

OFFICE OF THE CHIEF OF POLICE

ADMINISTRATIVE ORDER NO. 5

May 18, 2023

**SUBJECT: USE OF FORCE OUT OF STATUTE DISPOSITION – ESTABLISHED;
AND, ADMINISTRATIVE REVIEW AND ADJUDICATION OF A
VEHICLE PURSUIT – REVISED**

PURPOSE: The purpose of this Order is to establish an Out of Statute disposition for Use of Force and Vehicle Pursuit investigations to ensure consistency with the Public Safety Officers Procedural Bill of Rights Act.

PROCEDURE:

- I. USE OF FORCE OUT OF STATUTE DISPOSITION – ESTABLISHED.**
Department Manual Section 3/793.18, *Use of Force Out of Statute Disposition*, has been established and is attached.

- II. ADMINISTRATIVE REVIEW AND ADJUDICATION OF A VEHICLE PURSUIT – REVISED.** Department Manual Section 3/201, *Administrative Review and Adjudication of a Vehicle Pursuit*, has been revised. Attached is the Department Manual Section with the revisions indicated in italics.

AMENDMENTS: This Order adds Section 3/793.18 and amends Section 3/201 to the Department Manual.

AUDIT RESPONSIBILITY: The Commanding Officer, Audit Division, shall review this directive and determine whether an audit or inspection shall be conducted in accordance with Department Manual Section 0/080.30.


MICHEL R. MOORE
Chief of Police

Attachments

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793.18. USE OF FORCE OUT OF STATUTE DISPOSITION. *All Categorical and Non-Categorical Use of Force investigations that are adjudicated after the statute date (one-year limitation) shall be classified as, "Out of Statute."*

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201. ADMINISTRATIVE REVIEW AND ADJUDICATION OF A VEHICLE PURSUIT.

Pursuit Initiation and Involvement/Pursuit Tactics Adjudication Classifications. The pursuit adjudication classifications require separate adjudications for each officer involved in the pursuit regarding initiation and involvement/pursuit tactics. The classifications for the adjudications of pursuit initiation and involvement/pursuit tactics are the following:

Initiation Findings:

- In Policy:
 - No Further Action Taken; *or*,
 - Training.

- Administrative Disapproval (Out of Policy):
 - Formal Training;
 - Notice to Correct Deficiencies (Form General 78); *or*,
 - Personnel Complaint (Form 01.28.00).

- *Out of Statute*

Note: "Out of Statute" is when the adjudication occurred after statute date (one-year limitation).

Note: In general, the initiation findings should only be done for the primary unit initiating the pursuit. Reasons for initiation shall be considered in adjudicating this section as delineated in Department Manual Section 1/555.10, Initiation of a Vehicle Pursuit. Officers shall not initiate a pursuit based only on an infraction, misdemeanor evading (including failure to yield), or reckless driving in response to enforcement action taken by Department personnel, or when the driver fails to yield.

Involvement/Pursuit Tactics Findings:

For the purposes of this section, "involvement" includes any ground unit actively pursuing the suspect vehicle; which can include the primary, secondary, or third unit, or supervisor, or any additional units that join the pursuit, whether they are requested by the primary unit or supervisor.

- Administrative Approval:
 - No Further Action Taken; *or*,
 - Training.

- Administrative Disapproval (*Out of Policy*):
 - Formal Training;

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- Notice to Correct Deficiencies (*Form General 78*); or,
- Personnel Complaint (*Form 01.28.00*).

Note: “Administrative Disapproval” is defined as unjustified, substantial deviation from Department policy, procedure, or training.

- *Out of Statute*

Note: “*Out of Statute*” is when the adjudication occurred after statute date (*one-year limitation*).

The Involvement/Pursuit Tactics Findings should address the vehicle pursuit procedure as delineated in Department Manual Section 4/205.01 through 4/205.55, including but not limited to:

- Command and Control;
- Tactical Planning;
- Tactical Communication;
- Use of Resources such as Air Unit and Tracking;
- Continuation and Termination of a Pursuit;
- Driving Tactics;
- Use and Request of Equipment;
- Vehicle Intervention Techniques used;
- Pursuit Discipline; and,
- Driving.

Area/Division Commanding Officer’s Responsibilities. The Area/division commanding officer (CO) shall review the Vehicle Pursuit Report (VPR), relevant audio *and* video, related reports, *and* the Watch Commander Insight, and complete the “Recommended Classification” section. The Area/division CO shall forward all related reports to *their* bureau/group CO within 45 calendar days of the pursuit.

Following a pursuit, the Area/division CO shall ensure that a supervisor at the Area/division conducts a debrief *with the involved officers* as soon as practicable, but no later than 30 calendar days after the incident. The debrief as it relates to a pursuit, is a review of the incident to identify those areas where actions and decisions were effective and those areas where actions and decisions could have been improved.

Note: If the Area/division CO is recommending training, the training shall be completed within 90 calendar days from the date of the pursuit as part of the adjudication. If this cannot be completed within the 90 calendar days, the CO shall send written correspondence to the Department Traffic Coordinator (DTC) with an explanation of the inability to complete the recommended training (i.e., Injury on Duty or pre-approved vacation), and a request for an extension of the deadline.

If a pursuit has received a final adjudication of Administrative Disapproval for tactics or

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Administrative Disapproval - Out of Policy for pursuit initiation by the DTC or *their* authorized designee, the CO shall serve their respective employee(s) the rationale and final classification within 30 calendar days, using the Pursuit Findings Internal Process Receipt, Form 01.14.03.

Bureau/Group Commanding Officer's Responsibilities. The concerned bureau/group CO shall review the VPR, relevant audio *and* video, related reports, and the Area/division CO Insight, and complete the "Recommended Classification" section within 90 calendar days of the pursuit. When there is a difference in recommendation between the bureau/group CO and Area/division CO, then the bureau/group CO shall submit an Intradepartmental Correspondence, Form 15.02.00, to the DTC, detailing *the Bureau CO's* rationale for the disposition, with a copy sent to the Area/division CO.

Department Traffic Coordinator's Responsibilities. The DTC, has the final review and adjudication authority of all vehicle pursuits. Should the final classification of a pursuit differ from the classification by the bureau/group CO, the DTC shall provide a rationale for that final classification on an Intradepartmental Correspondence and forward that to the concerned bureau/group and to the employee's CO.

Note: The DTC may, at *their* discretion, delegate final review and adjudication authority for some or all pursuits to an authorized staff officer.

The DTC, or authorized designee, shall make the final determination on the classification of the pursuit within 180 calendar days from the date of the pursuit. An additional 30 calendar days shall be granted to determine the final pursuit classification if additional information or investigation is needed and shall be documented in the pursuit case file maintained by the Pursuit Review Unit (PRU).

Training - Documentation as a Result of a Vehicle Pursuit. When training is required, the Area/division CO shall ensure that training is completed within 90 calendar days from the date of the pursuit. Upon completion of the directed training by the involved officer, the Area/division CO shall ensure that the training is entered into the Learning Management System (LMS) along with the corresponding reference number [i.e., a Division of Records (DR) number], and forward a copy of the officer's LMS report to the PRU. If the training cannot be completed within 90 calendar days, the CO shall send a written correspondence to the DTC with an explanation of the inability to complete the recommended training (i.e., Injury on Duty or vacation), and a request for an extension of the deadline.

Pursuits Classified as Administrative Disapproval. If the DTC or authorized designee determines that a vehicle pursuit is classified as Administrative Disapproval for tactics or Administrative Disapproval - Out of Policy for pursuit initiation, *they* shall ensure that a copy of the VPR and attached Intradepartmental Correspondence are forwarded to the bureau/group for further action, to include either formal training, a Notice to Correct Deficiencies, or a Personnel Complaint, within 45 calendar days of the final adjudication. Upon completion of the action taken, the bureau/group shall notify the DTC or authorized designee, of the disposition within 90 calendar days.