

An Act Restricting Vehicle Pursuits

Ample data has made clear that vehicle pursuits (i.e., chases) pose immense danger to members of the public and officers alike. A national study found that police vehicle pursuits resulted in the death of more than 3,000 people from 2017 to 2022, more than 500 of whom were bystanders, while injuring more than 52,000 people from 2017 to 2021. The study further found that just one out of fifteen people killed were chased for violent crimes; the vast majority of the time, police engaged in risky chases to stop drivers suspected of minor driving infractions (like having a broken taillight) or low-level crimes.¹ To make matters worse, the study found that Black people are killed in pursuits at four times the rate of White people. Recognizing the danger of vehicle pursuits, a growing number of jurisdictions and law enforcement agencies across the country have significantly restricted officers' authority to conduct them; these jurisdictions and agencies often require that officers reasonably suspect that someone in the fleeing vehicle has engaged in a specified, and usually violent, crime, and determine that the danger posed by the pursuit itself is outweighed by the safety risks posed by not immediately apprehending the suspect. This statute sets forth clear rules for agencies and officers to follow so they only engage in pursuits when the benefits of conducting a pursuit outweigh the far-too-often deadly costs.²

¹ See Jennifer Gollan and Susie Neilson, *Police chases are killing more and more Americans. With lax rules, it's no accident*, *San Francisco Chronicle* (Feb. 27, 2024), <https://www.sfchronicle.com/projects/2024/police-chases/>

² This version of An Act Restricting Vehicle Pursuits is still undergoing external review by select members of academia, law enforcement, and the advocacy community. We welcome any additional feedback, which may be sent to legislation@policingproject.org.

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SECTION I: DEFINITIONS

1. A “vehicle pursuit” or “pursuit” is an attempt by a law enforcement officer in an authorized emergency vehicle to stop a moving vehicle where the operator of the moving vehicle appears to be aware that the officer is signaling the operator to stop the vehicle and the operator appears to be willfully resisting or ignoring the officer's attempt to stop the vehicle by increasing vehicle speed, making evasive maneuvers, disobeying traffic signals, or using other comparable means in an attempt to elude the officer.

Following a (i) vehicle whose operator fails to yield to the officer’s signal to stop (ii) for a brief period no longer than necessary to obtain basic information about the vehicle (e.g., license plate, make/model) and its occupants, does not constitute a pursuit if both the officer and the operator continue to substantially obey all other traffic laws during the brief period the officer is following the operator, and the officer reasonably believes that

briefly following the vehicle would not increase the threat that either the operator's or the officer's driving poses to the safety of the public or other officers.

The second paragraph of the "pursuit" definition makes clear that it is not a pursuit when an officer safely follows a fleeing vehicle just long enough for the officer to obtain relevant information (e.g., a license plate number or suspect description); this information could enable officers to apprehend the suspect at a later date, without having to engage in a potentially dangerous chase. The final clause makes clear that the exception does not apply unless (1) the officer and operator are substantially complying with traffic laws (e.g., not driving recklessly, not going more than 15 mph over the speed limit) during the brief encounter, and (2) briefly following the operator would not increase the threat the operator's or officer's driving poses to others.

2. "POST" or "POST board" means [*insert official name of state agency, e.g., "Peace Officer Standards and Training Board".*]
3. "State AG" means [*insert official name of State Attorney General's office*].
4. "Tire deflation devices" or "spike strips" are devices designed and intended to produce a controlled deflation of one or more tires of a vehicle.
5. "Boxing in" is the surrounding of a pursued moving vehicle with moving police vehicles which are then slowed to a stop along with the suspect's vehicle.
6. "Vehicle contact action" is any action undertaken by the pursuing officer intended to result in contact between the moving police vehicle and pursued vehicle.
"Vehicle contact action" includes, but is not limited to, ramming and use of the precision immobilization technique ("PIT") maneuver.
7. "Vehicle paralleling" is a deliberate offensive tactic by one or more police vehicles in which they drive alongside the pursued vehicle while it is in motion.
8. "Channelization" is a technique used to divert a suspect's vehicle to a preferred location that is either less populated or traveled, or more conducive to a forcible stop.

In light of the immense danger posed by police vehicle pursuits, the below section permits pursuits only in one of two circumstances: (1) in order to apprehend a person reasonably suspected of having committed a violent crime; or (2) (in limited circumstances) to stop a vehicle that is being driven recklessly or by a person suspected of being under the influence of drugs or alcohol. If either of those threshold requirements are satisfied, officers still must satisfy some

additional criteria set forth in subsection II(2) before engaging in a pursuit. Notably, they must reasonably believe the suspect poses significant risk of serious injury to another if not immediately apprehended, and that the safety risks posed by failing to apprehend the suspect outweigh the safety risks of engaging in a chase.

The “violent crime” limitation is consistent with the pursuit policies of numerous jurisdictions throughout the country, as well as the recommendation of the Police Executive Research Forum and Department of Justice’s COPS Office, who suggest this restrictive standard “[g]iven the risks to human life presented by vehicle pursuits” and the clarity given to officers by listing particular violent crimes.³

SECTION II: WHEN OFFICERS MAY ENGAGE IN VEHICLE PURSUITS

A law enforcement officer may not engage in a pursuit unless:

1. One of the two below conditions is satisfied:
 - a. There is [*reasonable suspicion/probable cause*] to believe that a person in the vehicle (1) is attempting to commit, is committing, or has committed, [*list violent crimes or subset of violent crimes (e.g., violent felonies), with specific statutory citations, or cite to provision in state code that specifically defines which offenses are violent and includes only those crimes*] (2) for which the person has not yet already been convicted; or
 - b. There is [*reasonable suspicion/ probable cause*] to believe that the operator of the vehicle is violating [*cite statutory provisions prohibiting reckless driving*] or [*cite statutory provisions prohibiting DUI/DWI*] and the pursuing officer reasonably believes a pursuit would not increase the threat that the suspect’s driving poses to the safety of the public or other officers. [*The POST board or State AG*] shall issue additional guidance in its implementing regulations, which may include more restrictive and detailed standards to ensure pursuits under this sub-provision are only permitted in exceptional circumstances.

This subsection contains a strong presumption against permitting pursuits for reckless driving or DUI because the vast majority of the time chasing an already

³ See Police Executive Research Forum & Dep’t of Justice Officer of Community Oriented Policing Services, *Vehicle Pursuits: A Guide for Law Enforcement Executives on Managing the Associated Risks* (“PERF Report”) at 29-30 (2023).

reckless or drunk driver is only going to put everyone on the road at greater risk. But there may be some situations (e.g., a confused elderly driver, someone having a medical episode) where pursuits of reckless drivers would decrease the threat the reckless driver's driving poses to the safety of others, depending on road & traffic conditions, and other circumstances. Thus, we recommend permitting pursuits for reckless driving or DUI only in exceptional circumstances.

and

2. Each of the below conditions are satisfied:

- a. The officer reasonably believes that the suspect would pose a substantial risk of death or serious bodily injury to another person unless the suspect is immediately apprehended. This determination shall be made based upon the suspect's actions or operation of the vehicle before the initiation of the pursuit.
- b. Apprehension cannot be accomplished later (without a pursuit) without the suspect posing a substantial and/or ongoing threat to the safety of the public or other officers; and

In the exceptional instance in which a pursuit is allowed under II(1)(b) for reckless driving or DUI, the above condition will almost always be satisfied because the officers will have the reasonable belief that only a pursuit will reduce the threat to others that the driver is currently posing.

- c. The officer reasonably believes the safety risks of failing to immediately apprehend or identify the suspect are greater than the safety risks of the vehicle pursuit under the circumstances, considering:
 - i. The likelihood of a successful apprehension;
 - ii. The degree of risk created by the pursuit in light of the nature of the area, volume of pedestrian traffic, type and speed of vehicular traffic, weather, time of day, and roadway configuration and conditions;
 - iii. The recency of the offense;

For example, if a stolen vehicle that was subject to an armed carjacking is located within an hour or two of the carjacking, the driver is likely to be the person who committed the offense, and likely to be armed. But, as more time passes, it becomes less likely that the driver of the vehicle is the suspect.

- iv. The type of vehicle being pursued, the perceived age and condition of the operator of the vehicle, and the presence of uninvolved individuals in the operator's vehicle; and
- v. The law enforcement officer's driving skills, familiarity with the roads, and condition of their vehicle.

SECTION III: DUTY TO TERMINATE PURSUIT

For the duration of any pursuit, the pursuing officer shall have a duty to continuously assess whether continuing the pursuit is consistent with this statute, and terminate any pursuit as soon as the officer concludes that a pursuit is not authorized, including as soon as it would become apparent to a reasonable officer that the safety risks of continuing the vehicle pursuit would be greater than the safety risks of failing to immediately apprehend or identify the suspect.

SECTION IV: SUPERVISOR ROLE

1. Except as provided in [*subsection IV(4)*], either before or shortly after initiating the pursuit, the pursuing officer must notify a supervisor of the pursuit, providing the supervisor with the reason for the pursuit, the location of the pursuit, traffic conditions, information on the identity of the driver, the speed of the pursued vehicle, number of occupants in the pursued vehicle, and any other information required to be provided by [*POST board or AG's office*].
2. The pursuing officer shall have a continuing duty to update the supervisor on the above information [*subsection IV(1)*] as the pursuit develops.
3. The supervisor shall order the pursuing officer to terminate the pursuit as soon as the supervisor concludes the pursuit, or continued pursuit, would not be authorized under [*Sections II and III*].
4. For agencies with fewer than 15 sworn officers, if a supervisor is not on duty at the time of the pursuit, the pursuing officer must request that the on-call supervisor be notified of the pursuit, according to the agency's procedures.

SECTION V: COORDINATION WITH OTHER AGENCIES AND AMONG PURSUING OFFICERS

1. Notification of Other Agencies Affected: The supervising officer, pursuing officer, or dispatcher must inform other law enforcement agencies or nearby jurisdictions that may be affected by the vehicular pursuit or may need to assist. The pursuing and supervising officers, if applicable, are required to follow any agency procedures for coordinating operations with other jurisdictions, including tribal police departments when relevant.
2. Communication with other pursuing officers: The pursuing officer must be able to directly communicate with other officers engaging in the pursuit, the supervising officer, if applicable, and the dispatch agency, such as by being on a common radio channel or having other direct means of communication.

SECTION VI: ACTIVATION AND TERMINATION OF EMERGENCY VEHICLE OPERATIONS

Upon initiation of a pursuit, the pursuing officer(s) shall immediately activate all emergency warning lights, siren, headlights, motor vehicle recorder, and body-worn camera. If an officer terminates a pursuit without stopping the pursued vehicle, upon terminating, the pursuing officer(s) shall immediately cease all emergency vehicle operations, turning off all emergency warning lights, sirens, and disengage from the fleeing vehicle. Upon termination, the pursuing officer(s) shall, at minimum, radio the termination and location of termination to dispatch.

SECTION VII: PURSUIT INTERVENTION TACTICS

1. No law enforcement officer may engage in vehicle paralleling or vehicle contact action unless (i) they have received authorization to engage in the maneuver by a supervisor, (ii) there is an imminent risk of death or serious bodily injury to an officer or another, (iii) that risk cannot be avoided through other means, and (iv) the pursuit is otherwise authorized under Section II.
2. A law enforcement officer may not fire at, into, or from a moving vehicle unless there is an imminent risk of death or serious bodily injury to an officer or another, and that risk cannot be avoided through other means, including by avoiding the path of the vehicle.

3. In the model policy issued under Section VIII, the [POST board or state AG] must include rules setting forth when, if ever, law enforcement officers may use other pursuit intervention tools and tactics, including channelization, boxing-in/heading-off, roadblocks, tire-deflation devices or spike strips, and overtaking the pursued vehicle. The [POST board or state AG] shall promulgate regulations on the same subject under [Section XIII].

The above tools and tactics pose varying levels of risk and require thoughtful, tailored regulation. For example, the use of spike strips on a stationary vehicle is generally an effective and low-risk alternative to a vehicle pursuit. Meanwhile, using spike strips on moving vehicles presents greater risk, and merits more comprehensive and restrictive regulation. See PERF Report 59-62. Similarly, intervention tactics that involve police vehicles forcibly stopping fleeing vehicles (e.g., roadblocks, boxing-in, and channelization) pose significant risks to both officers and suspects and should be permitted only in limited circumstances, if at all.

SECTION VIII: PURSUIT POLICIES

1. No later than [x date], the [POST Board or state AG] shall develop a model vehicle pursuit policy that is consistent with the requirements of this statute, and shall obtain public comment on the policy in the manner prescribed under the [rulemaking provisions of the State Administrative Procedures Act].
2. No later than [y date], each law enforcement agency must adopt a written policy that is consistent with the requirements of this statute, and incorporates the requirements of the [POST Board or state AG] model policy.

The [POST Board or state AG] should consider issuing additional guidance to law enforcement agencies on the use of technologies and devices that are deployed as complements or alternatives to pursuits, including aviation technologies (e.g., helicopters, drones), GPS tagging and tracking devices (“TTDs”) (e.g., StarChase), and automated license plate readers.

SECTION IX: PURSUIT TRAINING

1. The POST shall develop minimum requirements for both introductory and in-service training for law enforcement officers and supervisors on vehicle pursuits to explain the requirements of this statute and any implementing regulations and guidance. Training

shall address every tactic and tool authorized under this statute or authorized under the *[POST board or state AG]* model policy.

2. The POST shall require officers to complete in-service training on vehicle pursuits on an annual basis.
3. The POST shall develop minimum requirements for both introductory and in-service training on vehicle pursuits for police communications personnel, and any other law enforcement agency personnel who may play a role in a pursuit or pursuit review.
4. Beginning *[6-8 months from y date, the date law enforcement agency must adopt pursuit policy in subsection VIII(2)]*, a law enforcement officer:
 - a. May only engage in a vehicle pursuit, and a supervisor may only supervise a vehicle pursuit, if they completed introductory or in-service training on vehicle pursuits in the last calendar year.
 - b. May not use a pursuit intervention tactic or tool unless the officer has been trained on the particular tactic or tool in the last calendar year.

To the extent officers use any of the technologies noted above as complements or alternatives to pursuits (e.g., TTDs), the POST and/or agencies should train officers on their use.

SECTION X: PURSUIT REPORTING, DATA, AND TRANSPARENCY

1. Pursuit policy transparency: Each law enforcement agency shall, no later than *[z date]*, make publicly available all of its policies (defined as all policies, procedures, general orders, special orders, regulations, and guidance) related to vehicle pursuits.
 - a. The pursuit policies are presumed to be public record and must be made public without redaction. Redaction of limited portions of the policies shall be permitted only if:
 - i. it would be permitted under the *[State Public Records Law]*, and
 - ii. the redacted material, if made public, would substantially and materially undermine ongoing investigations or endanger the life or safety of officers or members of the public.
 - b. Each individual policy shall include the month and year it last was updated.

- c. If any law enforcement agency adopts a new or revised policy, the policy must be made publicly available within 30 days of the change or adoption.

2. Duty to Report

- a. A law enforcement officer who witnesses or learns that another officer engaged in what the reporting officer knows or reasonably should know to be an unauthorized pursuit in violation of this statute or the law enforcement agency's vehicle pursuit policy shall report the pursuit to the agency supervisor or other designated reporting entity as soon as reasonably possible, and no later than 24 hours after the officer learns of the pursuit.
- b. Each agency shall, as part of its vehicle pursuit policy, make clear that failure to report an unauthorized pursuit by another member of the agency as required by this subsection shall result in discipline, up to and including termination.

3. Pursuit Data: Each law enforcement agency shall annually furnish to the [*State Reporting Agency*] in a manner defined and prescribed by the [*State Reporting Agency*], a report of all instances when a law enforcement officer employed by that agency engaged in a vehicle pursuit in the prior year. Each report shall include, at a minimum, the following information for each pursuit:

- a. The reason for the pursuit, including the specific offense(s) or infraction(s) that served as a basis for the pursuit;
- b. The date, start time, and end time of the pursuit;
- c. The start and end locations of the pursuit;
- d. The conditions of the pursuit, including, but not limited to each of the following: number of officers involved; number of law enforcement vehicles involved; the type of police vehicle(s) and pursued vehicle(s) involved (e.g., motorcycle, sedan); weather conditions; and maximum speeds.
- e. Whether a body-worn camera was worn and active for the duration of the pursuit;
- f. Whether a dashboard camera was present and active for the duration of the pursuit;
- g. Whether the pursuit resulted in a crash or collision, injury requiring medical treatment, or death to a law enforcement officer, driver or passenger in the pursued vehicle, or an uninvolved third party;
- h. If the pursuit resulted in a crash or collision, injury requiring medical treatment, or death, a description of the crash or collision and details of each officer, driver/passenger, or uninvolved third party injured or killed, including the type and severity of the injuries sustained by each, if any;

- i. Whether the pursuit resulted in property damage and, if so, a description of the damage.
 - j. Unique identification numbers for each pursuing and supervising officer;
 - k. How the pursuit was terminated, including whether the officer(s) used any pursuit intervention tactics or tools, and if so, a description of the particular tactics used;
 - l. Whether an officer initiated a vehicle pursuit but discontinued the pursuit before apprehending the suspect and, if so, the reason the pursuit was discontinued.
 - m. Whether the pursuit involved multiple law enforcement agencies and if so, which agencies.
 - n. If a citation was issued, the violations(s) cited; and
 - o. If an arrest was made, the offense(s) charged; and
 - p. Whether the officer searched the person or any property, and, if so, the type of search (pat-down, vehicle search), the basis for the search, and type of contraband or evidence discovered, if any.
4. *Optional: Data Where Flight But No Pursuit: Each law enforcement agency shall also furnish to the [State Reporting Agency] the following information regarding each instance in which an officer observes an infraction or offense but declines to engage in a vehicle pursuit even though the driver did not stop when signaled by the officer to stop (“incident”):*
- a. *The specific infraction or offense;*
 - b. *The date and time of the incident;*
 - c. *The location of the incident;*
 - d. *Unique identification numbers for each officer involved and, if applicable, supervising officer involved;*
 - e. *The reason(s) for not initiating a pursuit; and*
 - f. *Any pursuit alternative used (e.g., spike strips, GPS tagging and tracking device), and the outcome of the use of the pursuit alternative (e.g., stopped vehicle).*

*We recommend including the above subsection to gather a more limited set of data each time a driver flees but is *not* pursued by the involved officer. This data would allow jurisdictions to detect important trends and make critical assessments; for example, jurisdictions could determine the extent to which flight increases or decreases for particular infractions following the adoption of this statute, and also could measure the efficacy of particular pursuit alternatives. Despite the importance of these data points, we make this subsection optional given that collecting no-pursuit-but-flight data may involve a significant additional data collection burden in some jurisdictions.*

- 5. The [State Reporting Agency] shall make all information obtained from law enforcement agencies under [above subsections] publicly available on the [State Reporting Agency]

website, classified by law enforcement agency, in a manner that is clear, understandable, and machine-readable.

6. Law enforcement agencies subject to [above subsections] shall not report or make publicly available the name, address, social security number, or other unique personal identifying information of the persons pursued or any uninvolved third parties injured or otherwise involved in the pursuit, unless the disclosure of a particular piece of information described above to a particular agency or entity is otherwise required by law. Law enforcement agencies are solely responsible for ensuring that personally identifying information of individuals pursued is not transmitted to the [State Reporting Agency] or otherwise released to the public.
7. Each agency covered by this section shall develop and make publicly available a policy governing review and auditing of the data required to be collected under this section to ensure officer compliance with the requirements of this statute. The auditing policy shall include a method or methods for identifying any pursuits officers engage in without reporting the pursuit as required under this statute.

To ensure the integrity of collected data, in addition to ensuring that the data that is reported is accurate, it is critical that auditing policies have methods for detecting “ghosted pursuits,” when officers engage in pursuits but fail to report them as pursuits. The PERF Report (at p. 96) offers an instructive case study describing how the New Orleans (Louisiana) Police Department uses computer-aided dispatch (CAD) data to detect ghosted pursuits.

SECTION XI: PURSUIT INVESTIGATIONS

1. Each law enforcement agency shall establish written, publicly available policies and procedures for (i) supervisory review and/or investigation of each pursuit conducted by a law enforcement officer employed by that agency, as well as (ii) investigation of any allegation of an unauthorized pursuit, including an allegation included in a complaint filed by a member of the public.
2. In its model policy, the [POST board or State AG] shall include guidance on supervisory review and investigation of pursuits.

A number of states have enacted legislation authorizing independent investigations of critical incidents, in which a law enforcement officer’s use of force results in the death (or sometimes serious injury) of another person. These laws usually authorize or require the Attorney General’s office or an independent team of investigators to conduct the investigation. To the

extent deaths and serious bodily injuries resulting from vehicle pursuits are not already covered by a state's independent investigations statute, we recommend amending the statute to include them.

SECTION XII: IMPLEMENTING REGULATIONS

1. No later than [z date], the [State Reporting Agency] shall adopt regulations for the collection and reporting of data required under [subsections X(3) through (6)], in a manner prescribed under [rulemaking provisions of the State APA].
 - a. The regulations shall specify all data to be reported, and provide standards, definitions, and technical specifications not inconsistent with the requirements of this statute to ensure uniform reporting practices across all reporting agencies.
 - b. To the extent possible, and consistent with the requirements of this statute, such regulations should be compatible with any similar federal data collection or reporting programs.
2. No later than [z date], the [POST board/State AG] shall adopt regulations to implement the provisions of this statute apart from [subsections X(3) through (6)], in a manner prescribed under [rulemaking provisions of the State APA].

SECTION XIII: ENFORCEMENT MECHANISMS

1. Each agency shall as part of its pursuit policies, make clear that violation of the policies shall result in discipline, up to and including termination.
2. If a law enforcement officer engages in a pursuit or pursuit tactics not authorized under this statute, [the officer and/or the officer's employing agency] shall be liable in an action at law for any injuries and property damage that result from the unauthorized pursuit or tactics.
3. In its implementing regulations, the [POST Board or State AG] is authorized to set forth additional requirements for law enforcement agencies and officers consistent with this statute and the delegations contained therein, and penalties for violating those requirements, including civil penalties, and civil liability for any injuries and property damage that result from violating the requirements.
4. Any person who resides within the jurisdiction of a political subdivision or law enforcement agency may bring a civil action against the agency to obtain equitable and

declaratory relief to enforce the provisions of this statute pertaining to disclosures they are entitled to herein. A prevailing plaintiff shall be entitled to reasonable attorney's fees and costs.

- a. No action may be commenced against a political subdivision or law enforcement agency under this subsection unless the plaintiff has provided written notice of the alleged violation to the agency or political subdivision at least 60 days before filing suit, in a manner that is reasonably calculated to enable the agency to cure the alleged violation.
5. In order to be eligible to receive any state law enforcement funding or any state-administered federal grant, a law enforcement agency must certify that it complied with all of the requirements set forth under this statute in the previous calendar year.

Legislators should consider including two other enforcement mechanisms in addition to those listed above. First, to the extent your state has a statute empowering the state attorney general to conduct pattern & practice investigations for unauthorized uses of force or unlawful law enforcement officer conduct more broadly, legislators should ensure that statute covers unlawful vehicle pursuits. If it does not, we recommend amending the existing pattern & practice statute to authorize the attorney general to conduct pattern & practice investigations for unlawful vehicle pursuits. Second, in nearly every state, the POST board has the authority to suspend or revoke an officer's state-level certification for certain specified categories of serious misconduct. We recommend that states amend their decertification statutes or regulations to make clear that violation of this pursuit statute and associated pursuit policies is a basis for POST discipline.

SECTION XIV: DEGREE OF PREEMPTION OF LOCAL LAW

Nothing in this statute prohibits law enforcement agencies from adopting policies that impose additional restrictions on pursuits, or that impose more extensive training or reporting requirements.