Authorization to Pursue | Supervisory Responsibility | # of Vehicles Allowed | Use of Force Techniques Not Allowed |
|---------------|--|---|---|--|
| Boston PD | Initiating officer's discretion, considering the threat to public safety, severity of crime committed, alternatives available to pursuit, and whether the identity of the occupant is known to the point where later apprehension is possible. "Pursuit driving is only permitted in situations that represent a threat of harm to the public or the officers, if the suspect vehicle and/or occupants are not apprehended." | Patrol Supervisor maintains direct supervision, and Operations Division Supervisor monitors the progress. | No limit established in the policy. Dispatcher deploys or limits as many units as necessary | <ul style="list-style-type: none"> • Deliberate contact between vehicles • Discharging firearms • Barricading roadways (except as last resort) |
| Cincinnati PD | Initiating officer's discretion | Immediate supervisor of initiating officer (if not available, then district supervisor where pursuit began) | No more than two without supervisor's approval | <ul style="list-style-type: none"> • Boxing in • Heading off • Ramming • Driving alongside vehicle |
| Dallas PD | Initiating officer's decision, "based upon facts and circumstances known to the officer." Officer must determine that the need to immediately apprehend the suspect outweighs a clear risk of harm to the public. | Field supervisor who volunteers or is assigned by the dispatcher | No more than three, without the permission of the controlling supervisor | <ul style="list-style-type: none"> • Roadblocks • Ramming • Bumping • Discharging weapons at moving vehicles (with some exceptions) |
| Hayward PD | Initiating officer's discretion, but must be able to "articulate that the necessity to immediately apprehend the fleeing suspect(s) outweighs the risk of injury to the public, pursuing officers, and fleeing suspect." | On-duty watch commander | No limit established in policy | <ul style="list-style-type: none"> • No boxing in, barricading, striking or forcing off roadway without prior approval from supervisor • Stop Stick (deflating device) allowed with prior training |
| Long Beach PD | Officer's unit has red lights and siren activated and suspect fails to yield AND officer has reasonable cause to believe the suspect has committed, is about to commit, or is threatening to commit a felony crime. OR the driving ability of the suspect is so impaired that it may cause death or serious injury. (Pursuits for traffic violations are not allowed) | Field Supervisor | As many units as necessary to allow for control and arrest of suspects | <ul style="list-style-type: none"> • Bumping or ramming • Barricades |

Attachment A

| Agency | Authorization to Pursue | Supervisory Responsibility | # of Vehicles Allowed | Use of Force Techniques Not Allowed |
|----------------|---|---|---|---|
| Los Angeles PD | Initiating Officer's discretion | Watch Commander or Supervisor from initiating officer's command | Two, unless requested by initiating officer | All techniques are strongly discouraged unless necessary to save a life and then only as a last resort |
| Minneapolis PD | Officers, using "reasonable, professional judgement" Officer's unit is marked, has red lights and siren activated and offender undertakes evasive maneuvers, AND when other risks exist (prisoner in vehicle, inclement weather, risk to pedestrians, etc.) | - The immediate supervisor of the pursuing officer, the precinct supervisor where the pursuit began, an adjacent precinct supervisor, or the Watch Commander. | At Pursuit Supervisor's discretion. No limit by policy. | <ul style="list-style-type: none"> • Spikes (except by trained officers) • Vehicle contact, rolling roadblocks and roadblocks may only be used when state law permits use of deadly force. |
| Oakland PD | Law violator clearly exhibits intent to avoid arrest by using vehicle to flee or refuses to stop and flees in vehicle AND when there is no reasonable threat to the public or officer from initiating pursuit. Unless approved by commander or supervisor, pursuits are not to be initiated when the only violation is a non-firearm related misdemeanors or vehicle code infraction. | A supervisor or command officer | Two, unless directed by a supervisory or command officer | <ul style="list-style-type: none"> • Ramming • Roadblocks (Channelization, Boxing in and PIT are only methods approved) |
| Phoenix PD | Initiating officer's discretion when suspect driver is attempting to elude the officer, disobeying traffic laws, ignoring the officer, and/or maintaining or increasing speed. "Officers <u>will</u> weigh the necessity to apprehend the traffic violator against the level of risk presented to the officer and the public." | The initial monitoring supervisor | No more than three marked units without a supervisor's approval | <ul style="list-style-type: none"> • Spikes prohibited except by trained officers • Overtaking suspect vehicles • Ramming • Blocking the roadway • Boxing a moving vehicle |
| Pittsburgh PD | Initiating officer discretion | Immediate supervisor of initiating officer | No limit | All uses of force prohibited |
| Sacramento PD | Initiating Officer's discretion | Sector Sergeant where pursuit originates or Watch Commander, if Sector Sergeant is involved in pursuit | Two, unless more are authorized by Commander | None indicated |

Attachment A

| Agency | Authorization to Pursue | Supervisory Responsibility | # of Vehicles Allowed | Use of Force Techniques Not Allowed |
|------------------|--|--|--|---|
| San Diego PD | Officer may initiate pursuit when vehicle fails to yield to a police vehicle operating with emergency lights and siren. Officer must have probable cause to believe the driver or occupants have committed an infraction or misdemeanor in his/her presence, OR a felony has been committed or is in progress. | Field Supervisor and/or Watch Commander | Two, unless authorized by supervisor | <ul style="list-style-type: none"> • Box-in • Ramming or Bumping • Shooting at or from vehicles and barricading roadways, unless necessary to protect persons from death or serious injury |
| San Francisco PD | Initiating Officer's discretion | Field supervisor of initiating officer or initiating officer's platoon commander. Pursuit supervisor Should respond to location of termination and assume responsibility. | Two, unless directed by a supervisory or command officer | <ul style="list-style-type: none"> • Boxing in • Heading off • Driving alongside • Channeling • Roadblocks are strongly discouraged unless necessary to save a life and then only as a last resort |
| San Jose PD | Officer has reasonable cause to believe driver or occupants have committed public offence in his/her presence or probable cause to believe a felony has been committed or is in progress. | District Sgt for assigned district in which pursuit is initiated or Sgt from the closest district. Sgt. Should respond to location of termination and assume responsibility. | Two, unless requested by initiating officer | Roadblocks and ramming are strongly discouraged unless necessary to save a life and then only as a last resort |
| Seattle PD | Initiating officer's discretion | Field supervisor of initiating officer | Two under most circumstances. Three if one car is a canine unit. | <ul style="list-style-type: none"> • PIT maneuvers not taught at all. • Ramming, Boxing, Roadblocks discouraged but can be authorized by supervisor |

Item
Public Safety Comte.
January 13, 2004

10:10
ORACOUNCIL
FEB 3 2004