

WAKE COUNTY SHERIFF'S OFFICE POLICY MANUAL

Emergency Response and Pursuit Policy

Effective Date 08/27/04

Reg. 408

A. PURPOSE

This policy is to guide and direct Sheriff's Office members in evaluating and engaging in extraordinary operation of law enforcement vehicles such as emergency response and pursuit activities in performance of duties, including enforcement of motor vehicle laws, in a safe and efficient manner. Members are at all times subject to applicable provisions of the North Carolina General Statutes and Wake County Sheriff's Office Policy and Procedure in the operation of Sheriff's Office vehicles.

B. STATUTORY LAW

1. Speeding to Elude Arrest (N.C.G.S. § 20-141.5)

- a. Provides the element of misdemeanor speeding to elude.
- b. Outlines the aggravating factors that make speeding to elude a felony.
- c. Defines the "prima facie" law concerning registered owners of fleeing vehicles.

N.C.G.S. § 20-141.5 (c): *Whenever evidence is presented in any court or administrative hearing of the fact that a vehicle was operated in violation of this section, it shall be prima facie evidence that the vehicle was operated by the person in whose name the vehicle was registered at the time of the violation, according to the Division's records. If the vehicle is rented, then proof of that rental shall be prima facie evidence that the vehicle was operated by the renter of the vehicle at the time of the violation.*

- d. Provides for the termination of a pursuit based on factors to be considered according to law enforcement agency policy.

2. Speed Limit (N.C.G.S. § 20-145)

- a. N.C.G.S. § 20-145 provides a limited and conditional exception to the speed limit law.

- b. N.C.G.S. § 20-145. **When Speed Limit Not Applicable.** *The speed limitations set forth in this Article shall not apply to vehicles when operated with due regard for safety under the direction of the police in the chase or apprehension of violators of the law or of persons charged with or suspected of any violation...This exemption shall not, however, protect the driver of any such vehicle from the consequence of a reckless disregard of the safety of others.*

3. **The Right-of-Way Rule (N.C.G.S. § 20-156)**

- a. N.C.G.S. § 20-156. **Exceptions to the Right-of-Way Rule.** *(b) The driver of a vehicle upon a highway shall yield the right-of-way to police... vehicles when the operators of said vehicles are giving warning signal by appropriate light and by bell, siren, or exhaust whistle audible under normal conditions from a distance of not less than 1,000 feet. When appropriate warning signals are being given, as provided in this subsection, an emergency vehicle may proceed through an intersection or other place when the emergency vehicle is facing a stop sign, a yield sign, or a traffic light which is emitting a flashing strobe signal or a beam of steady or flashing red light. This provision shall not operate to relieve the driver of a police vehicle... from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle... from the consequence of any arbitrary exercise of such right-of-way.*

C. **DEFINITIONS**

1. **The following definitions shall apply to this directive:**

- a. **Authorized Sheriff's Office Vehicle.** Marked or unmarked Sheriff's Office vehicles intended to be used for law enforcement duties. This will exclude service vehicles, support vehicles, utility vehicles, and multipurpose vehicles (vans, trucks, and non-police certified four-wheel drive vehicles).
- b. **Pursuit.** An active attempt by one or more officers in authorized Sheriff's Office vehicles to apprehend a suspect or violator of the law operating a motor vehicle, while that person is attempting to avoid capture by using high-speed driving or other tactics, such as driving off the roadway, making sudden maneuvers, or maintaining a legal speed while willfully failing to yield to the officer(s) signal to stop. Wake County Sheriff's Office motorcycles shall not participate in pursuits absent extreme emergency circumstances.
- c. **Traffic Enforcement Response.** An active attempt by one or more officers operating authorized Sheriff's Office vehicles to overtake and capture a suspect or violator of the law operating a motor vehicle, while that person is making no willful attempt to avoid capture. This applies to the time between the observation of an offense until the point and time that the authorized Sheriff's Office vehicle has moved into a position behind the suspect/violator vehicle. If the suspect/violator vehicle yields to the lights and/or siren, the encounter ends as a traffic enforcement response.

If the suspect/violator vehicle fails to yield to the lights and siren, the encounter escalates to a chase.

- d. Emergency Response.** The act of one or more members operating authorized Sheriff's Office vehicles for the purpose of responding to a situation requiring immediate law enforcement attention due to a clear and present danger to public or officer safety, a need for immediate apprehension of a violator, or a serious crime in progress. Failure to respond in such situations would pose an additional risk of serious injury or death to others.
- e. Extraordinary Sheriff's Office Vehicle Operation.** A pursuit, traffic enforcement response, emergency response, rolling roadblock or stationary roadblock..
- f. Stationary Roadblock.** The actual physical blocking by barriers of some or all lanes of travel which is used when searching for and apprehending a suspect.
- g. Running or Rolling Roadblock.** A moving barricade composed of one or more vehicles used to stop a suspect in a fleeing vehicle.
- h. Tire Deflation Devices (TDD).** Devices specifically designed to puncture the tires of a fleeing vehicle causing the tires to deflate in a controlled manner and render the vehicle incapable of further operation. (New 8/04)
- i. Primary Unit.** The authorized Sheriff's Office vehicle in a position directly behind a suspect/violator vehicle that is being chased.
- j. Secondary Unit.** The authorized Sheriff's Office vehicle in a position directly behind the Primary Unit.
- k. Marked Vehicle.** An authorized Sheriff's Office vehicle equipped with permanent emergency lights, siren, authorized Sheriff's Office vehicle identification decals, and painted with standard authorized Sheriff's Office colors.
- l. Unmarked Vehicle.** An authorized Sheriff's Office vehicle with no indicators that it is a law enforcement vehicle. It may be equipped with portable or concealed emergency lights and siren.
- m. Supervisor.** Any member of the Wake County Sheriff's Office holding the rank of Sergeant or higher.
- n. Terminate.** The process of stopping emergency response or chase operations to include de-activating blue lights, siren, other emergency lighting, and resuming normal Sheriff's Office functions.

D. FACTORS TO BE CONSIDERED PRIOR TO INITIATING EXTRAORDINARY SHERIFF'S OFFICE VEHICLE OPERATION

1. The nature and gravity of the offense or situation giving due regard to:
 - a. **Criminal Offenders.** Criminal offenders shall be divided into three categories based upon their increasing threat to the public. The nature of this threat must be taken into consideration at all times during the initiation and continuation of extraordinary Sheriff's Office vehicle operation.
 - i. **Non-Hazardous Violators.** Technical violators, such as motorists with license, registration, or equipment violations pose the least hazard and represent the lowest priority. These violators pose no immediate threat to the safety of the public.
 - ii. **Instantaneous Moving Violators.** Drivers who engage in unlawful conduct for a brief moment then resume lawful operation. Such individuals include stop sign violators and others who do not present a continuing hazard to the public. They are of an intermediate priority.
 - iii. **Continuing Moving Violators.** Speeders, suspected impaired drivers, and others who present a substantial continuing hazard to the public are of a higher priority. Likewise, persons suspected of serious felonies such as homicide, armed robbery, kidnapping, forcible rape or other forcible sexual assault, assault on a government official, and similar crimes of violence pose an immediate hazard to the public. These persons should be apprehended as quickly as possible, consistent with the exercise of due care for the public's safety.
 - b. **An Officer's Call for Assistance**
 - i. **Life-Threatening.** An officer's call for assistance, due to the officer being exposed to a life-threatening situation is high priority that justifies an emergency response.
 - ii. **Non-Life-Threatening.** An officer's call for assistance that involves no imminent danger is low priority and does not justify an emergency response.
2. External Physical Conditions
 - a. Width or physical condition of the highway
 - b. Weather conditions
 - c. Nature of the neighborhood (rural, semi-urban, urban, business, or residential)
 - d. Volume or density of pedestrian and vehicular traffic
 - e. Number or proximity of intersections, side streets, and driveway connections

- f. Performance capabilities of the Sheriff's Office vehicle
- g. Passengers in the suspect/violator vehicle
- h. Familiarity with area and surrounding highways

E. PURSUIT AND FORCED VEHICLE STOP PROCEDURES

1. Any member in an authorized Sheriff's Office vehicle may initiate a pursuit when the member, after weighing the nature and gravity of the offense or situation and the external physical conditions, determines that the need for apprehension of the suspect or violator is greater than the danger of the pursuit to the public, the member and the suspect or violator and that such pursuit can be accomplished with due regard for the safety of others. **When engaged in a pursuit, blue lights, siren and other warning lights such as strobes and wig-wags shall be activated.**
2. The pursuing member shall immediately notify Wake 1 that a pursuit is underway. The member shall provide the telecommunicator with the following information:
 - a. Unit identification
 - b. Location, speed, and direction of travel of the fleeing vehicle
 - c. Description and license plate number of the fleeing vehicle, if known
 - d. Number and description of occupants in the fleeing vehicle, if known
 - e. Reason for initiating the pursuit

The telecommunicator may direct the radio traffic for the pursuit to a patrol or tactical channel. Supervisors shall monitor Wake 1 and the patrol or tactical channel assigned for the pursuit as necessary to properly supervise the pursuit.

3. Normally, there should be only two authorized Sheriff's Office vehicles involved in the pursuit, the primary pursuit vehicle and the secondary vehicle, unless circumstances require otherwise. When additional vehicles are needed to execute a forced vehicle stop, and if approved by a supervisor, they may proceed to the location of the pursuit but use alternate roadways if available.
 - a. The driver of the primary vehicle will direct the pursuit and relay all information to Communications; however, the driver of the primary vehicle may direct the driver of the secondary vehicle to relay information via radio so he/she may concentrate on driving.

harm from not apprehending the suspect as soon as possible. The member should consider the following:

- i. Danger to the public created by the fleeing suspect's driving, including indications the suspect may be impaired, or an apparent willingness on the part of the suspect to inflict serious injury on others, or reckless and threatening driving by a suspect all of which increase the need to apprehend immediately
 - ii. Whether the crime the suspect is believed to have committed is dangerous to persons or property, is a felony or serious misdemeanor, or involves conduct that threatens persons or property. Serious, violent or threatening crime increases the need to apprehend immediately
 - iii. Whether the suspect has been positively identified or can be apprehended later
 - iv. Whether the suspect can be apprehended at a later time with little risk or danger to the public
 - v. Whether the pursuit will likely be successful in apprehending the suspect, given the totality of the factors of the pursuit. A pursuit with little chance of stopping the suspect should cause a member to terminate the pursuit.
 - vi. External physical conditions substantially increase the danger of pursuing beyond the importance of apprehending the suspect or violator.
- c. The member shall consider whether the suspect can be identified by using the prima facie rule of evidence in N.C.G.S. § 20-141.5(c).
- d. The primary or secondary officer shall relay this information to the Wake 1 or the assigned patrol or tactical channel along with any further information acquired which may assist in an arrest at a later date.

9. Forced Vehicle Stops

- a. For the purposes of this policy, Forced Vehicle Stops are the use of stop sticks, stationary roadblocks or running roadblocks and shall be used only in exceptional circumstances where the fleeing suspect presents an imminent threat of death or serious bodily injury to officers or others if not apprehended without delay.
- b. When additional vehicles are authorized to enter the pursuit in order to conduct a forced vehicle stop, members are permitted to utilize the car-to-car, patrol or tactical radio channels to coordinate the maneuver. However, a supervisor, the driver of the primary vehicle or his/her designee shall keep Wake 1 apprised of the pursuit status.
- c. Members shall not attempt to pull-up beside or pass a fleeing vehicle unless a running roadblock is being planned with more than one Sheriff's Office or other allied agency

law enforcement vehicle present. Running roadblocks shall not be attempted without supervisory permission.

- d.** With supervisory permission, stationary roadblocks may be used in extraordinary circumstances when the apparent necessity of apprehending the violator outweighs the apparent risk to the general public, participating law enforcement officers and the fleeing violator. Stationary roadblocks should be positioned on a straight portion of the roadway in such a manner as to give the fleeing violator as much sight distance as possible before encountering the stationary roadblock. All vehicles participating in the stationary roadblock will have all blue lights and other emergency lights operating. The headlights of vehicles participating in the stationary roadblock shall not be positioned in any manner that would likely impair the vision of the fleeing violator. If feasible, flares shall be placed along the roadway in advance of the stationary roadblock.
- e.** Stationary or running roadblocks shall never be utilized for the primary purpose of causing a collision between a fleeing violator's vehicle and participating vehicles unless deadly force is authorized to apprehend the fleeing violator.
- f.** Tire deflation devices (TDD) (New 08/04) use shall be governed by sound professional judgment, procedures outlined in this policy, and in accordance with procedures established by Training and Staff Development for use of these devices, consistent with the following criteria:
 - i.** Prior to utilizing TDD, members shall have first completed training on the use of these devices.
 - ii.** All of the following criteria shall be met prior to the use of TDD:
 - (1)** There is reasonable cause to believe the suspect has committed an offense justifying his/her arrest.
 - (2)** The member attempting to apprehend the suspect has given notice of command to stop the suspect by blue lights and siren.
 - (3)** The suspect ignores the efforts and warnings obvious and visible to a reasonable person in the suspect's position.
 - (4)** The fleeing suspect, through the operation of his vehicle or otherwise, presents an imminent threat of death or serious bodily injury to officers or others if not apprehended without delay.
 - iii.** Members utilizing TDD shall consider the following prior to utilization of TDD:
 - (1)** An effective and safe location for the placement of TDD

- (2) Deployment locations should have reasonably good sight distances to enable the member deploying the devices to observe the chase and other traffic as it approaches.
- iv. Deployment shall not occur on:
 - (1) Curves
 - (2) Bridges
 - (3) Locations where reasonable judgment under the circumstances would dictate avoidance
- v. The member deploying TDD should choose a location with natural barriers such as roadway overpasses, guardrails, or shrubbery. These barriers will conceal the member from the suspect's view and allow deployment of the devices in a relative position of safety.
- vi. Traffic, construction, special events, and/or activities may create situations where the use of the device would be inappropriate.
- vii. Position and vulnerability of the public, private property, and other assisting units and equipment shall be considered.
- viii. TDD shall not be deployed to stop any vehicle with fewer than 4 wheels.
- ix. Pursuing vehicles shall coordinate with the member(s) and/or agencies deploying the TDD devices or assisting in the chase in order to ensure the safe and effective use of the devices.
- x. When the decision is made to deploy the devices, pursuing units shall notify the member deploying the device as far in advance as possible of the necessity of their use.
- xi. The member deploying the devices shall be in a position at a predetermined location in sufficient time for proper deployment. All pursuing units shall be notified when the device is in place. Direct contact with allied agencies shall be made to advise of the deployment.
- xii. The devices shall be deployed in accordance with the manufacturer's recommendations and Sheriff's Office training guidelines. Members should not engage in physical contact with the cord reel, cord, or devices while they have been deployed prior to contact with the suspect vehicle.
- xiii. After deploying the TDD, all persons at the scene should immediately seek protection.

- xiv.** Once a TDD has been deployed, chasing members shall increase their following distance in order to avoid striking the devices.
- xv.** The member(s) deploying the devices shall be responsible for securing them immediately after use. This includes searching the immediate area where the devices were used and collecting any spikes or points which may have become detached.
- xvi.** If a Sheriff's Office vehicle is the primary vehicle in a pursuit involving an allied agency and a decision is made to deploy TDD, the allied agency shall be informed of the deployment whenever practicable.
- xvii.** Members engaged in pursuits involving TDD shall indicate such use on the Post Pursuit Report Form (PPR).

10. Pursuits Involving Other Agencies or Jurisdictions

- a.** Members will become involved in a pursuit initiated by another agency only when requested by that agency and with supervisory permission.
- b.** Members involved in a pursuit with another agency will be governed by this policy. Members will assume the primary or secondary position as applicable. If two or more allied agency vehicles are pursuing, members will not become involved unless special circumstances dictate otherwise.
- c.** In the event an allied agency relinquishes the primary and secondary position to the Sheriff's Office but remains in the pursuit occupying the third or more position(s), the driver of the primary or secondary unit or a Sheriff's Office supervisor shall request via Wake 2 that the allied agency's vehicle(s) disengage from the pursuit.
- d.** Members may terminate a pursuit whenever a primary or secondary pursuing officer of the allied agency discontinues the pursuit due to safety considerations. This provision shall not apply where a pursuing officer of the allied agency discontinues the pursuit based solely upon their departmental policy limitations such as speed limit restrictions, territorial jurisdiction, or because of mechanical failure.

11. Apprehension/Post Pursuit Responsibility

- a.** Upon apprehension of the suspect/violator vehicle, the driver of the primary vehicle will immediately notify Wake 2.
- b.** The driver of the primary vehicle will have controlling responsibility at the scene of termination, unless relieved by a supervisor, and shall ensure that all appropriate arrests or charges are made.

12. Post Pursuit Report

- a.** Following a member's involvement in a pursuit, a Post Pursuit Report shall be completed within 48 hours. Only one report should be submitted per pursuit and routed via the chain-of-command to the Sheriff with a copy to the Legal Advisor. After reviewing the Post Pursuit Report, the Sheriff, in his discretion, may convene a Post Pursuit Review Board or direct that the matter be investigated by the Director of Internal Affairs and Special Investigation..
- b.** In the event there are two or more members involved in the same pursuit, the driver of the primary vehicle will be responsible for completing the Post Pursuit Report.

F. TRAFFIC ENFORCEMENT RESPONSE

- 1.** Any member in an authorized Sheriff's Office vehicle, including motorcycles, may initiate a traffic enforcement response. Prior to initiating such action, the member shall determine if the traffic enforcement response can be accomplished with due regard for the safety of the public, the member, and the suspect or violator.
- 2.** Members will not be required to notify Wake 1 when they initiate a traffic enforcement response but shall notify Wake 1 when the suspect vehicle is stopped.
- 3.** If, in conducting the Traffic Enforcement Response, it is necessary to exceed the posted speed limit or seek to take the right-of-way, members shall utilize blue lights and siren.

G. EMERGENCY RESPONSE

- 1.** Any member in an authorized Sheriff's Office vehicle may engage in an emergency response if necessary or so dispatched if, after considering the nature and gravity of the offense or situation and the external physical conditions, the member determines that such need for the response outweighs the danger created and that the emergency response can be accomplished with due regard for the safety of others and the member.
- 2.** Emergency response incidents shall include any incident, in progress or just occurred, that may involve death, personal injury, or felony property loss, including but not limited to:
 - a.** Signal 25/Officer needs assistance
 - b.** Terrorist Activity
 - c.** Shootings or Stabbings (in progress or just occurred)
 - d.** Armed Robbery or Strong-Arm Robbery (in progress or just occurred, whether received from a complainant or from an alarm – until contact can be made to determine alarm is false)

- e. Forcible Rape or Sexual Assault (in progress or just occurred)
 - f. Assaults or Affrays, including Domestic Violence Incidents (in progress or just occurred and perpetrator still on the scene)
 - g. Aircraft Incidents, Serious 10-50's, or Boating Incidents (Fatality or Personal Injury)
 - h. Suicide (in progress only)
 - i. Burglary (in progress only)
 - j. Breaking and Entering (in progress only - if reported by a complainant and not merely an alarm)
 - k. Felonious Larceny (in progress only)
3. When appropriate, supervisors shall intervene and designate vehicles to be involved in an emergency response and may terminate such a response at any time.
 4. Members engaging in emergency response to such calls shall in all instances use due caution and circumspection in the operation of agency vehicles and shall operate all available emergency equipment while either (1) seeking to take the right-of-way or (2) exceeding the posted speed limit.
 5. Responding members should monitor the radio closely for additional information from Wake 1 or supervisors during the response. The decision to continue an emergency response to any incident shall be made by supervisors and responding members giving due regard to the factors set out in **Section D** herein.
 6. Members approaching the scene of an in-progress emergency crime or event who desire a silent approach shall obey all traffic laws including right-of-way and posted speed limits when not operating the siren even though all other emergency equipment may be in operation.
 7. The **first deputy** to arrive on the scene of an emergency response call shall immediately determine whether other responding Sheriff's Office vehicles need to continue an emergency response or should revert to a 10-40 response and shall inform responding members and other law enforcement officers without delay.

H. MANDATORY PROVISIONS

1. **Seat Belts.** Members shall have seat belt and shoulder harnesses properly fastened around them while operating a Sheriff's Office vehicle so equipped.

2. Air Bags. Members shall not attempt to render air bags inoperable in a Sheriff's Office vehicle so equipped.

I. LIABILITY

Members shall at all times exercise due care in the operation of their vehicles. In any civil action resulting from the vehicular pursuit of a violator, the gross negligence standard shall apply in determining a member's liability. Gross negligence is defined as wanton conduct done with conscious or reckless disregard for the rights and safety of others. An act becomes wanton when it is committed for a purpose, or when committed needlessly, manifesting a reckless indifference to the rights of others.

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