

MICROFILM DIVIDER

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ROLL NUMBER

DESCRIPTION

1220

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10/2/03

20 3 HOUSE JUDICIARY

HB 1220

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1220

House Judiciary Committee

☐ Conference Committee

Hearing Date 1-22-03

Tape Number	Side A	Side B	Meter #
4	xx		8.6-40
Committee Clerk Signature <i>Al Penrose</i>			

Minutes: 11 member present, 2 members absent (Rep. Bernstein, Rep. Maragos)

Chairman DeKrey: We will open the hearing on HB 1220. We will take testimony in support of HB 1220.

Chief Chris Magnus, Fargo Police Dept.: Support. We think this is a particularly important issue. This bill would increase the penalties for fleeing or alluding a police officer in a motor vehicle from being a Class A misdemeanor, the current penalty for that is up to one year, or \$2,000 fine up to a Class C felony, which is a penalty of up to 5 years or \$5,000 or both. When individuals run from the police in a motor vehicle, an incredibly dangerous set of circumstances take place. Changing the penalty to a Class C felony is really about prevention. People who flee from the police do not typically think they are going to get into an accident. They don't plan ahead for this. They don't think that their actions are going to affect anyone else. They view running from the police as a game, a sport. They've seen the behavior on TV and in the movies. We need to increase the penalty, it won't solve the problem, but it can be a powerful deterrent.

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It raises the stakes. The states that have increased the penalty for fleeing from a police officer in a motor vehicle from a misdemeanor to a felony, have seen reductions in the number of suspects that engage the police in pursuits. Prosecutors and courts will still have the discretion in the manner in which first time offenders are charged and sentenced. I would suggest that deferred sentences for this crime could still be issued by prosecutors and judges, which ultimately result in the charge being reduced or dismissed entirely, as long as certain conditions are met. This does not take away discretion in the criminal justice system to deal with first time offenders in a more lenient way.


Chairman DeKrey: What is your department's plan of action on chases. It seems to me that nationwide, there is more of a movement to not to chase, than to actually chase.

Chief Magnus: You're right. What we're seeing in our department and in many of the more professional departments have pursuit policies that are very strict about when you can engage in a chase, when you have to terminate a chase, what type of violations you can chase someone for. A number of departments around the country that have actually prohibited chases.

Chairman DeKrey: I read where they charged an officer who engaged in a chase.

Chief Magnus: What we're trying to do here is reach a balance, because we know there are certain pursuits that really are necessary and appropriate if we're going to be able to apprehend the criminals. We need to make the decision a little tougher for the individual who's deciding on whether or not to run. We need to get the word out about the stiffer penalties, and believe me, the word does get out.

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Hearing Date 1-22-03

Rep. Klemin: It says in the existing law, that if you don't stop when given visual or audible signal to bring the vehicle to a stop. What if lights are just flashing. What constitutes a visual or audible signal.

Chief Magnus: Just flashing lights will not constitute a visual or audible signal. They would have to use the full complement of emergency equipment that the officer had, overhead lights and siren. It has to be clear that it is police vehicle.

Rep. Delmore: Why do people try to run from the police, and under what circumstances do they deem it appropriate to go after that person.

Chief Magnus: There are a number of circumstances where we decide not to chase someone simply because of any number of factors being met, could be time of day, neighborhood, type of offense. Usually the officer makes a good call on their own as to when to stop a chase.

Rep. Wrangham: Felony is a serious thing; when they think about fleeing from an officer or not, that they are thinking about whether they are committing a misdemeanor or a felony. I have some reservations that this will actually prevent them from doing it in the first place. Also, there have been cases where people have been afraid to stop when seeing lights behind them, especially if they are in a remote area. They would be fleeing the police in that case. As for the signal, I see under Paragraph 2 (b), it says "if not given from a vehicle", so I am assuming the signal could be given from someone standing on the corner, the signal is given by hand, as long as the officer is in uniform and displays the officer's badge, that could be considered fleeing an officer. I guess I have problems with that.

Chief Magnus: I can understand your concerns. I agree that felonies should be reserved for serious crimes, and I think that if we look at the kind of risk that this sort of criminal behavior

Danina Hall
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Bill/Resolution Number HB 1220
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places the general public under, I think it clearly falls into being very significant, dangerous type of criminal behavior. If you look at the amount of damage done, or people injured or killed, this makes this some of the most serious behavior that a person can do. The word does get out what the penalties are. I understand your concern about the rogue cop, or someone trying to make a stop with an unmarked vehicle. We encourage people that if they aren't confident that they actually have a police officer behind them, they should call 911 and get that clarified with the dispatcher before they pull over. A prosecutor would have to actually issue this charge against an individual, even if the officer made such an arrest.

Rep. Onstad: What is the penalty for Class C felony?

Chief Magnus: Class C felony is up to 5 years or \$5,000 fine or both.

Chairman DeKrey: Thank you. Anyone else wishing to testify in favor of HB 1220.

Chad Hagen, President of ND Fraternal Order of Police: Support of HB 1220 (see attached article). North Dakota's law enforcement agencies have policies in place that govern police pursuits. We don't pursue everyone. Let's join 38 other states in enacting a bill that makes fleeing from a law enforcement officer a felony.

Rep. Klemin: We actually have two different kinds of situations in this existing law, as Rep. Wrangham points out, which might have a police officer on foot who hollers stop, and if the person doesn't stop and takes off, then that's a violation of this section of the law, which would mean a felony for a first offense; but I think that could be distinguished from somebody who is fleeing from a vehicle in hot pursuit. It seems that there are two completely different situations. I was wondering if you would have a problem if we retained the class A misdemeanor for the

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Hearing Date 1-22-03

kind of situation where it wasn't a vehicle pursuit and have the class C felony for the vehicle pursuit.

Mr. Hagen: When this offense is charged out by a state's attorney, they do have the option obviously to re-interview the person, look at the police report and see what all happened in this police pursuit and ultimately, it is going to be up to them whether they decide to prosecute somebody for the fleeing statute. I would not be in favor of taking away a tool that we already have in this bill. As far as the officer standing on the side of the road trying to get someone to stop, I think that if the officer can say "Yes that person knew I was a law enforcement officer, definitely fled from me", I think that is something that the state's attorney can look at when the officer does their report, and maybe give them a little more discretion on how they want to charge out the statute. I don't want to take away from what we currently have.

Rep. Klemin: I think that if the state's attorney is going to charge somebody and use discretion and not charge him with a Class C felony, then he is going to have to use some other statute, because this doesn't give him an alternative.

Mr. Hagen: I don't know how to answer the question, as far as how to change. We look at it, when an officer is in uniform, displaying the tools of the office, whether they be in a car or standing out in the street directing somebody to stop, if we start making different laws as far as how the public perceives the officer. In the end, it's going to be up to the officers discretion in how they view the circumstances, whether they would even have somebody arrested for this bill in the first place.

Rep. Wrangham: You keep wanting latitude in what you do, in charging them; and I think under Class A misdemeanor, you have more latitude. Don't you have other tools to charge a


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Hearing Date 1-22-03

person who fled such as endangerment and reckless driving and things like that, that the state's attorney could charge them with to actually get them up to a Class C felony now.

Mr. Hagen: That is correct. We're trying to establish by implementing a bill like this with the felony, is the risk reduction of us even having to do the pursuits in the first place. According to the article, in the states where the statute is a felony, has had a deterrent effect on people.

Rep. Boehning: In Section 2(a), it talks about appropriately marked police vehicle. What do you do with the unmarked vehicle. How does this apply to that.

Mr. Hagen: I guess we can get into definitions a lot on this one. Different locales may define appropriately marked vehicles differently.

Chief Magnus: I think that if the concern of the legislature is that we may be getting into chases where vehicles are not appropriately marked, or that the public would have a reasonable expectation that they should pull over. I certainly would not see too many objections coming from the law enforcement community to strengthen this by putting in some greater specifications about what does "markings" have to include. Most of these cases occur with fully marked police vehicles, using their lights and siren. If that needs to be spelled out more clearly in this bill, I think we can support that. Most departments right now, do not even permit chases with unmarked vehicles.

Chairman DeKrey: I think what the committee's concern and what we're getting at, is that in the last ten years or so, we've pretty much been on a binge where we're making everything mandatory, and what we've done is absolutely filled up our prisons and what we're wondering now is if we can afford them. So here comes your bill that raises it to a felony, how much more

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Bill/Resolution Number HB 1220
Hearing Date 1-22-03

of this can we stand, and how does this stack up some of the other things that we've done. I think that's difficulty that some of the members are having.

Chief Magnus: Your point is well taken. We also have concerns about too many things that have penalties that become too high. This behavior puts officers at risk in the community, and more common than you might think. In Fargo, we easily have two or three pursuits a week. They put people in jeopardy.

Rep. Klemin: In talking about Minnesota law, last year an NFL football player was arrested for not stopping downtown for a police officer on foot. He was charged with a misdemeanor. Here he would be charged with a felony.


Chief Magnus: That individual that he failed to stop for was not a police officer, he was a civilian traffic enforcement person, not an officer. In terms of what was brought up earlier, are we going to make it a penalty if you don't stop for an officer out on foot or on bike directs you to stop, again, if that's a concern for legislators, we would rather see that part continue to be a misdemeanor than to lose in the really large area, and the most important area, which involves motor vehicle after motor vehicle. That's 99% of these chases.

Rep. Boehning: Has the number of chases gone down, or are these people who are driving these cars and being chased, are they wearing their seat belts, is that why fatalities have gone down?

Chief Magnus: I don't think that they are wearing their seat belts more, I think the number of chases has gone down.

Mr. Hagen: I think our tools in law enforcement have gotten a lot better as well. Our training is increased, we've got things in place now such as the spike boards, which blow tires out which usually ends pursuits very fast. There are things in place now that weren't 5, 10 years ago.

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Chairman DeKrey: Thank you for testifying. Any further testimony in support of HB 1220.
Anyone wishing to testify in opposition to HB 1220. We will close the hearing.

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1220

House Judiciary Committee

☐ Conference Committee

Hearing Date 1-29-03

Tape Number	Side A	Side B	Meter #
2	x		22-25
Committee Clerk Signature <i>Al Penrose</i>			

Minutes: 9 members present, 4 members absent (Rep. Onstad, Galvin, Wrangham, Kingsbury)

Chairman DeKrey: What are the committee's wishes in regard to HB 1220.

Rep. Kretschmar: We are leaving the statute as it is currently, but we are adding in that it would be a class C felony on the first occasion if the individual fleeing is in the commission of a felony or who commits a felony during the chase. I move a do pass on the amendments submitted by Rep. Grande, 30360.0101.

Rep. Grande: Seconded.

Rep. Klemin: I move to amend the use of "in the alternative" by removing them.

Rep. Kretschmar: Your point is well taken.

Rep. Klemin: I would move to amend the amendment, and delete the words "in the alternative".

Rep. Kretschmar: Seconded.

Voice vote on the amendment to the amendment (Klemin): 9 Yes.

Voice vote on the amendment as amended: 9 Yes.

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Page 2

House Judiciary Committee

Bill/Resolution Number HB 1220

Hearing Date 1-29-03

Chairman DeKrey: We have the bill before us as amended on HB 1220.

Rep. Kretschmar: I move a Do Pass as amended.

Rep. Delmore: Seconded.

9 YES 0 NO 4 ABSENT DO PASS AS AMENDED CARRIER: Rep. Eckre

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30360.0101
Title.

Prepared by the Legislative Council staff for
Representative Grande
January 28, 2003

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1220

Page 1, line 10, remove the overstrike over "~~class A misdemeanor for a first offense and a~~"

Page 1, line 11, remove the overstrike over "~~for a subsequent offense within three years~~" and
insert immediately thereafter "In the alternative, an individual who violates this section
while fleeing after or in the commission of a felony is guilty of a class C felony"

Renumber accordingly

Page No. 1

30360.0101

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10/2/03
Date

30360.0102
Title.0200

Adopted by the Judiciary Committee
January 28, 2003

VK
1/31/03

HOUSE AMENDMENTS TO HOUSE BILL NO. 1220 JUD 2-03-03

Page 1, line 10, remove the overstrike over "~~class A misdemeanor for a first offense and a~~"

Page 1, line 11, remove the overstrike over "~~for a subsequent offense within three years~~" and after the period insert "An individual who violates this section while fleeing after or in the commission of a felony is guilty of a class C felony."

Renumber accordingly

Page No. 1

30360.0102

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Date

Date: 1/29/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1220

House Judiciary Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 30360.0102 .0200

Action Taken Do Pass as Amended

Motion Made By Rep. Kretschmar Seconded By Rep. Delmore

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore	✓	
Vice Chairman Maragos	✓		Rep. Eckre	✓	
Rep. Bernstein	✓		Rep. Onstad	AB	
Rep. Boehning	✓				
Rep. Galvin	AB				
Rep. Grande	✓				
Rep. Kingsbury	AB				
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. Wrangham	AB				

Total (Yes) 9 No 0

Absent 4

Floor Assignment Rep. Eckre

If the vote is on an amendment, briefly indicate intent:

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REPORT OF STANDING COMMITTEE (410)
February 3, 2003 11:02 a.m.

Module No: HR-20-1510
Carrier: Eckre
In. art LC: 30360.0102 Title: .0200

REPORT OF STANDING COMMITTEE

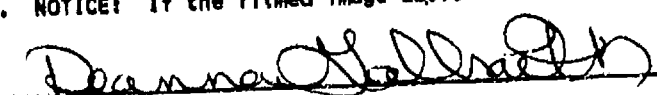
HB 1220: Judiciary Committee (Rep. DeKrey, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). HB 1220 was placed on the Sixth order on the calendar.

Page 1, line 10, remove the overstrike over "~~class A misdemeanor for a first offense and a~~"

Page 1, line 11, remove the overstrike over "~~for a subsequent offense within three years~~" and after the period insert "An individual who violates this section while fleeing after or in the commission of a felony is guilty of a class C felony."

Renumber accordingly

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2003 SENATE TRANSPORTATION

HB 1220

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Dennis Hall
Operator's Signature

10/2/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1220

Senate Transportation Committee

☐ Conference Committee

Hearing Date 3-07-03

Tape Number	Side A	Side B	Meter #
1	X		2520-4215
1		X	3495-3715
1		X	5420-end
2	X		0-100
Committee Clerk Signature <i>May K Monson</i>			

Minutes:

Chairman Senator Thomas Trenbeath opened the hearing on HB 1220 relating to the driver of a motor vehicle fleeing or attempting to elude a law enforcement officer.

Representative Bette Grande (District 41) (Meter 2530) Introduced HB 1220 and explained that the original bill, before being amended by the House, did not deal with sub sequential problems or if it was a Class A misdemeanor. Fleeing was just a Class C felony. The House felt that was too strict.

Sgt. Pat Claus (Fargo Police Department) (Meter 3045) Testified in support of HB 1220 and addressed amendments. As the bill was originally drafted it made it a flat C felony for anyone who fled the police. As the bill is written now if a person is committing a felony and flees from the police he will be charged with another felony.

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Senate Transportation Committee
Bill/Resolution Number HB 1220
Hearing Date 3-07-03

The police department would like the committee to consider changing the verbiage as it now stands-- instead of "if committing a C felony" to "if committing a criminal offense and you flee a police officer it would be considered a C felony." The felony is important on two levels. First it holds people accountable for taking an action which endangers themselves, the police officer, and the innocent public. Second, it acts as a deterrent.

Senator Trenbeath asked about the policy of the Fargo Police Department concerning high speed chases.

Sgt. Claus answered that their policy is fairly restrictive. They are only allowed to chase when:

(1) the person has committed a crime that is dangerous to the public (2) the person actively attempts to elude the police by speed or driving manner (3) the pursuit won't cause substantial risk to the public.

Senator Trenbeath asked if a person had to be convicted of the underlying felony before being charged with the second felony under this bill.

Sgt. Claus replied that he believed the trigger would be the fact that there is probable cause that a felony had been committed.

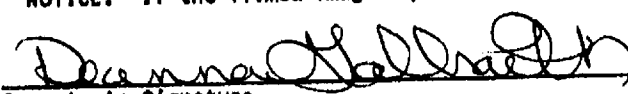
John Olson (ND Peace Officers Association) Testified in support of HB 1220. (Meter 3940)

Senator Trenbeath asked if he agreed this would only require a probable cause determination that a felony had been committed or was in the process of being committed in order to charge and convict a felony under this statute.

John Olson did not agree with that. He felt the initial felony would be an element of events and that, in itself, would have to be proven beyond a reasonable doubt.

The hearing on HB 1220 was closed.

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Senate Transportation Committee
Bill/Resolution Number HB 1220
Hearing Date 3-07-03

(Tape 1, Side B, Meter 3495) The hearing on HB 1220 was reopened for further testimony.

Andy Zachmeier (Fraternal Order of Police) Testified in favor of the fleeing provisions that would increase it to a Class C felony in cases involving a felony.

The hearing on HB 1220 was closed.

(Tape 1, Side B, Meter 5420) Discussion by committee. There were some feelings that there was a problem with making a conviction of a felony dependent on another felony.

Senator Nething moved a **Do Pass**. Seconded by **Senator Espegard**. Roll call vote 2-3-1.

Failed.

(Tape 2, Side A, Meter 0) **Senator Taylor** moved a **Do Not Pass**. Seconded by **Senator Mutch**.

Roll call vote 3-2-1. **Passed**. Floor carrier is **Senator Trenbeath**.

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Deanna Holbrook
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10/2/03
Date

Date: 3-7-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1220

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No pass

Motion Made By Senator Nething Seconded By Senator Espigard

Senators	Yes	No	Senators	Yes	No
Senator Thomas Trenbeath, Chair		✓	Senator Dennis Bercier		
Senator Duaine Espigard, V. Chair	✓		Senator Ryan Taylor		✓
Senator Duane Mutch		✓			
Senator Dave Nething	✓				

Total (Yes) 2 No 3

Absent 1

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

failed

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Dennis Bercier
Operator's Signature

10/2/03
Date

Date: 3-7-03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1220

Senate TRANSPORTATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do not pass

Motion Made By Senator Taylor Seconded By Senator Mutch

[illegible]

Total (Yes) 3 No 2

Absent /

Floor Assignment Senator Trenbeath

If the vote is on an amendment, briefly indicate intent:

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Dorena Hallack
operator's Signature

18/2/03
Date

REPORT OF STANDING COMMITTEE (410)
March 7, 2003 1:42 p.m.

Module No: SR-41-4270
Carrier: Trenbeath
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1220, as engrossed: Transportation Committee (Sen. Trenbeath, Chairman)
recommends **DO NOT PASS** (3 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1220 was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

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SR-41-4270

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2003 TESTIMONY

HB 1220

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High-Speed Police Pursuits

Dangers, Dynamics, and Risk Reduction

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High-speed police pursuits and the inherent risk of injury and death that can result constitute an important law enforcement and public safety issue. Police pursuits are dangerous. Available data indicate that the number of pursuits continues to increase, as well as the number of pursuit-related injuries and deaths. A traffic accident constitutes the most common terminating event in an urban pursuit,¹ and most people agree that these pursuits should be controlled. Yet, researchers note a widespread lack of accurate data on the subject.

Officers face the basic dilemma associated with high-speed pursuits of fleeing suspects: Do the benefits of potential apprehension outweigh the risks of endangering the public and the police?² Research indicates that too many restraints placed on the police regarding pursuits can put the public at risk.³ On the other hand, insufficient controls on police pursuit can result in needless accidents and injuries.

The Dangers of Pursuit

The interpretation of the term "pursuit-related crash" represents one common police practice that

affects accuracy of reporting. Often, police officers or their agencies will make the determination that a crash occurred right after a pursuit was "terminated," hence the crash is not pursuit-related. Agencies immediately can determine if this occurred by replaying tapes of radio transmissions during the pursuit, even days after completing a comprehensive accident investigation or reconstruction. Either way, the process can be very subjective.

Some research indicates that police pursuits result in about 350 deaths per year and the number of pursuits increases each year.⁴ One

nization estimates that about 3,500 persons die each year as a result of police pursuits and that another 55,000 are injured.⁵ Although some law enforcement sources argue that these estimates are exaggerated, they concede that the 350 figure may be too low.

The National Highway Traffic Safety Administration (NHTSA) reported that 314 people were killed during pursuits in 1998. Of this total, 2 were police officers and 198 were individuals being chased. The remaining 114 were either occupants of unrelated vehicles or pedestrians.⁶ The total was higher in each of the 4 previous years.

The lack of a mandatory reporting system hampers attempts by NHTSA to track pursuit fatalities and results in the collection of as little as one-half of the actual data.⁷ Typically, only 90 percent of states report pursuit fatality data to

NHTSA. By extrapolating the 50 percent totals to include 100 percent reporting, calculations would show an average of 375 deaths per year. Even conservative estimates by various researchers recalculate the actual number of fatalities between 400 to 500 deaths per year.

Police pursuit records provide some frightening statistics. First, the majority of police pursuits involve a stop for a traffic violation.⁸ Second, one person dies every day as a result of a police pursuit.⁹ On average, from 1994 through 1998, one law enforcement officer was killed every 11 weeks in a pursuit,¹⁰ and 1 percent of all U.S. law enforcement officers who died in the line-of-duty lost their lives in vehicle pursuits.¹¹ Innocent third



parties who just happened to be in the way constitute 42 percent of persons killed or injured in police pursuits.¹² Further, 1 out of every 100 high-speed pursuits results in a fatality.¹³

Research indicates that pursuits become dangerous quite quickly. For example, 50 percent of all pursuit collisions occur in the first 2 minutes of the pursuit, and more than 70 percent of all collisions occur before the sixth minute of the pursuit.¹⁴

Although the public sympathizes with the law enforcement community's position on pursuits, they do not want to be placed in harm's way. Public support for pursuits decreases as the severity of the offense that led to the chase decreases.¹⁵ One study found that 58 percent of people interviewed reported that police act correctly when they pursue a motorist who does not stop.¹⁶ When asked if the police act correctly when the pursuit endangers public safety, support decreased by one-half to 29

percent. Almost two-thirds (64 percent) of respondents said that they felt police overreact sometimes or very often when pursuing motorists who do not stop.¹⁷ To decrease the dangers associated with pursuit, agencies must increase training and ensure that they have clear pursuit policies.

Training and Policy

A lack of training can increase risks of pursuit-related injuries. Only recently has classroom instruction included training on vehicle pursuit tactics, policy, and liability. Previously, agencies taught pursuit-driving techniques behind the wheel without accompanying classroom training. Officers learned *how* to pursue but not *when* to pursue. Inadequate or inapplicable training often resulted, and officers rarely followed training in actual practice. Law enforcement must approach pursuit training similar to firearms training. For example, for every hour agencies spend on training officers how to

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shoot, they also spend several hours teaching when to shoot.¹⁸

The training deficiency trend has changed in the past few years. Although many agencies have increased or added pursuit training, most have done so only for new officers at the police academy. Therefore, most veteran officers, with their academy days far behind them, lack contemporary pursuit training.

Training should teach officers the phenomena present while they pursue. Tunnel vision makes them oblivious to what is going on around them. Some 96 percent of officers involved in a pursuit focus on catching the violator "if it's the last thing (they'll) ever do."¹⁹ Research shows that this holds true for many officers.²⁰

While effective pursuit training can curtail certain dangerous situations, policy constitutes another important aspect in police pursuits.²¹ An overwhelming majority of police agencies implemented their pursuit policy in the 1970s.²² Although most of these same agencies

modified their policies in the past 2 years by adding restrictions due to liability, problems remain. Insufficiencies still exist in data collection, reporting procedures, and accompanying accountability.²³

One comprehensive study shows that officers can use termination as an effective option to reduce the risks of pursuits.²⁴ This study involved interviews of 146 jailed suspects who had been involved as drivers in high-speed chases. More than 70 percent of the suspects said that they would have slowed down if police had terminated the pursuit or even backed off a short distance.²⁵ Fifty-three percent of the suspects responded that they were willing to run at all costs from the police in a pursuit, and 64 percent believed they would not be caught.²⁶ While 71 percent said that they were concerned for their own safety, only 62 percent said that they were concerned for the safety of others.²⁷ Clearly, the police must be concerned with public safety during pursuits because the suspects are not.

An integral part of pursuit training involves giving officers a clear understanding about the decision to terminate a pursuit. The Arkansas State Police recently created new pursuit training for state and local officers that stresses keeping pursuits under control and advises that termination is an option.²⁸

Alternatives to Pursuit

The most effective way to reduce risks is to terminate a pursuit. Clearly, too many pursuits continue that officers obviously should have terminated. Research on pursuit data and statistics show that termination dramatically could reduce traffic accidents, fatalities, and injuries. Police must reevaluate their flanking and mission.²⁹ Agencies rarely can justify endangering the public to pursue a violator.

Although many electronic devices still are being evaluated for effectiveness, technology also can decrease pursuit risks. Officers can carry spiked strips (or "stop sticks") in their trunks and deploy them in the path of a fleeing suspect. The strips create a controlled loss of air (not a blowout) from the suspect's tires. Once the violator crosses the strips, the deploying officer quickly pulls them from the roadway to allow pursuing police vehicles to pass. Agencies have begun to use these strips with increasing effectiveness. For example, departments in Cincinnati, Ohio, successfully used them after they sought risk-reduction techniques following a string of pursuit tragedies.³⁰ Similarly, the Ohio State Highway Patrol, the Utah Highway Patrol, and the Pennsylvania State Police also

Fatalities in Crashes Involving Law Enforcement in Pursuit 1994-1998

Deaths					
Year	1994	1995	1996	1997	1998
Suspects	283	249	267	194	198
Bystanders	102	127	118	111	114
Officers	3	10	5	1	2

Source: Fatality Analysis Reporting Systems - ARF, National Highway Traffic Safety Administration, Washington, DC, 2000

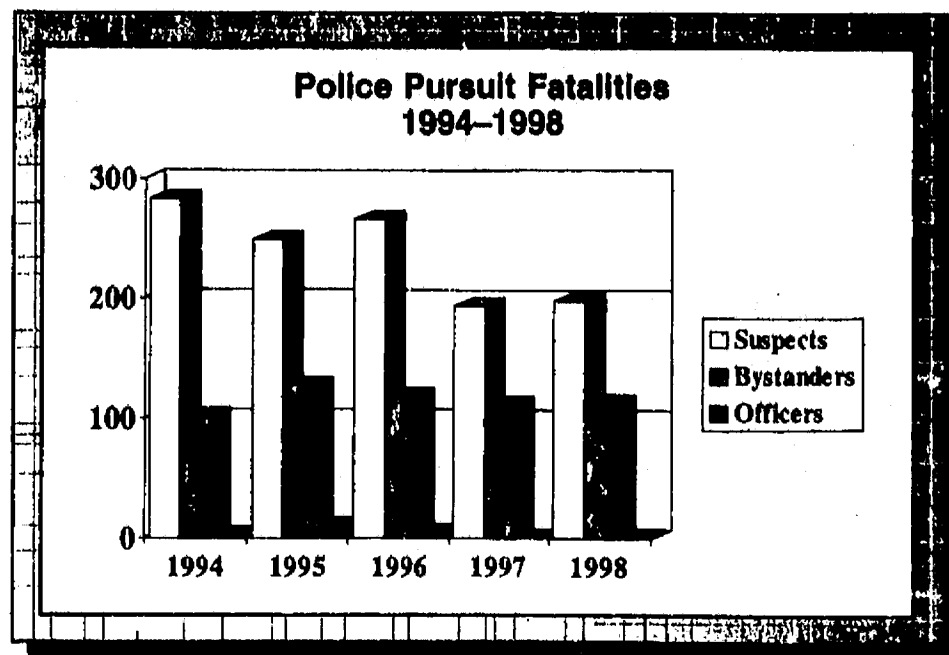
reporting recent successful use of the spiked strips.

One electronics company is testing a radar warning system that police can activate that sends a signal to any motorist with a radar detector of an approaching police pursuit. Motorists then can pull over to the side of the road or otherwise get out of the way.

Other technological ideas include an ultrasonic device that shoots a burst of microwave energy at a fleeing suspect. This causes the suspect vehicle's electronic system to fail, thus immediately disabling the violator.³¹ Experts are studying a similar technology in which a robot-like cart jettisons from the front of the primary police pursuit vehicle. The cart then attempts to overtake the fleeing vehicle and electronically "zaps" the engine out of service. Researchers also are testing radio-technologic devices similar to stolen car tracking systems that electronically would disable the fleeing vehicle.³²

Agencies have used helicopters with good results in pursuits, in parts of California and in cities, such as Baltimore, Maryland; Miami, Florida; and Philadelphia, Pennsylvania. The versatility, range, and vantage point of the helicopter allows ground officers to decrease the use of high-speed pursuits and increase apprehension rates.³³ With a helicopter observing the suspect, ground units can slow down and retreat to reduce accident risks. While most agencies cannot afford their own helicopter, they can develop regional interagency assistance plans.

Most experts agree that increased criminal penalties also will



reduce pursuits. Individuals who elude and flee the police should face severe criminal penalties. Consequently, some states have made eluding a second-degree crime.³⁴

Conclusion

High-speed police pursuits constitute an important public safety issue. Research clearly indicates the dangers associated with these pursuits. While some are necessary, many are not. Curtailing unnecessary pursuits can reduce the inherent risks associated with this dangerous practice.

Law enforcement agencies should provide appropriate pursuit training to recruits during their instruction at police academies, as well as to seasoned officers. Additionally, police administrators should ensure that their department's pursuit policy provides clear guidance and they should make use of available technology that can aid in safer pursuits. Taking such initiatives can help departments increase the effectiveness of pursuits while

simultaneously reducing the risks involved to citizens and officers. ♦

Endnotes

¹ National Highway Traffic Safety Administration, *Fatality Analysis Reporting Systems - ARF, Fatalities in Crashes Involving Law Enforcement in Pursuit 1998* (Washington, DC, 2000).

² G. P. Alpert, U.S. Department of Justice, National Institute of Justice, *Police Pursuit: Policies and Training* (Washington, DC, May 1997).

³ Ibid.

⁴ Supra note 2.

⁵ R. Van Sant, "High-Speed Chases: Mayhem on the Street," *The Cincinnati Post*, May 19, 1998.

⁶ Supra note 1.

⁷ D. P. Van Blaricom, "He Flees—To Pursue or Not to Pursue: That is the Question," *Police* 22, no. 11, (1998).

⁸ Supra note 2.

⁹ Supra note 1.

¹⁰ Supra note 1.

¹¹ *In the Line of Duty: Police Pursuits Prove Deadly*, (National Law Enforcement Officers Memorial Fund: Washington, DC, 1997).

¹² Supra note 7.

¹³ D. Falcone, "Police Pursuit: In Pursuit of Policy, The Empirical Study, Volume II," *AAA Foundation for Traffic Safety* (Washington, DC, 1992).