



**POLICE PURSUIT IN PURSUIT OF POLICY:
THE PURSUIT ISSUE, LEGAL AND LITERATURE REVIEW,
AND AN EMPIRICAL STUDY**

By
Michael T. Charles, Ph.D.
David N. Falcone, Ph.D.
Edward Wells, Ph.D.

Illinois State University
Department of Criminal Justice Sciences
Normal, Illinois

Sponsored By
AAA Foundation for Traffic Safety
1730 M Street, NW, Suite 401
Washington, D.C. 20036

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The study reported in this monograph was funded by the AAA Foundation for Traffic Safety. The contents of this report, however, reflect the views of the authors, and do not necessarily represent the opinions of the AAA Foundation for Traffic Safety, Illinois State University, the Illinois State Police, The Illinois Local Government Law Enforcement Officers Training Board, or the Illinois Association of Chiefs of Police.

EXECUTIVE SUMMARY

VOLUME I

This two volume report represents the results of a one year study on police pursuits in the state of Illinois. The study was conducted from January through December of 1991, and included a sample of 51 police agencies from throughout Illinois. Various research methodologies were incorporated in a process of triangulation to reduce methodological errors and to encourage reliable results.

The study was designed to develop a data base helpful to government officials, police administrators, and police personnel. Volume I of the report concentrates on the pursuit issue, legal ramifications, and past research on this important topic. Volume II of this report includes the findings of the empirical research conducted as part of this study. The empirical research conducted by the authors differs significantly from previous research efforts. It was designed to collect data on the organizational response to the pursuit issue, and to provide a basic understanding of how officers and administrators operationalize police pursuits in the real world. The reader is encouraged to review Volume II for these findings. The executive summary in Volume II provides an overview of that element of the study.

A variety of findings and recommendations have resulted from the research effort:

1. Considering the number of reported pursuits from various studies approximately 1% to 3% of pursuits end in death, 5% to 24% end in injuries, and 18% to 44% end in accidents.
2. Between 68% and 82% of pursuits end in an arrest; however, only between 9% to 30% of pursuits are initiated for felony crimes. Between 52% and 63% of pursuits are initiated by the police for a traffic violation.
3. It has been estimated that in the state of Illinois each pursuit ending in an accident costs on average in excess of \$14,000.
4. It has been conservatively estimated that over 20,000 pursuit related injuries occur each year, and that in excess of 50,000 pursuits take place annually. In addition, The National Highway Traffic Safety Administration reported that for 1990, 314 fatalities resulted from pursuits. Evidence indicates, however, that the true number of fatalities resulting from pursuits is much higher.
5. The National Highway Traffic Safety Administration reported 300 pursuit related fatalities for 1989. Of these 300 fatalities 223 (74.3%) were occupants in the chased vehicle, 70 (23.3%) were innocent third party victims in uninvolved vehicles, 5 (1.6%) were occupants in police vehicles, and 2 (.6%) were nonoccupant fatalities. The International Association of Chiefs of Police reported in a study of 19 state police/highway patrol agencies, between

the years of 1982 and 1984, that they found 21.6% of the pursuits studied resulted in officer injuries.

6. Police agencies should develop policies and procedures that are highly restrictive of police pursuits; however, despite the restrictiveness of pursuit policies, appropriate officer training, and good supervision of the police, accidents will arise. The issue, then, becomes not so much if pursuits should or should not be allowed, but under what conditions and in what manner pursuits should be authorized, and how can they be conducted in the safest manner?

7. Police should be sufficiently trained in pursuit driving if they are to engage in pursuits.

8. Departments should collect and maintain relevant data bases on pursuit activities.

9. Good supervision by administrative staff is essential to ensure compliance with pursuit policies and guidelines.

10. Police agencies should develop critical incident review boards, consisting of police officers and command staff, to review pursuits conducted by their officers. Review boards should make disciplinary recommendations when needed, provide data to help revise pursuit policies, propose remedial pursuit training as needed, and provide information that would be useful in pursuit training for officers.

11. State legislatures should review statutes pertaining to pursuits, and adopt legislation designed to reduce the need for pursuits.

12. Police officers, departments, and responsible government entities can be held liable for pursuits that have resulted in a negative outcome such as death, injury, or accident.

13. Liability suits brought against municipalities for injuries suffered as a consequence of a police pursuit accident, have resulted in six and seven figure judgments against government entities.

ACKNOWLEDGEMENTS

Researchers seldom, if ever, conduct their research in a vacuum. Numerous individuals and organizations provide data, assistance, and encouragement to a research team. This research project is no exception. Without the support and assistance of numerous individuals throughout Illinois and the country, this project could not have been completed.

Certainly, the support provided by the AAA Foundation for Traffic Safety made this project possible. Without their financial support, and encouragement to conduct a model study, this project would not have been conducted. A special note of thanks is also due to the Illinois State Police Research and Development Bureau. Bureau Chief Dennis Bowman saw merit in our project, promised cooperation, and provided the capable assistance of his assistant Mike Welter, and other staff members. Their expertise and assistance in helping to develop and test questionnaires, gain cooperation of police departments from throughout the state, and help in the field interviews was invaluable.

The backing and cooperation of the Local Government Law Enforcement Officers Training Board, and the Illinois Association of Chiefs of Police further legitimized the study. Their combined support not only demonstrated their willingness to cooperate with the University in this project, but it also demonstrated the seriousness with which they view the issue of police pursuits. Their support sent a

strong and positive message throughout the state, and we thank them for that.

Those police agencies and officers that took part in the research must not be forgotten. It was they that cared enough to take the time to complete the surveys, and allow the researchers to interview them. They placed their trust in us to protect their identities, and it was they that had the courage to respond to our inquiries with honesty. They agreed out of the hope that together we might help provide information and recommendations that would help them better protect society. It is much easier, and perhaps safer, for an agency to decline participation in a study which could report negative findings. Those chiefs and officers that did take that risk must be commended.

A special note of thanks is owed by the authors to Mr. Greg Oakes. Greg served as our graduate assistant throughout the duration of the project. It was he that made the endless library searches, assisted in the field interviews, helped to organize the survey forms, and did all that was asked of him. Without his help, tireless dedication, wit, and support our job would have been much more difficult. Other individual graduate assistance also provided assistance to the research team, and we would also like to thank them individually. They included Greg Brush and Maureen Chapman. We would also like to thank Ms. Barbara Winterland for her help in organizing and opening surveys as they were returned to the department.

The authors would also like to express a special note of thanks to the following individuals for their constructive comments on earlier drafts of this report. They include Justice of the Appellate Court James Knecht, Chief of Police Ronald Swan, Chief of Police James Taylor, and Attorney at Law George Taseff.

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THE LAST MEMORY SHARON Temkin has from the day her life was shattered is her granddaughter's shoelaces. They were loose, and Temkin was afraid they would get caught in the escalator at Lakeforest Mall, where she had gone shopping that afternoon. . . .

The next thing she remembers is awakening the following day--July 15, 1987--in unbearable pain in the intensive care unit of Suburban Hospital in Bethesda. Teresa stood crying at the foot of her bed, frightened by the sight of her mother's battered body speckled with countless small cuts. Instinctively, Temkin whispered, "Honey, don't cry."

It wasn't until weeks later, when a neighbor arrived with photographs of the remnants of Temkin's black and tan BMW, that she learned the details of what had happened on a blind curve of Route 355 in upper Montgomery County. It was there, literally within earshot of her Hyattstown home, that she was met head-on by a high-speed police chase.

According to the accident report and court documents in a pending \$9 million lawsuit, the chase began nearly 10 miles away when a Frederick County deputy sheriff spotted a speeding 1978 Mercury Cougar on Route 85 near the Francis Scott Key Mall. He roared off after it, staying locked on its tail as it careered [*sic*] past a crowded carnival site and down Route 355, a rural two-lane blacktop, at speeds exceeding 100 mph. The cars flew past rolling fields into a downhill curve near Temkin's home just as she was approaching from the opposite direction. Both speeding cars took the curve too tight, cutting across the double yellow line into her lane.

The first car glanced off the front passenger side of her car, spinning it sideways. Then the police cruiser slammed into the BMW broadside, crushing the driver's side and knocking her vehicle to the other side of the road. When emergency help arrived, Temkin had to be cut out of the car. Her husband, who had heard the crash and came to investigate, watched helplessly as she was lifted into a helicopter and flown to Suburban.

The fleeing car that sparked the chase held three men in their early twenties.

They had left a gas station without paying for \$18 worth of gasoline.

IN ONE VIOLENT MOMENT, TEMKIN WAS reduced to an invalid in need of constant attention. Her physical injuries were extensive--a crushed left leg, multiple fractures and cerebral contusions,

broken teeth and a collapsed lung, among others-- and the disabilities remain severe nearly four years later, keeping her confined most of the time to a couch or bed. Her mental faculties wax and wane; one minute she's cheerful and articulate, the next barely able to assemble a thought. Her short-term memory seems lost entirely, failing her even in such simple matters as remembering to shut off the stove or the iron or the bath water (Kuznik, 1991: 20, 22).

I**INTRODUCTION**

The data collected by the research staff in this project have lead the researchers to six major recommendations. These recommendations are based on past research, applicable legal standards, and the results of the quantitative and qualitative data collected throughout this study. It is important to keep in mind, however, that this research project was not designed to test our recommendations as hypotheses, but was exploratory in nature. Consequently, while the recommendations provided are based on what we presently know about pursuits in this country, case and statutory law, and our standards of acceptable risk, empirical studies should be developed to test these recommendations by objective scientific standards. Given this caveat the following recommendations are provided:

1. Perhaps the single most important recommendation is that police agencies should have well developed highly restrictive police pursuit policies, and stringent procedures for their department. The policy should be severely cautioning or highly restrictive of any pursuit, except in the most extreme circumstances. This is a more conservative standard than the restrictive policy proposed by the International Association of Chiefs of Police (see Appendix A). With reference to pursuits, this standard provides maximum safety to third parties, the individual

being pursued, and the officer him/herself. Pursuit procedures should be clear and concise, and, to the extent possible, complement already established departmental procedures. This will help to avoid confusion under stressful circumstances, and allow for increased officer retention of procedures.

2. Police officers who are given authority to participate in police pursuits must be trained properly before they are allowed to engage in pursuits, and they must receive inservice pursuit training on a regular basis.

3. Police agencies should be required to collect and maintain relevant data on police pursuits conducted by officers in their department. This data base will allow police officials, and researchers, to more effectively evaluate pursuit policies and officer actions during pursuits.

4. To ensure compliance with pursuit policies good supervision by administrative staff is essential. That supervision includes not only highly restrictive pursuit guidelines and appropriate training, but the use of sanctions for officers that violate pursuit policies. An integral part of the sanctioning process must be remedial pursuit training.

5. Departments should develop a critical incident review board to review all police pursuits engaged in by officers on their department. The review board should consist of patrol and command officers who would evaluate

pursuits in relation to department policy and state law. The information gleaned from such an effort could be used to improve the department's pursuit policy, and to enhance the pursuit training afforded officers.

6. There is a need for states to review their statutes pertaining to pursuits. These statutes should encourage safety and provide alternatives to police pursuits for less serious offenses. The state of New Jersey, for example, has incorporated rebuttable presumption in their penal code for the owner of a vehicle used to elude the police. They also allow for the confiscation of vehicles involved in a pursuit. While the Constitutionality of rebuttable presumption in this circumstance has yet to be challenged, officials in New Jersey are confident that it will survive the challenge. The utilization of video and still cameras in police vehicles, could help reduce the number of pursuits, and increase the conviction rate for those who attempt to elude the police, provided needed enabling legislation is forthcoming.

TIMES CHANGE

Both the public and the police are becoming increasingly aware of the tragic consequences that can result from police pursuits of law violators. The National Highway Traffic Safety Administration (NHTSA) reported for 1990, that there were 314 fatalities, in 1989, there were 300 reported fatalities throughout the United States, and in 1988, 294 fatalities in pursuit related accidents were

disclosed. These figures represent only those police interventions, which intentionally caused the pursued vehicle to lose control resulting in a fatal accident involving the police or pursued person. This would include such situations as the forcing of a pursued vehicle off the roadway, or erecting a road barrier causing the pursued vehicle to crash. As defined, all innocent third party fatality victims reported were included in the fatality statistics. These figures, therefore, do not represent all deaths resulting from police pursuits, but only those where there was intentional police intervention which caused the pursued vehicle to lose control. It is difficult to determine the degree of underreporting that occurs due to the selection criteria incorporated by the NHTSA. In 1988, however, the state of New Jersey reported three fatalities resulting from police pursuits. In reality there were at least eleven deaths, almost four times that reported in New Jersey in 1988, resulting from police pursuits (G. W. LaCrosse, personal communication, November 4, 1991).

Given the limitations of the NHTSA, we find that occupants in the chased vehicle are at greatest risk with 223 (74.3%) reported fatalities in 1989. There were 70 (23.3%) third party fatalities in other vehicles, 5 (1.6%) occupant fatalities in police vehicles, and 2 (.6%)¹ nonoccupant fatalities reported in that same year. Those

¹The percentages due not equal 100% due to rounding error.

states having the highest fatality rates were California with 55, Texas with 37, Georgia with 21, and Illinois with 17. The NHTSA does not keep statistics on the number of injuries, but it has been estimated that 20,000 injuries occur each year (Mitchell, 1990, & Koonz and Regan, 1985). It has also been estimated that over 50,000 pursuits occur annually (Hannigan, 1992). From our research it is likely that the 50,000 pursuit figure is a gross underestimation.

In 1986, a study conducted by the International Association of Chiefs of Police was released (IACP, 1986: 12). In this study it was found that of the 19 state police/highway patrol agencies queried, 1,403 pursuit related injury accidents were reported for the years 1982-1984. Among these pursuit related accidents 303 (21.6%) were officer injuries. In their study of five municipal agencies covering the same time period it was discovered that there were 1,293 pursuit related injury accidents reported. Of these injury accidents 203 (15.9%) were officer pursuit related accident injuries.

The financial cost of pursuits can also become extremely burdensome on a governmental entity. In fact, six and seven digit claims have been awarded plaintiffs seeking redress against a municipality for pursuit related accidents (Zevitz, 1987). It has been reported that Alvin Biscoe, a pedestrian who was struck by an automobile being chased by the Arlington, Virginia Police Department, received a settlement of over \$4 million dollars for the loss of both

his legs as a result of a pursuit related accident. Ten million dollars worth of suits against the city of Omaha, Nebraska, for pursuit related accidents, precipitated a ban against police pursuits in that city recently. Omaha Chief of Police James Skinner stated, "There will be no police pursuits in the city of Omaha for any reason. Period" (Omaha, 1991: A5).

Chief James Taylor of Normal, Illinois, upon assuming the position of president of the Illinois Association of Chiefs of Police, announced that police pursuits will be among his top priorities in 1992. Among other issues, President Taylor reported that he:

. . . will look into legislation that would make vehicle owners financially and legally responsible for traffic violations committed with their vehicles. Either they would be required to pay the fine for the offense or they would be required to tell authorities who was driving the car during the offense . . . (Gleason, 1992: A1, A4).

The state of New Jersey recently upgraded the offense of eluding the police from a disorderly persons offense punishable by fines up to \$1,000 and six months in jail, to a fourth-degree crime. This now allows the judge to sentence someone convicted of eluding the police to a maximum of 18 months and fines up to \$7,500. The new law provides for prison terms of 5 to 15 years and fines up to \$100,000 for causing the death of another person while eluding the police

in a vehicle. Causing serious injury to someone can be considered an aggravated assault with penalties up to 10 years in prison and fines as high as \$100,000. Someone eluding the police can be charged with simple assault if their actions result in less serious injuries. A conviction of simple assault can result in a prison term varying from 3 to 5 years and fines as high as \$7,500 (Press, 1992).

The new legislation also requires the suspension of the convicted person's driver's license for a period of not less than six months or more than two years. By upgrading eluding the police to a fourth-degree crime, state legislators attached **rebuttable presumption** to the crime of eluding the police. This means that it is rebuttable presumption that the owner of the vehicle was the operator of the vehicle at the time of the offense. The burden of proof is effectively shifted to the owner of the vehicle to demonstrate that he/she was not the driver. This allows the police to charge the owner of the vehicle for the crime of eluding the police without having to chase him or her. The police are also given authority to confiscate any car that flees.

Batavia has become the first city in Illinois to utilize PhotoCop. PhotoCop is a system of radar, computers, and still and video cameras, that has been mounted in a police vehicle. Once the equipment has been triggered by a speeding motorist still camera photographs of both the front and rear of the vehicle are automatically taken. The photographs include the front license plate and the driver,

as well as the rear of the vehicle. In addition, a video camera records the entire process. The officer in the patrol car is not required to engage in a chase to stop the violator and issue a citation. This avoids both the accident potential involved in stopping the violator and pursuit situations. The citation is later mailed to the accused speeder, who can either pay the fine, or contest the citation in court. While PhotoCop is considered an invasion of privacy by some (PhotoCop, 1992), similar systems are used elsewhere in the United States, and have been in use in several Western European countries for years.

President Bush recently signed the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) into law. Becoming effective in 1992, this law requires the Secretary of Transportation to, ". . . establish a highway safety program for the collection and reporting of data on traffic-related deaths and injuries by the States. Under such program, the States shall collect and report such data as the Secretary may require" (p. 152). The ISTEA specifically states that, "Such criteria shall include, but not be limited to, criteria on deaths and injuries resulting from police pursuits . . ." (p. 153). Once the Secretary of Transportation develops and implements the reporting procedures, states will be required to keep data on the deaths and injuries that have resulted from police pursuits, and report them annually to the Secretary.

It is of interest to note that the ISTEA gives the Secretary of Transportation authority to encourage the use of technology for traffic enforcement. Specifically, "The Secretary may encourage States to use technologically advanced traffic enforcement devices (including the use of automatic speed detection devices such as photo-radar) by law enforcement officers" (p. 153).

In Illinois the 87th General Assembly passed House Bill 515, during the 1991-1992 session, and it became effective on January 1, 1992. Under the new provisions of this law, the curriculum for probationary police officers, in certified training facilities, must include a section on the hazards of high-speed police vehicle chases, with an emphasis on alternatives to the high-speed chase. This is considered but a first step by The Illinois Local Governmental Law Enforcement Officers Training Board to provide better training for officers responsible for conducting police pursuits.

As recently as March, 1992, Pennsylvania legislators were considering Senate Bills 1433 and 1434. This new law, if passed, will make it mandatory of police agencies in Pennsylvania to keep statistics on police pursuits, to have pursuit policies, and it will attach rebuttable presumption to the owner of a vehicle that was used to elude the police.

Certainly, police pursuit is an issue deserving of serious study and evaluation (Nugent, et al., n.d.). Not only are we in need of data to better make decisions

regarding pursuit policies and procedures, but, in conjunction, methods to decrease the number of pursuits need to be developed and researched. Constitutional issues need to be resolved concerning such issues as rebuttable presumption and systems like PhotoCop. State statutes need to be reviewed to provide enabling legislation to incorporate Constitutionally acceptable technological innovations. The times are changing, and public attitudes and legal standards regarding the police pursuit are becoming yet another focal point on the social agenda.

THE MASS MEDIA

Media attention to police related pursuit crashes, and large court ordered liability suits against police agencies, and their government employers, have played a large role in acquainting the general population, and the police with the drastic consequences of a police pursuit gone awry. Many would argue, however, that the news media sensationalize the police pursuit that ends in tragedy, and they are frequently criticized for their one sided journalism. Individuals like Sharon Temkin and her family are likely to hold a different view. Those that have suffered the consequences of a police chase ending in tragedy, are unlikely to feel that the media sensationalize the dramatic and painful consequences. The media does serve an important role in the identification of important social issues, and they force polarized attitudes and opinions into the open for debate. The mass media help pressure government representatives, police officials, and

researchers to take a serious look at police pursuits. This discourse on such an important topic will, hopefully, reduce the tragedies associated with police pursuits.

James Jacobs (1989: 40), in his discussion of drunk driving has, perhaps as well as anyone, noted the importance of public attention, and the need for exaggeration in influencing the public and politicians. He quite simply states, "It seems a rule of American political life that a social problem has to be projected in large enough--even exaggerated--terms before it can command a place on the social problems agenda." The media does play an important role in American society in identifying social problems, and bringing them to the public's attention, at times perhaps in an exaggerated form, but this attention forces various issues onto the social agenda. In recent years media reporting has begun to concentrate more on the issue of police pursuits. This media recognition has helped to gain attention for what is perhaps the last area of police deadly force to be carefully scrutinized by the public, courts, and the police themselves. In fact, the funding provided for this project is in part due to the attention given the tragic consequences of pursuits gone awry.

One segment of the media, the entertainment industry, often presents the image that the police are totally insensitive, careless, and irresponsible in their pursuit activities. Popular television and movie hits such as *Hunter*, *Hill Street Blues*, *Miami Vice*, *Smokey and the*

Bandit, *Bullitt*, and many more, aptly demonstrate this point. The excitement of the chase, the numerous, highly choreographed, and spectacular crashes are designed to entertain and excite the audience. At least one critic, Mr. G. W. LaCrosse, founder of The Desere' Foundation: Center for the Study of Alternatives to Pursuit,² calls for a more responsible entertainment industry. Instead of glamorizing such potentially tragic and dangerous events he would like to see the entertainment industry become more realistic. Mr. LaCrosse (1991: 31) states simply:

. . . please think of all the impressionable young people out there who have sought their escape in your fantasies, only to find themselves caught up in the anguish of their own reality. The man who killed Desere' told the trial court that--just as in the *Dukes of Hazard*--if he could just get to the city limits they would have to call off the chase. They didn't, he kept running, and the rest is tragedy.

Certainly, the actual impact of such entertainment images on drivers is unknown, but the fact that such questions are now being openly discussed points out that the issue of police pursuit has, and will continue to command for some time, its place on the social agenda. It is the

²G.W. LaCrosse founded the Desere' Foundation in 1990, to help reduce the number of high speed chases. Those interested in contacting the Desere' Foundation can write to: Mr. G.W. LaCrosse, The Desere' Foundation, P.O. Box 297, Beachwood, NJ, 08722, or call 1-908-341-2905.