



# Town of Lexington

## Police Department

<b>Subject:</b> High Speed Pursuits	
Reference: 41.2.2; 41.2.3	
<b>Effective Date:</b> December 1, 2010	<b>Review Date:</b> Annually
<b>By Order of:</b> Mark J. Corr, Chief of Police	

### Policy & Procedure

# 41D

## GENERAL CONSIDERATIONS AND GUIDELINES

A high-speed pursuit is the motorized pursuit of another vehicle at speeds above the legal speed limit. A **Sustained high speed pursuit** is a **continuing** pursuit at high speeds and contrary to traffic laws and regulative signals.

The distinction between the types of motorized pursuit is important. It is not uncommon, and sometimes necessary, for a police officer to exceed the legal speed limit when pursuing a law violator (i.e. speeding violators). In most instances, these short pursuits end very quickly when the motorist voluntarily comes to a stop. However, in rare instances, the law violator seeks to avoid arrest and chooses not to stop. In these cases, the police officer must decide whether or not to engage in a **sustained high-speed pursuit**.

**As a general statement, a sustained high-speed pursuit is prohibited except under the most unusual circumstances.** The potential danger to the officer and the general public outweighs the potential advantage of stopping a fleeing vehicle by such means. Stated simply, pursuit is clearly inappropriate when the pursuit itself endangers life more than the escape of the person pursued. A decision not to pursue, while sometimes distasteful, may be the wiser choice especially when the person is known and there is no immediate threat to the community.

If unusual circumstances arise, a sustained high-speed pursuit **may** be authorized. If these pursuits are undertaken, extreme caution must be used and the purpose of the pursuit should be to apprehend quickly and in the safest manner possible. Each officer must use discretion in determining whether or not to commence a pursuit. Many factors should have a bearing on this decision; the major ones are listed here:

1. Nature of the offense;
2. Road conditions;
3. Traffic conditions;
4. Time of day;
5. Type of vehicle pursued;
6. Condition of cruiser.
7. Pedestrians
8. Population
9. Density

Once made, the decision to pursue is not irrevocable, and it is the intelligent officer who knows when to discontinue the chase. In many instances it is often better to abandon the pursuit where the risks of injury to the public or to the pursuing officer are high and/or when weather or road conditions are poor. The experience and common sense of each officer should also provide guidance in this important decision.

Efforts to obtain information that may lead to identifying the operator, occupants, or registered owner of a vehicle, and would allow investigation and potential prosecution without sustained high-speed pursuit, should be considered and tried whenever possible (i.e. CJIS- Criminal Justice Information System databases)

In general, the procedural guidelines in this directive shall govern the actions of Lexington Police Officers during any high-speed pursuit. However, when the terminology **sustained high-speed pursuit** is used, very strict procedural guidelines will be followed.

It is the **policy of the Lexington Police Department** that a vehicular pursuit is authorized when it is necessary to apprehend a suspect fleeing in a motor vehicle who has committed a **serious felony crime against the person** such as rape, armed robbery, murder, and lesser included violent crimes.

## PROCEDURE

### A. Definitions

1. **Authorized Police Vehicle:** A police department motor vehicle equipped with operable audible and visual emergency warning equipment.
2. **Densely Populated Area:** An established area of a city or town that is thickly settled and/or composed of a business district marked by compactness, with pedestrian and vehicular traffic.
3. **Primary Unit:** An authorized police vehicle that is the first vehicle behind the pursued vehicle.
4. **Secondary Unit:** An authorized police vehicle that is actively involved in the pursuit behind the primary unit as backup.

5. **Supervisor:** The officer-in-charge or other person-in-charge.
6. **Support Unit:** An authorized police vehicle that is not actively involved in the pursuit but has a supporting role.
7. **Sustained high-speed pursuit** is a **continuing** pursuit at high speeds and contrary to traffic laws and regulative signals.
8. **Sustained Low Speed Pursuit:** A continued pursuit at low speeds in which the fleeing vehicle intentionally refuses to stop but continues at speeds within the parameters of the motor vehicle laws. A continued pursuit of this vehicle is permitted under fresh and continued pursuit.
9. **Vehicular Pursuit:** An active attempt by an officer in an authorized police vehicle to apprehend a fleeing suspect who is actively attempting to elude the officer. For the purposes of this policy, an officer's following or attempting to catch up to a vehicle, the driver of which does not appear to be attempting to elude the officer, is not a pursuit.

B. Prohibited

1. No officer shall continue a pursuit after having been directed to discontinue the pursuit by a supervisor.
2. No officer shall continue a pursuit after having lost radio communications with the dispatcher.
3. No officer shall initiate or continue a pursuit on a divided highway in the opposite direction of the flow of vehicular traffic.
4. Unless authorized by a supervisor, no officer (other than the officers in the primary and secondary units) shall engage in the main pursuit or pursue on parallel streets.
5. No officer shall participate in a pursuit with non-police personnel present in the authorized police vehicle.
6. No officer shall participate in a pursuit of a motorcycle for minor traffic violations if the officer knows the motorcycle's registration number or the identity of the operator.
7. Vehicles other than authorized police vehicles may NOT participate in any pursuit.
8. No officer operating a motorcycle will participate as a Primary or Secondary Unit in a sustained high-speed pursuit.

## C. Authorization for a Pursuit

1. Whenever possible, police officers should take preventive measures to avoid a high-speed pursuit. These measures should include:
  - a. Attempting to make a positive identification of the vehicle and its occupant(s) while following the vehicle in a safe and discreet manner;
  - b. Notifying the Dispatcher when the occupant(s) of the vehicle is wanted for an offense, which commonly results in a pursuit; i.e. larceny of a motor vehicle. Before initiating a stop, an officer should wait until other units are in position to assist effectively reducing the possibility of a pursuit.
  - c. Signaling the occupant(s) of the vehicle to stop by utilizing the vehicle horn and activation of the emergency blue lights, searchlight, and headlights.
  - d. If the foregoing fails to effectuate a stop, the siren should be used.

D. **Short Pursuits**, which exceed the legal speed limit, are authorized for reasonable distances when the pursuit will more likely than not result in the immediate apprehension of the law violator. The following restrictions shall also apply:

1. Short pursuits, which exceed the legal speed limit shall not extend beyond the boundaries of Lexington unless the occupant(s) of the vehicle is wanted for an arrestable offense. See **Commonwealth v. Leblanc**, Massachusetts Supreme Judicial Court, March 1990.
2. When the pursuing officer has reasonable cause to believe that the law violator is **a)** aware of the police officer's pursuit and **b)** is intentionally seeking to avoid arrest, then the short pursuit shall become a **sustained high speed pursuit** and will only be authorized under conditions that warrant a **sustained high speed pursuit**.

E. **Sustained High Speed Pursuits** (over greater distances and for a longer periods of time) are authorized when the circumstances **clearly** indicate that:

1. A decision not to pursue could result in **grave imminent danger to the public, AND**
2. The pursuing officer has, prior to the time the pursuit begins, reasonable grounds to arrest the person pursued for a **serious felony crime against the person**.

- F. **Sustained Low Speed Pursuits**, are authorized when the circumstances clearly indicate that:
1. A continued pursuit at low speeds in which the occupant(s) of the vehicle is wanted for an arrestable offense, but continues at speeds within the parameters of the motor vehicle laws; and
  2. When the pursuing officer has reasonable cause to believe that the law violator is aware of the police officer's pursuit and is intentionally refusing to stop. A continued pursuit of this vehicle is permitted under fresh and continued pursuit.
- G. Pursuit Decisions [41.2.2(a)]
1. Target Vehicle: Officers shall consider the following in deciding whether to initiate or continue a vehicle pursuit:
    - a. A pursuit shall be initiated if the foreseeable risks to the pursuing officers and to the public arising from the continued pursuit are greater than the foreseeable threat to public safety should the pursued vehicle be allowed to escape.
    - b. Does the continued operation of the vehicle the officer intends to stop pose a risk of physical harm to the officer, the public, or others?
    - c. Do the occupant(s) of the vehicle the officer intends to stop pose a risk of physical harm to the public or others?
    - d. Are the occupant(s) of the vehicle wanted for the commission of felonious acts that threaten, have threatened, or will threaten the health, life, or safety of a person or persons?
    - e. Is the operator or wanted passenger known to the police, and is later apprehension possible?
    - f. Are other persons in the pursued vehicle?
    - g. What are the driving skills of the operator of the vehicle being pursued, if these can be determined (i.e.: youthful driver likely to be inexperienced).
  2. Environmental Factors: Officers shall consider the following in deciding whether to initiate or continue a vehicle pursuit:
    - a. Population density (including volume of pedestrian traffic);

- b. Nature of the area (residential, commercial, school zone, and the volume type, speed and direction of vehicular traffic);
- c. Officer's familiarity with the area;
- d. Road and weather conditions;
- e. Time of day;
- f. Speeds involved;
- g. Driving skills of the officer and the performance capabilities of the pursuit vehicle and the vehicle being pursued;
- h. Operational status of emergency warning equipment; and
- i. Quality of radio communications.

H. Control and Coordination

- 1. Primary command responsibility shall rest with the Commanding Officer who will immediately respond to the dispatch area upon being informed of a pursuit.
  - a. If an officer receives a communication from the Commanding Officer or Patrol Supervisor that the pursuit be abandoned, [s]he shall do so immediately, reporting to the Dispatcher the final location and direction of travel of the pursued vehicle at the time of abandonment.
  - b. The officer in pursuit shall voluntarily abandon any type of pursuit when he determines that conditions of the road, weather, traffic or other factors necessitate abandonment. He shall notify the Commanding Officer of his decision and relay the final location and direction of travel of the pursued vehicle at the time of abandonment.
  - c. Officers shall voluntarily abandon a short pursuit which exceeds the legal speed limit when:
    - i. The occupant(s) of the vehicle is wanted for a non-arrestable offense and the vehicle has crossed the town line; **OR**
    - ii. The officer has reasonable cause to believe that the occupant(s) of the vehicle is intentionally seeking to avoid arrest and the violation of law does not justify a **sustained high-speed pursuit.**

2. Only the primary and secondary units should be involved in any high-speed pursuit unless the Commanding Officer orders otherwise.
  - a. Support units may be dispatched to assist in an emergency response mode; observing speed limits and traffic signals and signs.
  - b. Support units shall yield the right of way to the pursued and pursuing vehicles.
  - c. The Commanding Officer, via the Dispatcher, may consider deploying other units along the anticipated route of the suspect vehicle. These units shall standby to assist in the apprehension of the vehicle's occupant(s) should the vehicle be stopped.

I. Conduct During Pursuit

1. Generally

- a. When engaged in a pursuit, officers shall exercise due care for the safety of the public and shall comply with all of the provisions of M.G.L. c. 89, §7B (Operation of Emergency Vehicles), as follows:
  - i. The driver of any police department vehicle shall be subject to the provisions of any statute, rule, regulation, ordinance or bylaw relating to the operation or parking of vehicles, including stopping for a school bus with red lights flashing which has stopped to allow passengers to alight or board, except:
    - (a) The driver may exceed the speed limit if [s]he exercises caution and due regard under the circumstances for the safety of persons and property; and
    - (b) The driver may drive through an intersection contrary to traffic signs or signals if [s]he first brings the vehicle to a full stop and then proceeds with caution and due regard for the safety of persons and property.
  - ii. Upon engaging in a pursuit, the primary unit and, if involved, secondary unit shall activate emergency warning equipment and shall remain activated until termination of the pursuit.

- b. Only conspicuously marked cruisers, fully equipped with emergency equipment, shall be used for continuous pursuit at high speeds. If an unmarked cruiser must undertake the initial pursuit, such cruiser shall immediately abandon the pursuit when a marked cruiser has intercepted and is available to continue the pursuit. At no time shall a police officer use a personal or private motor vehicle to engage in a high-speed pursuit.
  - c. During a high-speed pursuit, the warning siren should be used to forewarn motorists and other members of the public. Activation of the siren will insure that motorists will have as much advance warning as possible and may thereby avoid the fleeing vehicle and make way for the pursuing police unit.
  - d. Intentional contact between a police vehicle and the vehicle pursued, or use of a police vehicle as a moving or stationary roadblock, is prohibited except under circumstances, which would clearly justify the use of deadly force. See Department policy on "**Use of Force.**"
  - e. The pursuing officer must, at all times, be cognizant of the limitations placed upon him by the weather, traffic, vehicle, road conditions and personal abilities. Officers will be expected to use the best possible judgment in evaluating the conditions of the pursuit and deciding whether to continue the pursuit.
2. Police Vehicles [41.2.2(d)]
- a. Any authorized police vehicle may initiate a pursuit.
  - b. Unmarked vehicles must relinquish the pursuit to marked vehicles when such marked vehicles join the pursuit.
  - c. Specialty vehicles will relinquish the pursuit to marked police sedans when they join in the pursuit.
  - d. No officer operating a motorcycle will participate in a vehicular pursuit as the primary or secondary unit.
3. Primary Unit [41.2.2(b)]
- a. The primary unit is usually the officer who initiates the pursuit and becomes the first police vehicle behind the vehicle being pursued.
  - b. The primary unit shall immediately notify the dispatcher of the pursuit by cruiser number and communicate the following information:

- i. The location where the pursuit was initiated;
    - ii. The direction of the fleeing vehicle;
    - iii. The description of the pursued vehicle and registration number, if known;
    - iv. The reason for the pursuit; and
    - v. The estimated speeds of the vehicles.
  - c. The primary officer shall keep the dispatcher updated constantly and the officer shall coherently and concisely continue to broadcast the locations of travel of the vehicle pursued until relieved of this duty by the secondary officer.
  - d. Subject to the direction of a supervisor, the officer operating the primary unit is vested with the authority to decide and direct the pursuit actions.
  - e. The officer operating the primary unit shall continually re-evaluate and assess the pursuit. The officer shall terminate the pursuit, even in the absence of an order to terminate by a supervisor, when that officer reasonably believes that the foreseeable risks to the officer, the public or others arising from a continued pursuit are greater than the threat to public safety, should the pursued vehicle be allowed to escape.
  - f. The pursuing officer shall notify the dispatcher or communications center when it is likely that a pursuit will continue into a neighboring jurisdiction.
  - g. If an officer receives a communication from the Commanding Officer or Patrol Supervisor that the pursuit be abandoned, [s]he shall do so immediately, reporting to the Dispatcher the final location and direction of travel of the pursued vehicle at the time of abandonment.
4. Secondary Unit [41.2.2(c)]
- a. The secondary unit shall maintain a safe distance behind the primary unit, but should remain close enough to provide assistance if required.
  - b. The secondary unit should assume radio communications, allowing the primary unit to concentrate on driving.
- J. Responsibilities of Dispatcher [41.2.2(e)]
- 1. Upon being informed of a pursuit in progress, the dispatcher shall:

- a. Immediately notify the supervisor or officer-in-charge;
  - b. Receive and record all incoming information on the pursued vehicle;
  - c. Advise all other units that a pursuit is in progress, provide all relevant information and to cease unnecessary radio chatter;
  - d. Perform relevant record and motor vehicle checks as expeditiously as possible;
  - e. Coordinate assistance of other officers under the direction of the supervisor;
  - f. Notify State Police and the other jurisdictions potentially affected by the pursuit by means of Area Wide 3 and/or by telephone, and seek their assistance if the pursuit is proceeding into another jurisdiction;
  - g. Notify all affected agencies when a pursuit has been terminated or if apprehension has been made; and
2. The dispatcher shall minimize radio traffic to allow the pursuing vehicles to communicate.

K. Responsibilities of the Supervisor [41.2.2(f)]

1. Commanding Officer
  - a. Primary command responsibilities shall rest with the Commanding Officer who will immediately respond to the dispatch area upon being informed of a pursuit.
  - b. Upon becoming aware of a pursuit, the Commanding Officer shall evaluate the totality of the circumstances pursuant to this policy and determine whether the pursuit should continue.
  - c. If the Commanding Officer determines that a pursuit should continue, [s]he shall continuously re-evaluate the need for continuing the pursuit.
  - d. The Commanding Officer shall coordinate activities as needed to ensure that proper procedures are followed.
  - e. The Commanding Officer may authorize officers in addition to the primary and secondary units to engage in the pursuit and/or a parallel pursuit in exceptional circumstances, or if the supervisor reasonably believes that there is a substantial

likelihood of serious physical injury or death should additional officers not participate.

- f. The Commanding Officer may terminate the pursuit at any time and shall terminate the pursuit if [s]he believes that the foreseeable risks to the pursuing officers and to the public, arising from the continued pursuit, are greater than the foreseeable threat to public safety should the pursued vehicle be allowed to escape.
  - g. The Commanding Officer may authorize the resumption of a pursuit when [s]he believes that circumstances have changed, thereby warranting the resumption of the pursuit in accordance with the criteria of this policy.
2. Patrol Supervisor: The Patrol Supervisor's responsibilities during a high-speed pursuit include:
- a. Continuous monitoring of the pursuit by means of the communications network;
  - b. Immediate response to the location at which the pursuit is terminated to provide on-scene command supervision;
  - c. Primary command responsibility only when informed by the Dispatcher that unusual circumstances have prevented the Commanding Officer from taking command of the pursuit.

L. Inter-Jurisdictional Pursuits [41.2.2(h)]

1. Pursuits Initiated by this Department
- a. Pursuit initiated by members of this department may continue into another jurisdiction when done in conformance with applicable Massachusetts General Laws, Department policies, and inter-jurisdictional agreements.
    - i. Outside the Commonwealth: On fresh and continued pursuit, a police officer may pursue a person who has committed a felony into any neighboring state and arrest that person. (M.G.L. Chapter 276 § 10A)<sup>i</sup>
    - ii. Within the Commonwealth: A police officer may make an arrest outside his/her jurisdiction on fresh and continued pursuit provided:

- (a) The offense is one for which the officer would have the right of arrest without a warrant within his/her jurisdiction;
  - (b) The offense was committed in the officer's presence; and
  - (c) The offense was committed within the officer's jurisdiction.<sup>ii</sup>
  
- 2. When a pursuit initiated by this Department is expected to continue into another jurisdiction, the following procedures shall apply:
  - a. The Dispatcher shall notify the State Police and the jurisdictions potentially affected by the pursuit by means of the AREA WIDE radio network and/or by telephone.
  - b. These agencies will be provided with the following information:
    - i. The identification number of the unit in pursuit;
    - ii. The best possible description of the vehicle and its occupants;
    - iii. The reason for the pursuit, especially the nature of the offense involved;
    - iv. The direction of travel, the speed and the roadways being used by the suspect vehicle.
  - c. The Commanding Officer shall determine which, if any, vehicles involved in the pursuit will switch to another radio channel during the pursuit.
  - d. The Commanding Officer shall also have the discretion to request from other jurisdictions assistance in the pursuit and/or apprehension of the suspect vehicle and its occupant(s).
  - e. Whenever the pursuing officers are unfamiliar with the roadways and terrain of the jurisdiction into which the pursuit has entered, or whenever radio communication is lost, the pursuing officers shall, when possible, seek the assistance of, and be prepared to relinquish the pursuit to, the other agency.
  
- 3. Pursuits Initiated by Other Departments: Intra-jurisdictional
  - a. When a high-speed pursuit by another law enforcement agency enters the Town of Lexington, the following procedures should be followed:

- i. The Dispatcher shall immediately inform the Commanding Officer and Patrol Supervisor of the pursuit. The Commanding Officer shall immediately assume the primary command responsibility for all Lexington units.
- ii. No officer from this Department will become involved in the pursuit unless:
  - (a) The pursuing unit or agency requests assistance; and,
  - (b) The Commanding Officer gives the authority to assist.
- b. Officers who have been properly authorized to assist in the pursuit shall do so as secondary response vehicles consistent with this policy.

M. Termination of a Pursuit [41.2.2(g)]

1. Termination

- a. A pursuit shall be terminated if the foreseeable risks to the pursuing officers and to the public arising from the continued pursuit are greater than the foreseeable threat to public safety should the pursued vehicle be allowed to escape.
- b. When a decision is made to terminate a pursuit, the primary and secondary units shall immediately reduce their speeds to within the posted speed limits and shall deactivate their emergency warning equipment.
- c. It is recognized that, upon terminating a pursuit, the pursuing units are not required to bring their vehicles to a stop and/or head in the opposite direction of the former target vehicle. The primary and secondary units may continue to operate their vehicles in the same direction as the previously pursued vehicle, so long as they maintain a safe distance, and their actions do not constitute an active attempt to continue the pursuit.
- d. The officer in pursuit shall voluntarily abandon any type of pursuit when he determines that conditions of the road, weather, traffic or other factors necessitate abandonment. He shall notify the Commanding Officer of his decision and relay the final location and direction of travel of the pursued vehicle at the time of abandonment.
- e. Officers shall voluntarily abandon a short pursuit which exceeds the legal speed limit when:

- i. The occupant(s) of the vehicle is wanted for a non-arrestable offense and the vehicle has crossed the town line; **OR**
  - ii. The officer has reasonable cause to believe that the occupant(s) of the vehicle is intentionally seeking to avoid arrest and the violation of law does not justify a **sustained high-speed pursuit**.
2. Resumption of a Terminated Pursuit: Once a pursuit has been terminated, the primary, secondary, and other units aware of the pursuit may not re-engage the pursuit without authorization from a supervisor.

N. After-Action Reporting

1. Reporting [41.2.2(i)]
  - a. If an officer participates in a **sustained high-speed pursuit**, or any pursuit, which travels beyond the boundaries of Lexington, the officer and his/her Commanding Officer shall submit a written report to the Chief of Police, not later than the end of their tour of duty. The report shall be comprehensive, shall explain in detail the circumstances of the pursuit, and specifically cite all facts known to the officers at the time the pursuit was undertaken. The Commanding Officer shall include the reasons justifying either the continuation or discontinuation of the pursuit.
  - b. Actions taken during a high-speed pursuit and subsequent to the termination of the pursuit and the apprehension of the fleeing suspect shall be in accordance with departmental standards. See the departmental policy and procedure on "**Emergency Calls**," "**Search and Seizure**," "**Arrest**" and "**Use of Force**."
2. Evaluation and Analysis
  - a. After action reports shall be evaluated by the Captain of Operations to determine if there has been compliance with departmental policies and regulations, if the Captain of Operations is directly involved in the pursuit the Chief of Police will evaluate the after action report. [41.2.2(i)]
  - b. The Captain of Operations shall annually analyze pursuit activities for the purpose of identifying any improvements in this pursuit procedure and shall implement modifications to this procedure if warranted. A review of incidents involving vehicle pursuits may reveal patterns or trends that indicate training needs and/or policy modifications. Such reviews may include: [41.2.3; 41.2.2(j)]

- i. Number of pursuits;
- ii. Date and time (shift);
- iii. Original offense;
- iv. Reason for terminating the pursuit;
- v. Whether tire deflation devices were used;
- vi. Injuries;
- vii. Property damage;
- viii. Whether emergency lights and siren were used;
- ix. Whether a supervisor took control of the pursuit;
- x. Supervisor: years on the job;
- xi. Primary Officer: years on the job;
- xii. Average length and distance of the pursuit;
- xiii. Whether the pursuit left this agency's jurisdiction;
- xiv. Suspect information;
- xv. Whether the pursuit appeared to comply with agency policy; and,
- xvi. Training issues identified.

O. Forced Stopping [41.2.3]

1. The Lexington Police Department authorizes the use of tire deflation devices, but does not generally authorize maneuvers that involve Boxing in, Heading Off, Roadblocks or Vehicle Contact, for the specific purpose of stopping fleeing motor vehicles.
  - a. The Department authorized tire deflation device is Stop Sticks.
  - b. Tire deflation devices should be used, when practicable, where there is an agreement between the primary unit and the officer who will deploy the device.
  - c. The officer deploying the tire deflation device shall only do so when that officer has been trained in its use and believes that the device can be deployed safely.
  - d. For more information see Policy **41S- Stop Sticks**.
2. Use of Firearms
  - a. Discharging a firearm at a moving vehicle by an officer is prohibited, except to defend said officer or another when the occupant of the pursued vehicle is employing deadly force which the officer reasonably perceives as an imminent threat of death or physical injury, and the officer reasonably believes that [s]he will not endanger innocent persons.

- b. Shooting at a fleeing vehicle or a vehicle that is going away from the officer and is no longer an immediate threat is prohibited. Under such circumstances, officers should be aware of the potential inability of a bullet to penetrate metal or glass surfaces of an automobile and the likelihood of ricocheting bullets causing injury to innocent persons.
- c. The use of firearms during a pursuit shall be governed by departmental policies on "**Use of Force**" and "**Firearms.**"

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<sup>i</sup> M.G.L. c. 276, §10A.

<sup>ii</sup> M.G.L. c. 41, §98A.