

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

**SUBJECT: DUTY MANUAL REVISIONS:
VEHICLE PURSUITS**

DATE: August 4, 2022

APPROVED

Memo #2022-037

BACKGROUND

On March 1, 2022, the CNA Corporation presented a report to the City Council entitled [*21st Century Policing Assessment of the San José Police Department \(link\)*](#). This report made numerous recommendations including the following:

Recommendation 6.6.2 reads: “Revise the Duty Manual to clarify departmental guidance on pursuits.”

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike through~~ form.

L 2102 INITIATING VEHICLE PURSUITS:

Revised 08-04-22

Development and Pursuit Recognition (Pre-Pursuit Phase)

When an officer attempts to stop a vehicle and the violator fails to yield immediately, there may be a brief interval where the officer follows the violator with lights and siren activated in an effort to stop him/her lawfully.

The decision whether or not to pursue should be made when the officer perceives ~~that~~:

- The violator is attempting to flee from or evade the officer, and/or;
- The violator knows or reasonably should know that the officer is signaling him/her to yield.

The time period between the officer’s decision to stop a vehicle and deciding whether or not to pursue is the “pre-pursuit phase.” During this time, officers should gather as much identifying information as practical about the vehicle and occupant(s), the nature of suspected offenses and the surrounding environment.

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If at this point the officer decides not to pursue the violator, it will be deemed that a pursuit has not been initiated (i.e., a “non-pursuit” for reporting purposes under Section L 2120 “Reporting and Post-Pursuit Analysis”).

When the violator does not stop, or attempts to avoid capture, a pursuit may be initiated in accordance with this policy.

Proximity to Vehicle

Officers intending to stop a vehicle shall be within close proximity to the violator’s vehicle before activating emergency equipment. Depending upon the circumstances, officers shall evaluate if the distance between the pursuing and fleeing vehicles is so great that initiating or continuing a pursuit would be impractical.

Example: An officer observes a driver commit a traffic violation and intends to conduct a traffic stop. Prior to the activating the emergency lights and siren, the vehicle flees at a high rate of speed to a distant location where the stop becomes impractical or out of the officer’s view to an unknown location. Due to the impractical nature or unknown location, the officer should not activate the emergency lights and siren with the intent to initiate a pursuit.

L 2104 FACTORS TO BE CONSIDERED:

Revised 08-04-22

In balancing the seriousness of the violator’s offense(s) against the potential dangers that might accompany a pursuit, Department members should consider all relevant factors, including but not limited to the following:

1. Public Safety, Nature of Offense, and Apparent Circumstances:

Refer to See *Duty Manual* sSection L 2103 – **INITIATING VEHICLE PURSUITS** “When to Initiate a Pursuit” above.)

2. Officer Safety:

Officers should ~~may~~ consider their own safety in deciding whether or not to initiate, continue, or terminate a pursuit.

3. Vehicle Code Requirements:

Members should only engage in vehicular pursuits if their vehicles are equipped with emergency lights and sirens and they are used. Refer to *Duty Manual* sSection L 2000 “~~Patrol Procedures~~” – Emergency Operation of Vehicles.

4. Passengers in the Officer’s Vehicle:

The decision whether or not to initiate a pursuit may be affected by the presence of nonsworn personnel in the police vehicle. A Department member may initiate or continue a pursuit as described above if the passenger is an adult participant in an authorized ride along program but always consider the immediate circumstances as to whether or not to continue or terminate the pursuit. Members should not engage in high-speed pursuits if they have one or more prisoners in the car, a juvenile in the car, or a witness or other persons to whom they are providing courtesy transportation.

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5. Speeds Involved, Pedestrian and Vehicular Traffic:

Department members should consider whether the speeds of the vehicles involved in the pursuit substantially exceed speeds safe for the conditions, which create a hazard that outweighs the need for apprehension. The safety and volume of pedestrian and other vehicle traffic should also be strongly considered.

6. Other Persons in or on Pursued Vehicle:

Department members should take into consideration the known or suspected presence of passengers in or on the pursued vehicle, and whether or not they are willing participants in the crimes involved and/or evasion. The suspected or known presence of hostages or other abducted persons should also be considered in light of the threat the pursuit poses to them and the public in general, balanced against the interest of preventing the suspect(s) from being allowed to escape with the hostage or abductee.

7. Officer's/Supervisor's Familiarity with the Area and the Location of the Pursuit:

Department members should consider their knowledge of the area in which the pursuit takes place, as well as the particular characteristics of the area (such as schools, parks, playgrounds, residential, downtown, and other business areas).

8. Time of Day, Road Conditions, Weather, and Visibility:

When evaluating risks, adverse weather, time of day, traffic congestion, presence of pedestrians, and overall visibility should be considered.

9. Ability to Identify the Suspect(s) and Likelihood of Subsequent Apprehension:

When pursuing known suspects, Department members should consider the option of delaying immediate apprehension. A pursuit may not be necessary if a known suspect can be apprehended later and there is no compelling public safety need for an immediate arrest. Primary and follow-up investigative procedures should be considered. Refer to L4200-4205 "Investigations." Also, a pursuit may not be necessary if there is an aircraft available to observe the fleeing vehicle, or if the location of the pursued vehicle is no longer known.

10. Capabilities of Police Vehicle(s) and Quality of Radio Communications:

Officers should consider the capabilities of the police vehicles involved and the quality of radio communications between the pursuing unit(s), the dispatcher, and the field supervisor.

11. Abilities of the Involved Officers:

The experience, training and demeanor of involved officers should be considered in determining whether or not a pursuit should be initiated and/or continued.

12. Availability of Additional Resources:

Department members should consider whether or not they have sufficient backup should they find themselves alone with the fleeing suspect(s) at the

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termination of a pursuit and what additional resources are available (e.g., air support, off-road capabilities, and the California Highway Patrol).

13. Supervisory Approval:

Supervisory approval is not a requirement for Department members to initiate pursuits. However, involved members must provide accurate and timely information upon which supervisors may base their decisions of whether or not to allow the initiation or continuation of the pursuit or to terminate the pursuit.

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual sections.



Anthony Mata
Chief of Police

AM:SD:JJ