

# NUTLEY POLICE DEPARTMENT



**VOLUME: 3**

**CHAPTER: 9**

**# OF PAGES: 22**

**SUBJECT: PURSUIT AND FORCIBLE STOPPING GUIDELINES**

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3-4

All

All

**BY THE ORDER OF:**

**Chief Thomas J. Strumolo**

**SUPERSEDES ORDER #:**

All previous orders

**PURPOSE** The purpose of this directive is to maintain this department's policy and procedures concerning vehicle pursuits.

**POLICY** It is the policy of this department to utilize procedures that are consistent with those provided by the New Jersey Attorney General and the Essex County Prosecutor. Public and officer safety is the paramount consideration.

Because it is impossible for this directive to anticipate every possible circumstance, this directive is intended to serve as a guide for police officers in the use of discretion regarding matters relating to vehicular pursuit.

Rigorous compliance with this directive should help to mitigate life-threatening situations for members of this department and the citizenry at large, and should help sustain the general health, safety and welfare of the community. It will further help promote public confidence in the police department.

Deciding whether or not to pursue a motor vehicle is one of the most critical decisions made by law enforcement officers. It is a decision that must be made quickly and under difficult and often unpredictable circumstances. In recognition of the potential risk to the public safety created by vehicular pursuits, no officer or supervisor shall be criticized or disciplined for a decision not to engage in a vehicle pursuit or to terminate an ongoing vehicular pursuit based on the risk involved, even in circumstances where this directive would permit the commencement or continuation of the pursuit.

Immediately notify the Essex County Prosecutor's Office Critical Incident Response Team (CIRT) of any collision resulting from police pursuit.

## PROCEDURES

### I. DEFINITIONS

- A. Administrative command review is a formal documented process to determine whether policy, training, equipment or disciplinary issues need to be addressed.
- B. Attempt to close distance is an action by law enforcement officers to close the distance gap between the law enforcement vehicle and the violator vehicle. The use of audio and visual emergency equipment has not yet been employed at this phase.
- C. Authorized tire deflation device is a device designed and intended to produce a controlled deflation of one or more tires of a pursued vehicle.
- D. Baiting is a willful attempt to entice or lure a police officer to engage in a pursuit.
- E. Boxing in is the surrounding of a violator's *moving* vehicle with *moving pursuit vehicles* that are then slowed to a stop along with the violator's vehicle.
- F. Dispatcher includes public safety telecommunicators and police officers assigned to the communications center.
- G. Divided highway is a road that includes a physical median between traffic traveling in opposite directions.
- H. Heading off is an attempt to terminate a pursuit by pulling ahead of or towards a violator's moving vehicle to force it to the side of the road or to otherwise come to a stop.
- I. Imminent threat exists when an officer reasonably believes that the actions of the violator are immediately likely to result in death or serious bodily injury to another person absent action by the officer.
- J. Paralleling - street paralleling is driving a police vehicle on a street parallel to a street on which the pursuit is occurring.
- K. Paralleling - vehicle paralleling is a deliberate offensive tactic by one or more patrol vehicles to drive alongside the pursued vehicle while it is in motion.
- L. Pursuit driving is an active attempt by a law enforcement officer operating a motor vehicle and utilizing emergency warning lights and an audible device to apprehend one or more occupants of another moving vehicle when the officer reasonably believes that the driver of the fleeing vehicle is aware of the officer's attempt to stop the vehicle and is resisting apprehension by increasing vehicle speed, committing traffic violations, or otherwise attempting to elude the officer. It shall not constitute pursuit driving if the fleeing vehicle follows all traffic regulations after the officer activates the emergency warning lights and audible device (siren).
- M. Motorcycle officer is any law enforcement officer who is authorized to operate a police motorcycle.
- N. Roadblock is a restriction or obstruction used or intended for the purpose of preventing free passage of motor vehicles on a roadway in order to affect the apprehension of a violator. Related definitions include:

1. Avenue(s) of escape is a gap in a roadblock that requires the violator to decrease the vehicle's speed to permit them to bypass the roadblock.
  2. Blocking vehicle is a motor vehicle, often a law enforcement vehicle, which is placed perpendicular to a roadway or angled in such a way as to create a roadblock.
- O. Specialty vehicle includes Segway<sup>®</sup>, bicycle, hybrid, or electrically powered vehicle.
- P. Sport utility vehicle (SUV) includes any high performance rugged vehicle with a truck like chassis designed for occasional off-road use.
- Q. Standard of care: N.J.S.A. 39:4-91 sets forth the standards of right of way for emergency vehicles that reads in part:
- "...This section shall not relieve the driver of any authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall it protect the driver from the consequences of his reckless disregard for the safety of others."*
- R. Supervisor: a sworn police officer who, by virtue of rank or assignment, is responsible for the direction or supervision of the activities of other police officers; typically, the shift/road sergeant.
- S. Unit - primary unit is the police vehicle that initiates a stop of a vehicle that results in a pursuit or any unit that assumes control of the pursuit as the lead vehicle (the first police vehicle immediately behind the fleeing suspect).
- T. Unit - secondary unit is any police vehicle that becomes involved as a backup to the primary unit and follows the primary unit at a safe distance.
- U. Vehicle contact action (ramming) is any action undertaken by the pursuing officer intended to result in contact between the moving police vehicle and the pursued vehicle.
- V. Violator is any person who a law enforcement officer reasonably believes:
1. Has committed or is engaged in a conspiracy or attempt to commit any crime of the 1<sup>st</sup> degree or one of the violent or serious crimes listed below in subsection III.A.2 of this directive; or
  2. Poses an imminent threat to the safety of the public or other police officers, as that threat is defined in subsection III.A.3 of this directive (below).

## II. DECIDING WHETHER TO PURSUE

- A. A police officer has the statutory authority to stop any person suspected of having committed any criminal offense or traffic violation. When the violator does not submit to the officer's lawful authority and bring the vehicle to a stop, the officer must determine whether to pursue that violator by continuing to attempt to stop the violator utilizing pursuit driving as defined in this directive.

- B. An officer's decision to pursue should always be undertaken with an awareness of the degree of risk of death or serious injury to which the law enforcement officer may subject them and/or others. The officer must weigh the need for immediate apprehension against the risk created by the pursuit.

### III. AUTHORIZATION TO PURSUE

- A. A police officer can only pursue:

1. When the officer reasonably believes that the violator has committed, or is engaged in a conspiracy or attempt to commit, any crime of the 1<sup>st</sup> degree; or
2. When the officer reasonably believes that the violator has committed, or is engaged in a conspiracy or attempt to commit one the following violent or serious crimes listed below:
  - a. Manslaughter N.J.S.A. 2C: 11-4.
  - b. Vehicular homicide 2<sup>nd</sup> degree N.J.S.A. 2C: 11-5.
  - c. Aggravated assault 2<sup>nd</sup> degree N.J.S.A. 2C: 12-1(b).
  - d. Disarming a law enforcement officer N.J.S.A. 2C: 12-11.
  - e. Kidnapping 2<sup>nd</sup> degree N.J.S.A. 2C: 13-1.
  - f. Luring/enticing a child 2<sup>nd</sup> degree N.J.S.A. 2C: 13-6.
  - g. Human trafficking 2<sup>nd</sup> degree N.J.S.A. 2C: 13-8.
  - h. Sexual assault 2<sup>nd</sup> degree N.J.S.A. 2C: 14-2.
  - i. Robbery 2<sup>nd</sup> degree N.J.S.A. 2C: 15-1.
  - j. Bias intimidation N.J.S.A. 2C:16-1
  - k. Arson 2<sup>nd</sup> degree N.J.S.A. 2C: 17-1.
  - l. Burglary while armed with a deadly weapon or explosives, or resulting in a threat or actual infliction of bodily injury, 2<sup>nd</sup> degree N.J.S.A. 2C: 18-2.
  - m. Burglary of a dwelling N.J.S.A. 2C: 18-2
  - n. Theft of a motor vehicle N.J.S.A. 2C: 20-3
  - o. Receiving stolen property  
**(MOTOR VEHICLE ONLY)** N.J.S.A. 2C:20-7
  - p. Escape while employing force, threat, deadly weapon, or other dangerous instrumentality to effectuate the escape N.J.S.A. 2C: 29-5.
  - q. Possession of a firearm, explosive, or destructive device for an unlawful purpose N.J.S.A. 2C:39-4 (a-b-c).

- r. Unlawful possession of a weapon (machine guns and handguns) N.J.S.A. 2C: 39-5(a)(b).
- 3. When an officer reasonably believes that the violator poses an imminent threat to the safety of the public or other police officers.
  - a. This determination shall be made based upon the violator's actions or operation of the vehicle prior to the initiation of the attempted motor vehicle stop.
  - b. The violator's subsequent actions, including speeding or evasive driving during the pursuit itself, although often supporting the criminal charge of 'Eluding', N.J.S.A. 2C:29-2(b), shall not constitute an authorization to initiate or continue a pursuit.
  - c. Pursuit for motor vehicle offenses is not authorized under the above criteria unless the violator's vehicle is being operated to pose an imminent threat to the safety of the public or other officers and that threat is based on the violator's actions or operation of the vehicle prior to the initiation of the attempted motor vehicle stop.
  - d. There is a strong presumption against the initiation of vehicular pursuits based solely on motor vehicle violations. Both supervisors and officers shall ensure that only in rare cases will a vehicular pursuit be initiated or continued for motor vehicle violations.
- B. Just because one of the authorization requirements is satisfied, a pursuit should not be automatically undertaken. Officers and supervisors must still consider the following factors:
  - 1. Likelihood of successful apprehension.
  - 2. Whether the identity of the violator is known where later apprehension is possible.
  - 3. Degree of risk created by the pursuit in relation to:
    - a. Volume, type, speed and direction of vehicular traffic; or
    - b. Nature of the area: residential, commercial, school zone, open highway, etc.; or
    - c. Population density and volume of pedestrian traffic; or
    - d. Environmental factors such as weather and darkness; or
    - e. Road conditions: construction, poor repair, extreme curves, snow, ice, etc.
  - 4. Police officer characteristics relative to:
    - a. Driving skills; and
    - b. Familiarity with roads; and

- c. Condition of the police vehicle.

#### IV. TERMINATING A PURSUIT

- A. Officers and supervisors must continually question whether the seriousness of the crime or offense justifies continuing the pursuit. An officer or supervisor will not be censured when, in the officer/supervisor's opinion, continued pursuit constitutes an unreasonable risk.
- B. Officers shall terminate a pursuit when:
  - 1. Instructed to do so by a supervisor; or
  - 2. A supervisor has not affirmatively authorized the continuation of the pursuit after being notified and given an opportunity to assess the situation; or
  - 3. The officer believes that the danger to the pursuing officer or public outweighs the necessity for immediate apprehension of the violator; or
  - 4. The violator's identity has been, or can be, established to the point where later apprehension may be accomplished, and where there is no serious immediate threat to the safety of the public or other police officers; or
  - 5. The pursued vehicle's location is no longer known or the distance between the pursuing vehicles and the violator's vehicle becomes so great that further pursuit is futile; or
  - 6. There is any person injured during the pursuit requiring medical care and there are no police or medical personnel able to render immediate assistance; or
  - 7. There is a clear, present, and unreasonable danger to the police officer or the public. *(A clear, present, and unreasonable danger exists when the pursuit requires that the vehicle be driven at excessive speeds, against the flow of traffic for a sustained period, or in a manner that exceeds the performance capabilities of the pursuing vehicle, or the capabilities of the police officers involved in the pursuit.)*
  - 8. Advised of any unanticipated condition, event or circumstance that substantially increases the risk to public safety inherent in the pursuit, or
  - 9. Pursuing officers lose the ability to communicate by radio.
- C. When a vehicular pursuit is terminated, officers shall immediately cease all emergency vehicle operations, including turning off all emergency warning lights and audible devices (sirens), and disengaging from the violator's vehicle
- D. Upon termination of a pursuit, officers shall immediately notify communications of such, giving the location of the termination.
- E. All pursuing units are required to acknowledge that they have received the order to terminate the pursuit. Continuing a pursuit after acknowledging an order of termination is considered a gross deviation from this directive.

## V. ROLE AND TACTICS OF THE PURSUING OFFICERS

- A. To diminish the likelihood of a pursuit, officers intending to stop a vehicle for any violation of the law shall, when possible and without creating a substantial threat to the public safety, close the distance between the two vehicles prior to activating the emergency lights and audible device.
- B. Officers shall recognize that while attempting to close the distance and prior to the initiation of a pursuit and the activation of emergency lighting/audible equipment, they are subject to all motor vehicle laws governing the right of way (e.g., N.J.S.A. 39: 4-91 and N.J.S.A. 39: 4-92).
- C. While closing the distance, officers shall activate the vehicle's MVR and their BWC (if equipped) and such activation is possible without activating the vehicle's emergency lights.
- D. Upon commencement of a pursuit and regardless of the time of day, the pursuing officer shall immediately activate emergency lights, audible device, and headlights.
  - 1. Unless already activated, officers shall also actuate the vehicle's MVR (if equipped) and their BWC (if equipped).
  - 2. If so equipped, auxiliary takedown lamps should not normally be used while the pursuing vehicle is in motion as they tend to washout the overhead emergency lights to other traffic.
- E. Pursuing officers shall maintain a safe distance from the violator's vehicle to have adequate time to facilitate evasive maneuvers and reduce the potential of a rear end collision that could possibly disable their police vehicle or deploy its air bag.
- F. Once the pursuit has begun, the primary unit must notify communications, identify themselves, and provide as much of the following information as is known:
  - 1. Reason for the pursuit; **and**
  - 2. Direction of travel, designation, and location of roadway; **and**
  - 3. Traffic conditions; **and**
  - 4. Presence of pedestrians; **and**
  - 5. Identification of the violator's vehicle; **and**
  - 6. Year, make, model, color, registration, and other identifying characteristics of the violator's vehicle; **and**
  - 7. Information on the identity of the driver, if known; **and**
  - 8. Number and description of occupants; **and**
  - 9. The speed of the violator's vehicle; **and**
  - 10. Other information that may be helpful in deciding whether to terminate the pursuit or in resolving the incident.

- G. The primary officer has a continuing duty to update the supervisor and communications on the above information as the incident develops.
- H. Failing to adequately provide any of the above information shall cause the supervisor monitoring the pursuit to consider ordering the termination of the pursuit.
- I. The secondary unit shall report by radio as soon as possible that it has joined the pursuit. This provides the supervisor with the information that the pursuit team is complete.
  - 1. Additional units beyond the primary and secondary units are generally prohibited from joining the pursuit without the express permission of the shift supervisor, but these units shall remain alert to the progress and location of the pursuit.
  - 2. Secondary units must exercise maximum radio discipline and refrain from making unnecessary transmissions.
  - 3. Any decision to permit additional units to participate in a pursuit should be based upon the number of persons in the pursued vehicle, the crime for which the vehicle is wanted, or whether the actor(s) are armed or considered dangerous.
  - 4. All other units should stay clear of the pursuit but remain alert to its progress and location through the continual use of communication by radio by the pursuing units.
- J. In the event that the primary unit is unable to proceed with the pursuit or provide radio communications to the supervisor, the secondary unit may assume the role of primary unit and request that another secondary unit is assigned to the pursuit.
  - 1. If the fleeing vehicle is lost to the pursuing unit, then the primary pursuit unit shall cause the chase to be terminated and shall be responsible for providing all available information through radio communication that would assist in locating the target vehicle.
  - 2. Broadcasts to other patrols and surrounding police agencies and the coordination of any other search for the vehicle shall initially be the responsibility of the primary pursuit unit until relieved of that duty by a supervisor.
- K. If it becomes necessary for pursuit officer(s) to leave their patrol vehicles to continue the pursuit on foot, they shall:
  - 1. Maintain weapons discipline.
  - 2. Immediately notify communications of their location and announce that a foot pursuit has commenced, including the general direction of flight.
  - 3. Consider taking a flashlight, even during daylight hours.
  - 4. Turn off the patrol unit, remove the keys and, if possible, lock the car.



5. Keep communications updated on their status and location during the dismounted pursuit.
  6. Be wary of the possibility that you may be lured into a trap or ambush.
  7. Approach all darkened areas, alleys, staircases, and blind corners with utmost caution.
  8. If radio contact is lost or the portable radio unit becomes disabled, return to your police vehicle.
- L. Seat belts must be utilized at all times while the police vehicle is in pursuit.

## **VI. VEHICLE PURSUIT RESTRICTIONS**

- A. An unmarked police vehicle shall not participate in a motor vehicle pursuit unless it is equipped with emergency lights and an audible device other than the standard horn. The unmarked vehicle shall immediately relinquish primary unit status upon participation of a marked police vehicle.
- B. Due to its high rollover potential, non-pursuit rated SUV type vehicles may participate in a pursuit, but shall exercise extreme care when cornering or when reacting to the pursued vehicle's evasive maneuvers. Non-pursuit rated SUVs shall immediately relinquish primary unit status upon participation of a marked patrol automobile.
- C. Due to their limitations, agency specialty vehicles (see definitions) are prohibited from engaging in a vehicle pursuit. Personnel operating a specialty vehicle shall instead request assistance from a marked patrol vehicle.
- D. A motorcycle officer may initiate a pursuit, but must relinquish primary unit status immediately upon the participation of a marked police vehicle.
- E. No pursuit shall be conducted:
  1. In a direction opposite to the flow of traffic on a divided highway.
  2. In a direction opposite to the flow of traffic on a one-way street.
  3. When an individual is present in the police vehicle, who is not a law enforcement officer, including passengers.
- F. There is a strong presumption against the initiation or continuation of vehicular pursuits in areas where pedestrians are located or in areas of high-density vehicular traffic.
- G. Throughout the course of a vehicular pursuit, pursuing officers shall not attempt to overtake or pass the violator's moving vehicle.
- H. Upon approaching an intersection controlled by traffic signals or signs, or at any other location where there may be a substantial increased likelihood of a collision, the operator of any pursuing vehicle shall, prior to entering the intersection, reduce their speed and control the vehicle so as to avoid collision with another vehicle, pedestrian or fixed object.

1. Officers shall observe that the way is clear before cautiously proceeding through the intersection.
  2. At all other times including an attempt to close the distance prior to the initiation of the pursuit, personnel shall observe the applicable laws governing the right of way at intersections and other locations.
- I. Officers involved in a pursuit shall not engage in vehicle paralleling.
  - J. There shall be no street paralleling along the route unless the pursuit passes through an officer's assigned area. A patrol unit that is parallel street following shall not join or interfere with a pursuit and shall stop all pursuit related activity at the boundary of its assigned area.
  - K. Officers shall not engage in any vehicle contact action (ramming) except as a last resort to prevent imminent death or serious injury to the officer or another person when deadly force would otherwise be justified.
  - L. Officers shall not discharge a firearm against the driver or passenger of a moving vehicle except in the limited situations permitted in this agency's policy on *Use of Force*.
  - M. Officers shall not discharge a firearm from a moving vehicle except in the limited situations permitted in this agency's policy on *Use of Force*.
  - N. Under no circumstances shall an officer involved in a vehicle pursuit be allowed to commandeer or utilize any civilian vehicle during a pursuit.

## **VII. FORCIBLE STOPPING, ROADBLOCKS, AND TIRE DEFLATION DEVICES**

- A. The use of tire deflation devices is not authorized.
- B. Boxing in or heading off a violator's moving vehicle is permitted only under extraordinary circumstances. These tactics substantially increase the risk inherent in the pursuit and shall only be employed:
  1. At low speeds; and
  2. With the approval of a supervisor; or
  3. In response to an imminent serious threat to the safety of the public or a police officer.
- C. Prior to boxing in or heading off a pursued vehicle, the officer wishing to initiate such action shall notify all other units involved in the pursuit.
- D. Involved officers shall maneuver their vehicles in such a manner as to minimize vehicle contact action and danger to other vehicles or pedestrians.
- E. Roadblocks can only be employed as a last resort in circumstances when deadly force is justified and:
  1. The roadblock will likely result in the apprehension of a suspect who poses an immediate risk to life and property; and

2. A less obtrusive means is not feasible or appropriate.
- F. Neither the frustration of the pursuit nor any motor vehicle violations committed by the suspect during the pursuit are relevant factors in determining whether to employ a roadblock.
- G. After carefully considering all relevant criteria, the decision to establish a roadblock must come from a supervisor. Supervisors must continue to monitor the circumstances that led to the deployment of a roadblock to ensure the criteria for deployment is timely and relevant. If the circumstances change and the use of a roadblock is no longer justified or prudent, the order to establish the roadblock shall be immediately rescinded.
- H. At no time will a roadblock be established until all pursuing law enforcement vehicles are made aware of the roadblock, its location, and have acknowledged this awareness. Once a roadblock has been established and a vehicle or barricade has been positioned in the roadway, the following must apply:
1. Roadblocks should be established on streets or highways most likely to be used as an avenue of escape.
  2. Roadblocks shall not be established on curves on bridges.
  3. The safety of others must remain a paramount consideration.
  4. At least two officers must be present at the roadblock location and shall be in full uniform.
  5. All available emergency warning lights and four way flashers must be utilized.
  6. If time permits, flares shall be arranged to channel traffic through the roadblock.
  7. There must be adequate distance to see the roadblock.
  8. There must be an avenue of escape.
  9. There must be no one in or near the blocking vehicle(s).
- I. When deploying a roadblock, the supervisor shall ensure that EMS and the fire department are notified as soon as practicable. Have them stage off road nearby to render assistance when the scene is deemed secure. When practicable, further considerations include, but are not limited to:
1. Detour routine traffic and pedestrians from the area.
  2. Avoid standing between the roadblock vehicles and any fixed objects.
  3. Avoid standing in any other officers' lines of fire.

- J. Upon coming to a halt and approaching a suspect vehicle, officers should not stand in front of or behind the suspect vehicle. Further, officers should:
1. Maintain weapons discipline.
  2. Avoid standing between the stopped vehicle and any fixed objects.
  3. Avoid standing in any other officers' lines of fire.
  4. Order the driver (and passengers, if any) to show their hands, preferably palms facing up on the windshield.
  5. Order the driver to turn off the vehicle and toss the keys from the driver's side window (if able).
  6. Approach the vehicle with extreme caution being aware of sudden movement by either the driver or passenger(s).
  7. Order the driver and passenger(s) to exit the vehicle one at a time and lie face down on the ground with arms extended, palms facing up.
  8. If handcuffed and as soon as practicable, sit the subject(s) upright to minimize the potential for positional asphyxia. Provide/supply medical aid when applicable.
- K. Officers and supervisors are responsible for minimizing hazards to police and other emergency personnel in any forcible stopping or roadblock scenario in addition to ensuring the safety of citizens to the extent possible.

## VIII. ROLE OF THE SUPERVISOR

- A. Upon being notified or becoming aware of a vehicular pursuit, the supervisor shall decide as quickly as possible whether the pursuit shall be permitted to continue and shall broadcast that decision over the police radio channel by declaring '*pursuit authorized*' or '*terminate pursuit*'.
- B. If the supervisor decides to authorize the pursuit, the supervisor shall broadcast the underlying reason for authorizing the pursuit (e.g., "*pursuit authorized for armed robbery suspect*").
- C. The supervisor shall permit a pursuit to continue only if:
1. There is a reasonable belief that the violator has committed or is engaged in a conspiracy or attempt to commit, any crime of the 1<sup>st</sup> degree or one of the violent or serious crimes listed in subsection III.A.2 of this directive; or
  2. There is a reasonable belief that violator poses an imminent threat to safety of the public or other police officers. This determination shall be made based upon the violator's actions or operation of the vehicle prior to the initiation of the attempted motor vehicle stop.
  3. The violator's subsequent actions, although often supporting the criminal charge of Eluding, N.J.S.A. 2C:29-2(b), shall not constitute an authorization to initiate or continue a pursuit.

- D. Supervisors shall order a pursuit terminated at any time they conclude:
  - 1. That the danger to the pursuing officers or the public outweighs the necessity for the immediate apprehension of the violator.
  - 2. The actor's identity is established to the point where later apprehension may be accomplished, **and** there is no imminent continuing threat to public safety.
  - 3. That a pursuit is of a protracted duration, recognizing the overall population density and volume of vehicular traffic and the increased risk attached to prolonged vehicular pursuits, unless the supervisor determines that a furtherance of the pursuit is justified to respond to an imminent continuing threat to the public safety. No precise formula can be used to determine when a pursuit has become of a protracted duration. This decision must be left to the common sense and sound judgment of the supervisor in light of all of the attendant circumstances.
  
- E. Supervisors are responsible for ensuring that all personnel always adhere to this directive. Additionally, supervisors:
  - 1. Shall verify that the registration number of the vehicle being pursued, when provided, is immediately checked through NCIC for any wants or holds.
  - 2. Shall ensure that the jurisdiction where the vehicle is registered is contacted to determine if the vehicle had recently been reported stolen or has any wants or holds.
  - 3. Communications personnel shall assume these responsibilities upon direction by the road supervisor or if the road supervisor is unable to direct these tasks.

## **IX. ROLE OF COMMUNICATIONS**

- A. Whenever a pursuit occurs, communications shall ensure that an incident number is generated so that each pursuit is traceable through the CAD system.
- B. Upon notification that a pursuit is in progress, communications personnel shall immediately advise a field supervisor of essential information regarding the pursuit if a supervisor has not already been otherwise notified.
- C. Communications personnel will keep the supervisor apprised of the duration and progress of the pursuit.
- D. When possible, a supervisor shall determine whether there is a need to assume control over and coordinate pursuit related communications.
- E. All radio channels (talk groups) shall remain open for pursuit related transmissions and all necessary information shall be made available to officers involved in the pursuit.
- F. Communications personnel shall carry out the following activities and responsibilities during the pursuit:

1. Receive and record all incoming information on the pursuit and the pursued vehicle, specifically:
    - a. Reason for the pursuit; *and*
    - b. Direction of travel, designation, and location of roadway; *and*
    - c. Traffic conditions; *and*
    - d. Presence of pedestrians; *and*
    - e. Identification of the violator's vehicle; *and*
    - f. Year, make, model, color, registration, and other identifying characteristics of the violator's vehicle; *and*
    - g. Information on the identity of the driver, if known; *and*
    - h. Number and description of occupants; *and*
    - i. The speed of the violator's vehicle; *and*
    - j. Other information that may be helpful in deciding whether to terminate the pursuit or in resolving the incident.
  2. Control all radio communications and clear the radio channels of all non-emergency calls.
  3. Obtain criminal record and vehicle checks of the pursued vehicle and any suspects.
  4. Coordinate and dispatch backup assistance and air support units under the direction of the field supervisor.
  5. Notify neighboring jurisdictions, where practicable, when pursuit may extend into their locality.
  6. Ensure that the necessary data entries are made.
  7. Acknowledge all radio transmissions from field units.
  8. Rebroadcast pertinent radio transmissions to field units, if necessary.
  9. Perform other duties as directed or required.
- G. Other police units not participating in the pursuit shall:
1. Always maintain radio discipline, keeping their transmissions to the barest minimum; and
  2. Not involve themselves in the pursuit, but remain reasonably close to the pursuit route to be in a position to render assistance when necessary;

## X. REINSTATING PURSUITS

- A. Reinstating a previously terminated pursuit shall only be undertaken consistent with the authorization criteria for originally initiating a pursuit. An order by a supervisor to terminate a pursuit is normally considered final. However, a pursuit may be reinstated if the situation changes drastically. Examples include, but are not limited to shots fired, serious injury sustained, etc.
- B. A unit wanting to reinstate a pursuit must request and receive specific authorization from the road supervisor to reinstate the pursuit based on any acceptable changes.

## XI. INTER/INTRA JURISDICTIONAL PURSUITS

- A. This department shall provide timely notification of a pursuit to any other jurisdiction, into which the pursuit enters or may soon enter. Communications personnel must make the determination based upon the information provided by the pursuing units or the road supervisor.
- B. At a minimum, a description of the violator's vehicle, number of units involved in the pursuit, location and direction of the pursuit and the reason for the pursuit must be provided.
- C. ***Notifying the other jurisdiction that a pursuit is in progress is not a request for it to join the pursuit.*** A request for assistance from that other agency must be specifically made. Whenever the pursuing officers are unfamiliar with the roadways and terrain of the other jurisdiction into which the pursuit has entered, the pursuing officers must be prepared to seek the assistance of and be prepared to relinquish the pursuit to the other agency.
- D. Upon approaching any jurisdictional boundaries, the primary unit shall notify communications. The attending supervisor shall determine whether the pursuit will continue or be terminated, and shall cause an immediate notification to each jurisdiction the pursuit enters or may enter. Where a pursuit is initiated so near to the border of another jurisdiction that it crosses into that jurisdiction before the supervisor has a chance to make the decision whether or not to pursue, the determination shall be made at the earliest possible time after being notified.
- E. The supervisor shall maintain control of any pursuing units following their entry into another jurisdiction and shall not relinquish control of Nutley Police Department units to the other agency.
- F. Supervisors should be aware that other jurisdictions might have a stricter pursuit policy. Backup support may not be authorized by another agency. Backup support may not be available from another agency due to its workload. The supervisor must consider these factors in deciding whether to continue or terminate the pursuit.
- G. If an outside agency announces that it intends to deploy a tire deflation device along the pursuit route, the supervisor should reassess this department's role in the pursuit as tire deflation devices increase the risk of collisions. The supervisor may:
  - 1. Permit the continuation of the pursuit; or
  - 2. Relinquish control of the pursuit to the other agency; or

3. Order termination of the pursuit.
- H. Pursuits initiated by another law enforcement agency might enter into Nutley. Being notified by that other agency that a pursuit is entering Nutley is not a request to join the pursuit. Communications personnel shall broadcast this information to patrol units and shall coordinate all communications between the outside agency and patrol units. The supervisor shall direct patrol units to position close by the pursuit route in order to be quickly available to render assistance, when needed.
  - I. The outside agency may opt to relinquish control of the pursuit to this department. The supervisor shall determine if the pursuit falls within the parameters set forth in this directive and order a continuation of the pursuit or a termination of the pursuit.
  - J. Assisting another agency in a foot pursuit following any crash or abandonment by the violator(s) is authorized at the discretion of the controlling supervisor.

## **XII. PURSUITS RESULTING IN A CRASH OR CAUSING A CRASH**

- A. If an agency vehicle collides with another vehicle or any other object during a pursuit, the internal affairs commander shall oversee the investigation.
  1. The investigation should include traffic safety and the on-duty commander/supervisor.
  2. The investigation shall determine whether the collision could have been prevented.
  3. The internal affairs commander shall then forward all relevant reports to the Chief of Police.
  4. In every case when the collision could have been prevented, the investigation shall set forth the actions taken by the agency to address the cause or causes of the collision including, but not limited to:
    - a. Revision of agency policies or directives.
    - b. Remedial training.
    - c. Equipment needs.
    - d. Corrective measures or discipline.
- B. If the crash occurs during a pursuit:
  1. Immediately notify the Essex County Sheriff's Office.
  2. The Essex County Sheriff's Office will notify the Essex County Prosecutor's Office Critical Incident Response Team, who will then contact the ECPO Professional Standards Bureau
  3. Such notification must occur at the time of the incident while the scene remains under police control.



4. The Essex County Prosecutor's Office Critical Incident Response Team or the New Jersey Division of Criminal Justice will conduct the investigation. The Essex County Prosecutor's Office is responsible for the necessary notifications to the Division of Criminal Justice Office of Public Integrity and Accountability.
5. The Critical Incident Response Team or the Division of Criminal Justice is responsible for all phases of the investigation including photography, evidence gathering.
6. Only officers working under the direct supervision of the ECPO CIRT may participate in the investigation or share or receive information about any aspect of the investigation, except as authorized and approved by the supervising assistant prosecutor.
7. Prior to the arrival of investigative staff from the Critical Incident Response Team and/or the Division of Criminal Justice, the shift commander or his/her designees shall complete the following tasks as soon as possible but, not necessarily in the order listed:
  - a. Ensure that emergency medical services have been dispatched and appropriate medical aid is rendered to injured parties.
  - b. Secure the scene pending the arrival of the Critical Incident Response Team, and/or the Division of Criminal Justice personnel. The scene will be relinquished to the Critical Incident Response Team and/or the Division of Criminal Justice, upon its arrival.
  - c. Ensure that an inner perimeter is established to secure the scene(s). Direct that an outer perimeter be established to prevent all from entering except those who have a specific function to perform.
  - d. Maintain a scene log documenting who enters and leaves. The scene log will be relinquished to the Critical Incident Response Team and/or the Division of Criminal Justice personnel or their designees upon their arrival.
  - e. Secure any suspect(s) at the scene(s) unless the suspects are injured and require immediate medical care.
  - f. Only when there is no immediate danger to anyone, the vehicles shall not be moved or altered from their location at the time of the incident (e.g., emergency lights, MVR, etc.) until directed to do so by the Critical Incident Response Team and/or the Division of Criminal Justice. No equipment and/or property shall be removed without authorization from the Essex County Prosecutor's Office and/or the Division of Criminal Justice.
  - g. Ensure that all potential witnesses have been identified and separated and ask that they remain on-scene to provide a statement. If witnesses wish to leave, obtain their contact information for future communications.



- b. Any dissemination or receipt of investigative information without prior authorization as required by this section shall be reported promptly to the assistant prosecutor or assistant/deputy attorney general supervising the investigation, or his/her designee, who shall investigate the circumstances.

### **XIII. PURSUIT REPORTING**

- A. All officers who operate agency vehicles in vehicular pursuit, roadblock, or forcible stopping situations are required to file the Attorney General's *Pursuit Incident Report*.
  1. These reports are required in all cases when a pursuit takes place, regardless of the duration or whether it results in an apprehension.
  2. Officers shall complete this report within 24 hours of the vehicular pursuit and preferably before the end the shift in which the pursuit occurred.
  3. If the officer involved in the pursuit is unable to complete the report within 24 hours, it shall be completed as soon the officer is able to do so, or by a supervisor, but within 48 hours.
- B. Additionally, in all cases, an investigation report is also required. This is especially helpful in instances when a pursuit is not already a part of an existing investigation. The Attorney General's *Pursuit Incident Report* lacks the necessary information to conduct follow-up investigations into what may be a 2<sup>nd</sup> degree crime and to provide intelligence for other agency members.
  1. Note: officers should refrain from speculating in their reports about the violator's intent. Examples include, but are not limited to, "...violator attempted to elude me...", "...violator observed my vehicle and drove in a manner to elude me...", etc.
  2. Such speculation is subjective. Officers need to document specific and objective observations and not their opinions.
- C. The road supervisor shall ensure that these reports are completed prior to the pursuing officer(s) reporting off duty.
- D. The records commander or his/her designee will prepare an annual *Vehicular Pursuit Summary Report* for submission to the Essex County Prosecutor's Office. The annual report shall be submitted on the *Police Vehicular Summary Report Form*.

### **XIV. PURSUIT ADMINISTRATIVE COMMAND REVIEW**

- A. All pursuits, roadblocks, and forcible stopping incidents shall be subjected to an administrative command review. The administrative command review shall involve a review of all documents, available evidence and an interview of any available persons who may have information regarding the incident.
  1. The shift commander shall conduct the initial administrative review.

2. The review shall include an examination of all available sources of information about the incident, including any MVR, BWC, or other video of the incident, recordings of 9-1-1 calls and police radio transmissions, reports, officer or other witness statements, medical records, or records of injuries.
  3. The purpose of the administrative command review is to determine if the actions taken during the pursuit comply with statutory law, current criminal procedure, Attorney General's Guidelines, Prosecutor's Guidelines, and this directive regardless of the outcome. Further purposes are to identify equipment needs, training needs, and to determine if modifications to this directive are necessary.
  4. All such reviews shall be completed in writing using the departmental approved administrative review forms.
  5. The administrative command review shall be completed and submitted within two weeks following the pursuit.
  6. The supervisor shall make a recommendation of what action, if any, should be undertaken, including policy changes, remedial training, disciplinary action, administrative action, or, if appropriate, referral for criminal prosecution.
  7. If any serious violations of New Jersey Attorney General guidelines, state law, or departmental directives are discovered during the initial review, immediately notify Internal Affairs.
  8. If the shift commander is directly involved in the pursuit, then the division commander shall conduct the initial administrative review.
  9. If the Chief of Police is involved in a pursuit, the internal affairs commander shall notify the Essex County Prosecutor's Office, who will determine the process for the administrative command level review of the incident, which may include staff from the prosecutor's office.
- C. Internal affairs shall conduct a secondary meaningful command review of the incident as explained above.
1. Internal affairs shall initiate an early warning record, as appropriate.
  2. Internal affairs shall make an additional recommendation of what action, if any, should be undertaken, including policy changes, remedial training, disciplinary action, administrative action, or, if appropriate, referral for criminal prosecution.
  3. The Chief of Police may cause further review of the incident.
- D. The Chief of Police shall review each vehicular pursuit investigation and approve or reject the recommendations of the supervisors who conducted the review. The Chief's decision shall be memorialized and retained in the vehicular pursuit investigative file as authoritative, deliberative, and consultative.

- E. Quarterly, the Chief of Police or his/her designee shall forward all vehicular pursuits that are determined to not comply with the *Attorney General's Use of Force/Pursuit Policy*, or this directive, to the Essex County Prosecutor's Office for review.
- F. The records commander shall prepare an annual documented summary, review, and analysis of all pursuit incidents in the prior calendar year.
  - 1. This review and analysis dissect pursuit events into their basic parts to identify any patterns or trends that could be predictive or could indicate program effectiveness, training needs, equipment upgrade needs, and/or policy modification needs.
  - 2. Minimally, the review and analysis shall include the following:
    - a. Analytical reports from the *Attorney General's Use of Force Reporting Portal*.
    - b. An audit of BWC, MVR, and other videos on a risk-based and randomly selected basis.
    - c. Any internal affairs complaints.
    - d. An analysis to ensure that they are being conducted without discrimination based on race, ethnicity, nationality, religion, disability, gender, gender identity, sexual orientation, or any other protected characteristic.
  - 3. Examples of some other summary categories to analyze include, but are not limited to:
    - a. Pursuits by time of day.
    - b. Pursuits by shift.
    - c. Pursuits by officer(s) involved.
    - d. Pursuits by reason.
    - e. Location of pursuit initiation (business, residential, or industrial).
    - f. Location of pursuit termination.
    - g. Pursuits resulting in injury to police personnel.
    - h. Pursuits resulting in crashes.
    - i. Pursuits resulting in crashes to police vehicles.
    - j. Pursuits from other jurisdictions.
  - 4. Unless otherwise authorized by the Chief of Police, this review and analysis is due by February 15<sup>th</sup> of the prevailing year.

5. Based on this thorough review and analysis, the Chief of Police shall determine whether changes in departmental structure, policy, training, or equipment are appropriate.
6. The Chief of Police shall then provide a written report documenting the annual review and analysis to the Essex County Prosecutor's Office.

## **XV. TRAINING**

- A. Training in the application of this directive shall be conducted annually. This training may be held concurrent with the semiannual use of force training and weapons qualification.
- B. At a minimum, pursuit training shall consist of the following:
  1. A review of applicable statutes.
  2. A familiarization with Attorney General and Prosecutor Guidelines.
  3. A review of this directive.
  4. Forcible stopping options.
  5. Decision making skills (if available).
- C. All officers, prior to operating any police vehicles on patrol or participating in any forcible stopping or roadblocks, must be provided with this mandatory training.
- D. Nothing contained within this directive shall preclude supervisors from conducting additional training in the responsibilities and procedures set forth in this directive. Supervisors are encouraged to openly discuss the provisions of this directive with their staffs to gain their commitment.
- E. The internal affairs commander shall file an annual report with the Essex County Prosecutor confirming in-service pursuit training of all police officers. Typically, this report is due by January 15<sup>th</sup> of the subsequent year.