

41.2.2 Pursuit of Motor Vehicles

41.2.2 / 100.00 Policy

The primary concern of the Kaua'i Police Department is public safety and the protection of human life and property. The officer, prior to initiating a pursuit, must take all risks into account. All officers engaged in vehicular pursuit driving must drive with due regard, and be fully aware that irresponsible, careless, and reckless driving shall not be tolerated. Pursuit driving shall always be consistent with "reasonable safety" as defined below and comply with all procedures.

41.2.2 / 100.01 Definitions

Absolute Compelling Emergency Circumstance – Where an officer has reasonable belief that an individual has committed a violent felony, and is such a danger to society that the suspect's escape would expose immediate death or danger to society such that deadly force is warranted.

Duty of Care and Due Regard - The driver of an authorized emergency vehicle as defined in HRS § 291C-26, owes a duty of care to the public “when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law[.]” HRS §§ 291C-26(a) and 65(b). Specifically, the duty of care and use of due regard examines “what a reasonably prudent emergency vehicle driver would have done under the circumstances presented.” *Pogoso v. Sarae*, 138 Hawai'i 518 (2016).

Objective Reasonableness - Is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them. The "reasonableness" of a particular action must be judged from the perspective of a reasonable officer on the scene, and its assessment must embody an allowance for the fact that police officers are often forced to make split-second decisions in a particular situation. (1989 *Graham v. Connor* 490 U.S. 386)

Marked Police Vehicle - A police fleet motor vehicle (automobile), equipped with emergency blue lights, siren, and police agency vehicle identification decal or marked "police" decal. It may or may not be painted with the standard color(s). For this section Marked Police Vehicle shall only include those vehicles that have a Pursuit Rating.

Most Immediate Available Supervisor – Field Sergeant/Supervisor assigned to Law Enforcement Operations and/or District Commander who is immediately available and best able to assess the situation.

Police Subsidized Vehicle – A privately owned or leased motor vehicle that is utilized as a police vehicle for official business.

Pursuit Rated Vehicle - An authorized emergency vehicle that is specially designed and equipped for use during high-speed pursuits.

Termination of Pursuit - When a pursuit has been terminated, pursuing vehicles will cease following or driving behind the suspect's vehicle. The pursuit vehicle will pull to the shoulder of the roadway when safe to do so and remain stationary and/or maneuver a U-Turn when safe and continue travel in the opposite direction.

Violent Felony - Includes, but is not limited to, the following criminal offenses: murder, manslaughter, armed robbery, home invasion robbery, armed burglary, aggravated battery with serious bodily injury, aggravated assault with a firearm where shots were fired or a law enforcement officer is either the victim or a witness, armed carjacking or unauthorized control of propelled vehicle (UCPV), and felony "hit and run" accidents involving death or serious bodily injury Hawai'i Revised Statutes; Section §291C-12. For the purposes of this policy, Resisting an Order to Stop offenses shall not constitute as a violent felony.

Unmarked Vehicle - A department vehicle without a light bar, siren and/or markings.

Failure to Yield - Refers to the actions of a vehicle operator who fails to stop or respond to the emergency light(s) and siren of a law enforcement vehicle. Generally, the vehicle operator continues to travel forward at or below the speed limit, observes traffic control devices and other applicable rules of the road, and does not change direction of travel in an evasive manner.

41.2.2 / 100.02 Authorized Emergency Vehicle

Refer to [41.2.1 / 100.01 Authority for full definition](#)

While HRS § 291C-26 allows for exceptions to the traffic laws and rules subsection (b) remains in effect at all times.

(d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall those provisions protect the driver from the consequences of the driver's reckless disregard for safety of others.

41.2.2 / 200.00 General Provisions

Only sworn personnel assigned to Law Enforcement Operations or Administration are permitted to engage in pursuit driving.

Officers with non-sworn passengers (i.e. prisoners, explorers, civilian employees, family members, etc.) shall not engage in pursuit driving.

All Officers involved in a vehicle pursuit shall activate their assigned Body Camera System during vehicle pursuits regardless of whether the vehicle is equipped with in-car video equipment.

41.2.2 / 201.01 Vehicle Restrictions

Only Pursuit Rated Vehicles equipped with emergency lights (visible from the front, rear, and sides) and audible warning (siren) system shall engage in pursuit driving. This may include subsidized vehicles that are officially validated as pursuit rated, however they must be equipped with emergency lights (visible from the front, rear, and sides) and audible warning (siren) system.

When a pursuit is initiated by an authorized subsidized vehicle that officer will relinquish the primary position to the first Marked Police Vehicle joining the pursuit, and will leave the pursuit when a second Marked Police Vehicle joins the pursuit as the secondary unit. The relieved officer will proceed to the end point of the pursuit.

41.2.2 / 201.02 Unmarked Vehicles

Unless extraordinary circumstances exist where a fleeing vehicle and/or its occupant(s) present an immediate and direct threat to life, and only with the authorization of the Field Sergeant/Supervisor and/or the District Commander, may an unmarked vehicle engage in a vehicle pursuit. An unmarked vehicle engaged in a pursuit will cease involvement in the pursuit when a marked vehicle is available to take the lead.

This only applies to unmarked vehicles that are equipped with Emergency lights (visible from the front, rear, and sides) and siren.

Unmarked vehicles without Emergency Lights and Sirens equipped are strictly prohibited from engaging in any pursuit driving.

Note: HRS § 291C-26 Authorized Emergency Vehicle requires emergency lights and audible warning (siren) system to be an authorized emergency vehicle

41.2.2 / 202.00 Criteria for Pursuit

KPD engages in vehicular pursuits to arrest offenders when necessary to protect people, rights, and property in our community. Vehicle pursuits are hazardous and may result in death or injury to innocent bystanders, officers, or suspects.

Officers shall only initiate a pursuit of a suspect fleeing in a vehicle when there is reasonable suspicion to believe the suspect committed or in the commission of a Violent Felony.

A pursuit will not be engaged for a property crime, minor traffic infraction or an occupied stolen vehicle unless the suspect presents the aforementioned clear and immediate danger to the public.

Clear and immediate danger to the public will not be based solely on a subject's reaction to the officer's initial attempt to stop the subject's vehicle.

Factors that the officer must take into account when deciding whether the need to engage in pursuit driving is "outweighed" by the potential risks to the public if pursuit driving is initiated which include the following:

The seriousness and/or dangerousness of the crime or matter warranting police involvement;

Pedestrian and vehicular traffic patterns and volume;

Time of day;

Road conditions, weather conditions, lighting, and visibility;

Terrain (curves, hills, buildings, etc.);

The type of roadway and speeds involved;

Likely effectiveness or ineffectiveness of audible and visible warning signals;

The capability and limitations of police equipment and vehicle operator;

Involved officer's and supervisor's familiarity with the area of travel;

The quality of radio communications;

Alternate or safer methods of problem solving;

Likelihood of apprehending the suspect as a result of the pursuit;

Whether the identity of the suspect is known and apprehension could be made later;

Availability of additional police support;

Staleness of crime;

Whether there are other individuals present in the suspect's vehicle;

Any other factor, which increases or decreases risk.

Each officer shall evaluate the circumstances and shall use objective reasonableness in deciding whether to engage in a pursuit.

41.2.2 / 300.00 Procedures

41.2.2 / 301.00 Officer Communications

Officers who engage in pursuit driving shall immediately notify the Communications Section of the pursuit, the reason(s) for it, its location and direction, a description of the suspect vehicle, the number of occupants, the speeds involved, and other available information affecting public and/or officer safety.

Pursuits shall be handled by the primary communications employees. In all pursuits, the primary communications employee shall, on simulcast, initiate a Code Red (Refer to [81.2.4 / 205.00 Emergency Situation Radio Procedures](#)) that a pursuit is in progress along with any other information received from the operator of the pursuit vehicle.

When there are two or more police vehicles engaged in pursuit driving, the second police vehicle should assume the responsibility for broadcasting progress to the Communications Section. To ensure clear, audible communications, the second unit should use a different audible siren tone from the primary officer.

If the involved officer(s) cannot maintain continuous radio contact with the Communications Section or the Pursuit Supervisor, pursuit driving shall immediately be terminated unless absolutely compelling emergency circumstances demand otherwise.

It is the responsibility of all non-involved officers to limit radio transmission to emergency radio traffic only, throughout the duration of the pursuit.

41.2.2 / 301.01 Supervisor Notification

Communications Section (e.g. primary radio dispatcher) shall immediately notify the most immediate available supervisor who shall either clearly authorize the continuation of the pursuit or terminate the pursuit through a directive given over the radio. The supervisor's decision shall be in effect until such time as a higher authority directs otherwise. In the event the respective Field Supervisor cannot be contacted, the following supervisor shall resume responsibility:

If Bravo Sierra cannot be contacted, then Charlie Sierra shall resume the supervisor's responsibility for the pursuit.

If Charlie Sierra cannot be contacted, then the assigned dispatcher needs to determine the direction the pursuit is headed and that Field Supervisor shall resume the supervisor's responsibility for the pursuit.

If Echo Sierra cannot be contacted, then Charlie Sierra shall resume the supervisor's responsibility for the pursuit

Any supervisor of any rank who is engaged in the pursuit shall relinquish supervision and authority of the pursuit to the next most immediate available supervisor.

41.2.2 / 301.02 Supervisor Monitoring

The involved Pursuit Supervisor shall immediately take control of the pursuit and determine whether the basic requirements justifying the pursuit are present. If the basic requirements are not present, the Pursuit Supervisor or the pursuit units shall immediately order that the pursuit be terminated. If the basic requirements for a pursuit are met, both the involved officer and the Pursuit Supervisor will continuously evaluate all available information. If at any point the pursuit no longer satisfies the requirements for pursuit driving, the pursuit shall be immediately terminated.

Superior officers (e.g. Bureau Commanders and/or the District Commander, etc.) shall immediately begin monitoring the pursuit. If at any time it should reasonably appear to a superior officer that the pursuit does not satisfy the requirements for pursuit driving, the superior officer shall immediately terminate the pursuit.

Failure to immediately provide the above information set forth in **41.2.2 / 301.00** Officer's Initial Communications shall be cause for the Field Sergeant/Supervisor and/or the District Commander to order termination of the pursuit.

41.2.2 / 302.00 Operation of Vehicle

When engaged in pursuit driving, officers shall use audible signals, siren and visible signals such as flashing blue/clear lights unless the use of all the emergency equipment would place the officer or the public in immediate threat of death. In all circumstances, however, lights and sirens shall be used when clearing an intersection. The officer shall proceed in a manner consistent with the laws regulating vehicular traffic. The pursuit vehicle shall not proceed through stop lights, stop signs or infringe on or upon any traffic control signs or devices without first making certain that the way is clear and can be safely navigated. Officers shall not pass in "no passing zones" or drive the wrong way on "one way streets" unless reasonably certain such action can be safely undertaken. This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using roadways, and highways.

41.2.2 / 302.01 Additional Units

The pursuit will consist of the primary unit and, when possible, a secondary unit and third unit. The primary unit may request the Pursuit Supervisor to authorize additional units to join the pursuit, if necessary. A unit will be considered primary if, at any point during the pursuit, the unit is directly behind the suspect vehicle.

No more than three police vehicles shall engage in pursuit driving, unless additional units are audibly approved by the Pursuit Supervisor. Secondary or backup units shall

remain at such a distance behind the primary pursuit vehicle as to assure that they do not collide.

If the Primary Unit cannot continue the pursuit, the Secondary Unit shall become the Primary Unit.

Other departmental vehicles shall not pass the primary pursuit vehicle unless requested to do so by the primary pursuit vehicle or Pursuit Supervisor.

41.2.2 / 302.02 Speeds

Speed limits cannot be set that will apply to all vehicle pursuits due to variations in conditions. However, consideration shall be given to abandoning a vehicle pursuit or reducing the effort even under the most ideal conditions, when speeds exceed what is reasonable and safe for existing conditions such as, but not limited to road and other conditions.

All officers involved in a vehicle pursuit shall be held accountable for the initiation and/or continuation of a pursuit when circumstances indicate that one should not have been initiated, or that a pursuit should have been discontinued.

41.2.2 / 302.03 Traffic Collisions

If an officer is involved in a motor vehicle collision during an emergency response or a pursuit, the officer will immediately discontinue involvement and take proper action as is required by all departmental orders and directives unless:

No unit is available to assume the pursuit or respond to the unit involved.

Damage to the unit is minor, and it can still be operated without danger.

There are no apparent injuries as a result of the accident.

41.2.2 / 303.00 Pursuit Restrictions

41.2.2 / 303.01 Spot Lighting

Officers shall not shine lights on or toward the pursued vehicle if the only intent is to impair the driver's vision unless deadly force is authorized.

41.2.2 / 303.02 Firearms

Refer to [Standard 4 – Use of Force](#)

41.2.2 / 303.03 Overtaking

Officers shall not attempt to overtake or pass a fleeing vehicle. Doing so places the officer in a highly vulnerable position. The pursuing officers shall keep a safe distance from the suspect vehicle and merely attempt to keep the suspect vehicle in sight.

41.2.2 / 303.04 Vehicular Force

Officers shall not attempt to use mobile techniques designated to physically force the subject vehicle to slow down and/or stop during a vehicle pursuit by using the police vehicle to intentionally strike, touch, ram, box-in, rolling roadblocks, and stationary road blocks to halt a suspect vehicle, unless the suspect vehicle or its occupants pose an imminent danger of death or serious bodily injury to the officer or another person.

41.2.2 / 400.00 Termination of Pursuit

A vehicle pursuit shall be terminated when anyone of the following conditions occur:

When in the opinion of the officer, the Sergeant/Supervisor, or the District Commander determines the level of danger created by the vehicle pursuit outweighs the necessity for immediate apprehension.

When the suspect(s) identity has been established to the point that later apprehension can be accomplished, and there is no longer any need for immediate apprehension.

41.2.2 / 401.01 Accountability

All officers involved in a vehicle pursuit shall be held accountable for the initiation and/or continuation of a pursuit when circumstances indicate that one should not have been initiated, or that a pursuit should have been discontinued.

This procedure is based upon recognition of the basic need for vehicle pursuit under certain circumstances. Great reliance is placed upon the individual officer and the Field Sergeant/Supervisor in the application of their training and experience. All officers involved in a vehicle pursuit shall be held accountable for engaging in, or continuing with a pursuit when circumstances indicate such actions was not warranted.

Officers shall not be disciplined when their decision is to terminate rather than to continue with a pursuit.

41.2.2 / 402.00 Termination Procedures

41.2.2 / 402.01 Subject Vehicle Not Stopped

Once a "terminate pursuit" has been broadcasted, no other officer shall respond to the termination point of a vehicle pursuit unless specifically requested / required. Assisting

units already present shall immediately vacate the area once their specific mission has been completed.

41.2.2 / 402.02 Subject Vehicle Stopped

The Pursuit Supervisor shall respond immediately to the termination point and assume responsibility for police action.

At the conclusion of any vehicular pursuit, high-risk stop procedures will be used by all officers present, when practical.

Once the scene security has been established the initiating Officer, if not already on scene, shall commence with the required criminal investigation.

41.2.2 / 403.01 Notifications

When death, injury, or property damage is caused as the result of a vehicle pursuit, the Sergeant/Supervisor shall immediately notify the District Commander (who in turn shall notify the Bureau Commander).

The Traffic Safety Section shall also be notified and an investigation shall be conducted by that section.

When circumstances warrant, the procedures outlined in [100.1 Critical Incident Protocol](#) shall be followed.

41.2.2 / 501.01 Vehicle Pursuits Involving Other Agencies

Officers are prohibited from entering pursuits that were initiated by another jurisdiction or law enforcement agency unless assigned to the pursuit by a KPD Supervisor.

A KPD Supervisor will not assign officers to participate in such pursuits unless assistance is requested by the initiating agency, and they provide sufficient information, including the crime the suspects are believed to have committed so that a supervisor can determine if the pursuit is in compliance with the provisions of this policy. If insufficient information is received and/or if the outside agency-initiated pursuit is not in compliance with this policy, the pursuit will not be joined by KPD police officers. However, a supervisor may authorize officer(s) to drive in routine operation toward the area of the pursuit to be in a relatively good position to render back up and other aid once the pursuit vehicle is stopped.

Authorized officers operating as secondary units in pursuits involving a lone primary unit from another agency will be subject to all department procedures governing primary pursuit units, including as a priority the responsibility to discontinue KPD's role in the pursuit immediately whenever:

An additional unit from the originating agency joins the pursuit and can take over the secondary unit responsibilities.

The pursuit is not conducted to the standards of the department as outlined in this procedure.

Information is made available which indicates the dangers of the pursuit outweigh the need to apprehend the suspect.

A KPD supervisor orders KPD's role in the pursuit discontinued.

If the other agency requests KPD to assume control of the vehicle pursuit, the KPD Supervisor shall evaluate the significant factors as set forth in this policy as well as the known circumstances as provided by the other agency, to determine KPD's response accordingly.

KPD field supervisors will monitor and control the department's role in such pursuits within the parameters of this policy.

41.2.2 / 600.00 Pursuit After Action Reporting

A Vehicle Pursuit Incident will be the responsibility of each Primary Officer in a vehicle pursuit to initiate, investigate, and complete the Vehicle Pursuit Incident.

An officer will be considered primary if, at any point during the pursuit, the officer is directly behind the suspect vehicle.

If the Primary Officer of the Pursuit falls out of the Pursuit or the pursuit is taken over by another officer that Officer will become the Primary and will need to generate another Pursuit Incident in the Professional Standards Software.

The Vehicle Pursuit Incident shall be completed and submitted by the end of Officer's next workday of the shift which the Vehicle Pursuit occurred.

If the Vehicle Pursuit Incident occurred at the end of the Officer's workweek, the Vehicle Pursuit Incident shall be completed and submitted prior to his / her scheduled days off.

The incident (RMS) report including photographs and any associated documents or records must be attached as linked documents.

The Vehicle Pursuit Incident will then be submitted to the Officer's Supervisor then District / Section Commander, who shall conduct a Review regarding completeness and policy compliance.

Officers shall share with the Supervisor and District / Section Commander, their BWC video of the incident, which shall be considered part of submitting a Use of Force Incident.

If no BWC video was captured it shall be annotated within the summary.

The Vehicle Pursuit incident report shall be forwarded by the District / Section Commander to the Lieutenant of the Office of Professional Standards with a CC to the officer's Captain and Assistant Chief.

The Office of Professional Standards Lieutenant shall assign the Vehicle Pursuit Incident to an OPS Investigator to review for compliance with the applicable policy and annotate their findings within the incident.

The Office of Professional Standards Lieutenant or designee shall forward the incident to the EVOC / DITP Instructor for review and critique of the Vehicle Pursuit incident for adherence to policy and training and forward his/her findings back to the Office of Professional Standards within 10 working days from the date of assignment.

If a policy or training discrepancy is annotated in the review the Incident, a copy of the Incident shall be forwarded to the Captain with a CC to the Assistant Chief and District / Commander for handling.

The receiving Captain shall:

Review the employee's record.

Review any other record that may have a bearing on the outcome of the case.

Issue an appropriate disposition for violation of policy, and ensure that the contemplated action is fair, impartial and consistent with the circumstances of the case.

i.e. Divisional Counseling, NDA, Training, etc.

In some instances, the Violation of Policy may be forwarded to the ARB for final disposition, this could include but is no limited to:

Serious violation of policy,

Repeated behavior by an officer,

Etc.

For training discrepancies, the Training Section shall identify if a remedial training is needed.

Refer to 33.4 – Remedial Training

41.2.2 / 601.01 Annual Analysis

The Office of Professional Standards Commander shall annually generate a report to include the following:

Statistical Report of Pursuit Reports;

Review of Policy; and

Review of Reporting Procedures.

The Annual Pursuit Report shall be submitted to the Chief of Police for review.

41.2.2 / 701.01 Initial Training

All Police Recruits shall undergo a documented initial training on the Department's Pursuit Policy.

41.2.2 / 702.01 Annual Review of Pursuit Policy

All sworn personnel shall annually review the Department's Pursuit Policy.