

Stanford
LawSchool

Stanford Center
for Racial Justice

Model Use of Force Policy Beta Release Version 1.0

Chapter 5: Foot Pursuits

September 20, 2022

OVERVIEW

This Chapter covers foot pursuits. It prioritizes, and recommends strategies for, preventing foot pursuits. It also establishes a clear threshold for authorizing a foot pursuit. And even when a foot pursuit is authorized, this Chapter sets forth requirements for the conduct of the pursuit, including that officers must continually reassess the basis for the pursuit, and that it must be stopped when no longer justified.

This Chapter includes a High-Level Policy Summary outlining the overarching principles of the Chapter, the full Policy Language, a Supporting Memorandum providing the policy rationale and guidance, and a Comparison Memo Summary that compares this Chapter to certain other national, state, and local-level policies.

PART 1: HIGH-LEVEL POLICY SUMMARY

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1. Foot pursuits are not themselves a use of force. But foot pursuits are inherently dangerous and can increase the risk of direct physical contact with a subject or member of the public, which in turn increases the risk that an officer will use force or be confronted with force.
2. Officers should take precautions to prevent the need for foot pursuits.
3. An officer is only authorized to conduct a foot pursuit when (1) either the officer has probable cause to believe that an individual has violated a law or ordinance, or the officer has reasonable, articulable suspicion that would meet the requirements for a *Terry* stop; and (2) the benefit of immediately apprehending a person suspected of committing a crime outweighs the risks to public and officer safety.
 - a. This risk-benefit analysis should be ongoing while a foot pursuit occurs.
 - b. The officer must terminate a foot pursuit if they or their supervisor decides that the benefits no longer outweigh the risks of continuing, taking into consideration, among other things:
 - i. The severity and nature of the crime that may have been committed;
 - ii. The capabilities of the officers involved; and
 - iii. Environmental conditions, like visibility.
4. Officers may not undertake a foot pursuit based only on the observation that a person is avoiding a police presence or fleeing police.
5. Officers may not engage in foot pursuits if the suspected criminal activity is a citation-only offense or non-arrestable offense.
6. Communication and coordination are crucial to a foot pursuit. If communication with other officers is not possible or there is insufficient support available, the officer should not initiate the pursuit.

PART 2: POLICY LANGUAGE

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5.100 – General Considerations and Definitions

A. General Considerations:

1. Foot pursuits are inherently dangerous police activities. Engaging in a foot pursuit can cause an adrenaline rush and also can result in fatigue, either of which may impair an officer's judgment. Foot pursuits can cause perception problems and may result in an officer misperceiving a subject's sudden movements as threats, even when no threat exists. Officers must be aware of these risks before initiating a foot pursuit.
2. No officer or supervisor will be criticized or disciplined for deciding not to engage in a foot pursuit or terminating a foot pursuit if the officer or supervisor reasonably perceives that the risk of a foot pursuit, either to any officer or to the public, outweighs the benefit of immediate apprehension.
3. Foot pursuits are not themselves a use of force but may involve the use of force, including in connection with the apprehension of a suspect following a foot pursuit. Any use of force must comply with Chapter 1, including the authorization and standard.
4. Officers are prohibited from using any excessive force, including force intended to punish or retaliate against the pursued subject for fleeing or resisting.

B. Definitions:

1. *Primary Officer:* The police officer who initiates a foot pursuit.
2. *Controlling Supervisor:* The supervisor who has responsibility for overseeing the relevant operation.

5.200 – Prevention and Authorization to Undertake a Foot Pursuit

- A. Preventing Foot Pursuits: This Department prioritizes preventing the need for a foot pursuit in the first instance and provides the following recommended strategies.
1. Officers should take precautions when approaching individuals who are suspected of crimes, to discourage and prevent individuals from fleeing on foot.
 2. Officers can use tactical positioning to block potential escape routes and must be aware of the angle of their approach.
 3. Officers also can use their body language to affect the encounter—for example, to assert control over the situation or allow the suspect to feel comfortable in the situation, based on the officer’s judgment of what will be most effective.
 4. Officers should maintain a calm demeanor and speak calmly to engage a suspect in a dialogue.
- B. Authorization:
1. An officer may undertake a foot pursuit only when:
 - a) it is legally justified because either an officer has probable cause to believe that an individual has violated a law or ordinance, or the officer has reasonable, articulable suspicion that would meet the requirements for a *Terry* stop; and
 - b) the benefit of immediately apprehending a person suspected of committing a crime outweighs the risks to public and officer safety.
 2. Officers may not undertake a foot pursuit based only on the observation that a person is avoiding a police presence or fleeing police. People may avoid contact with a police officer for reasons that do not indicate involvement with criminal activity.
 3. Officers are prohibited from engaging in foot pursuits if the suspected criminal activity is a citation-only offense or non-arrestable offense.
 4. For all foot pursuits, officers must continually reassess whether the benefits of a foot pursuit outweigh the risks under the circumstances. If an officer is unable to determine whether the benefits of a foot pursuit outweigh the risks under the circumstances, the officer may not undertake a foot pursuit and must instead pursue alternative strategies.

C. Risk Considerations:

1. In deciding whether to initiate or continue a foot pursuit, officers should consider the following risk factors that may make a pursuit more dangerous and less likely to end in successful apprehension:
 - a) Whether the officer is acting alone;
 - b) Whether the officer is unfamiliar with the area;
 - c) Whether the area is hostile;
 - d) Whether the individuals being pursued are known or suspected to be armed;
 - e) Whether the officer will be able to obtain backup support in a timely manner;
 - f) Whether the officer is physically able to pursue and successfully apprehend the individual;
 - g) Whether the officer is able to establish and maintain contact with the emergency communications center; and
 - h) Inclement weather, darkness, or other reduced visibility conditions.

D. Alternatives to a Foot Pursuit:

1. In deciding whether to initiate or continue a foot pursuit, an officer should consider the following alternative strategies:
 - a) Containment of the area;
 - b) Saturating the area with patrol personnel;
 - c) Canine search;
 - d) Aerial support; and
 - e) Apprehension at another time and place, if the individual's identity is known or the officer otherwise has information that will likely allow such apprehension.

Even if a foot pursuit would be legally justified, containment, and surveillance are often the safest tactics for apprehension, and officers should undertake those alternate tactics instead of a foot pursuit if circumstances allow.

5.300 – Standard for Conducting a Foot Pursuit

- A. Upon deciding to initiate a foot pursuit, an officer must:
1. Immediately activate their body-worn camera, if it is not already activated;
 2. Identify themselves as a police officer and order the fleeing individual to stop; and
 3. Communicate to central communications that the officer has initiated a foot pursuit. Along with that communication, the officer must communicate all of the following:
 - a) The officer's call-sign identifier;
 - b) The officer's location and direction;
 - c) The reason for the foot pursuit; and
 - d) Any information known about the person or persons being pursued, including how many people there are, their identities if known, and whether they are known to be armed.

If the officer is unable to communicate this information effectively at the outset of the foot pursuit, the foot pursuit should be terminated.

- B. Once the initiation of a foot pursuit has been reported in, central communications must communicate with an on-duty field supervisor to serve as the Controlling Supervisor.
- C. Limit or Number of Pursued Subjects: Except in exigent circumstances, one officer initiating a pursuit alone may not pursue multiple subjects.
- D. Limit on Involvement of Plainclothes and Undercover Officers:
1. Plainclothes and undercover officers' involvement in a foot pursuit can pose special risks to officers and the public, as it may not be possible to immediately recognize these officers as members of a police effort.
 2. If required by the circumstances, plainclothes and undercover officers may participate in a foot pursuit but must comply with the requirements of this policy.
 3. Plainclothes and undercover officers must alert a dispatcher as soon as possible of their involvement in the foot pursuit, including a description of their clothing if possible.

4. Plainclothes officers must endeavor to make themselves readily recognizable as police officers, by wearing an outer garment like a raid jacket as well as their official police identification.
5. These officers must follow all commands from uniformed officers while in the foot pursuit, including the command to lay down a weapon.
6. Plainclothes and undercover officers must terminate their participation in a foot pursuit as soon as a sufficient number of uniformed officers have joined the foot pursuit and when it is safe to do so.

E. Responsibility of Pursuit Officers:

1. The officer who initiates the foot pursuit will be the Primary Officer and have primary responsibility for communicating with central communications and with other officers who join the foot pursuit.
 - a) The Primary Officer must coordinate with officers who join the foot pursuit, to establish a perimeter around the pursued subject.
 - b) The Primary Officer's goal must not be to catch up with the subject as quickly as possible, but to maintain sight of the subject until there is an opportunity to safely take the subject into custody.
2. In Two-Officer Scenarios:
 - a) If two officers initiate a foot pursuit together, the two officers must strive to stay together during the foot pursuit. One officer will be the Primary Officer and have primary responsibility for communicating with central communications and the assisting officers, while the other officer will be primarily responsible for keeping sight of the subject being pursued.
 - b) If two officers pursue multiple individuals and the individuals split to flee in different directions, the officers must continue to pursue one of the individuals, together, and must not separate.
3. Additional Officers:
 - a) Supporting officers are responsible for assisting the Primary Officer in containing the pursued subject. Supporting officers must not respond to the location of the Primary Officer until the Primary Officer requests assistance at their location.

F. Pursuit Conduct for All Officers:

1. Firearms:

- a) Officers must have their firearms holstered while running under the majority of circumstances.
- b) If an officer determines that a situation requires unholstering a firearm, the officer must proceed with extreme caution in carrying an unholstered firearm while running. While running with an unholstered firearm, an officer must keep the trigger finger outside of the firearm's trigger guard, unless the officer would be justified in using deadly force and has made a conscious decision to do so.
- c) If an officer has removed their firearm from the holster, the officer must re-holster the firearm before physically restraining a person.

G. Responsibility of the Controlling Supervisor:

1. The Controlling Supervisor is responsible for controlling and coordinating the foot pursuit.
2. Upon learning of the foot pursuit, the Controlling Supervisor must, as quickly as possible, determine whether the foot pursuit should continue.
3. The Controlling Supervisor retains the authority to terminate the foot pursuit at any point if the supervisor determines that continuing the foot pursuit presents more risk, to officers or the public, than is justified by the reason for the foot pursuit. If the Controlling Supervisor decides to terminate the foot pursuit, the officers involved must immediately comply with that direction and end the foot pursuit.

H. Throughout the course of a pursuit, the coordinating communications center is responsible for:

1. Clearing the radio channel in use of non-emergency traffic;
2. Coordinating the involved officers' communications;
3. Broadcasting pursuit updates;
4. Ensuring that a field supervisor has been notified of the foot pursuit and will serve as the Controlling Supervisor;
5. Coordinating with other involved agencies; and
6. Assigning an incident number and logging all pursuit activities.

5.400 – Termination of a Foot Pursuit

- A. An officer must terminate a foot pursuit if directed to do so by the Controlling Supervisor, at any time.
- B. The Primary Officer and the Controlling Supervisor will continually reassess the circumstances of the foot pursuit as it proceeds. The Primary Officer and Controlling Supervisor must be prepared to terminate the foot pursuit if at any time the risks to public safety or officer safety outweigh the benefit of imminently apprehending the person being pursued.
- C. If the legal justification for the foot pursuit ceases, the foot pursuit may not continue. For example, if a person apprehended elsewhere is identified as the perpetrator of the offense, the person being pursued is no longer a suspect, and the Controlling Supervisor must order that the foot pursuit be terminated.
- D. Some additional factors that officers and supervisors must consider, which will weigh in favor of terminating a foot pursuit, include:
 - 1. If the officer becomes aware of unanticipated circumstances that increase the level of risk involved in the foot pursuit;
 - 2. If the officer is acting alone;
 - 3. If two or more officers are separated and unable to assist each other in the foot pursuit;
 - 4. If the officer loses possession of their firearm, radio, or other essential equipment;
 - 5. If the officer will no longer be physically able to exert control over the individual, if apprehended;
 - 6. If the officer loses the ability to communicate with central communications or the supporting officers;
 - 7. If the suspect is identified or officers learn other information that makes it probable that officers will be able to apprehend the suspect at a later time, and no immediate threat to public safety is present;
 - 8. If the officer is no longer aware of the individual's location;
 - 9. If an officer or third party is injured during the foot pursuit and requires immediate assistance, and no other police or medical personnel is available to give assistance; and
 - 10. If the officer is no longer aware of their location or direction of travel.

- E. Once the foot pursuit is terminated, the Primary Officer must notify central communications, give their location, and request assistance as needed.
- F. The Controlling Supervisor must proceed to the location where the foot pursuit ended to provide support and control the situation as needed.

5.500 – Reporting Requirements for Foot Pursuits

- A. After a foot pursuit has terminated, the Primary Officer must complete the required written records. Supporting officers must supplement the required written record with their own reports as needed.
- B. The Primary Officer must complete a report specific to foot pursuits, which must indicate that a foot pursuit occurred and provide the following details: date and time of the foot pursuit, reason for the foot pursuit, distance and path of the foot pursuit, alleged offenses of the person who was pursued, and results of the foot pursuit. The Primary Officer also must report any injuries and any property damage that occurred as a result of the foot pursuit.
- C. A foot pursuit on its own is not a reportable use of force, but if any uses of force occurred during the foot pursuit, any officer who used force must also complete a use of force report.

PART 3: SUPPORTING MEMORANDUM

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Foot pursuits involve contacts between police and the public that do not necessarily involve the use of physical force. As a result, foot pursuits are not always included in department policies relating to the use of force, and some departments do not have any formal, written policy regarding foot pursuits.¹ However, many departments have begun to recognize that their policies regarding when and how officers pursue suspects on foot can affect the frequency of officers' uses of deadly force and lower levels of force. Policies that dissuade officers from starting or continuing foot pursuits where the officers might be put at a tactical disadvantage or where there is no need for immediate apprehension of the fleeing individual can reduce the number of situations where force becomes necessary.² Foot pursuits should therefore be considered related to a department's use-of-force policies.³

I. RECOMMENDED POLICY

A. Introductory Language

As an introduction to the model policy on foot pursuits, we emphasize that, while not inherently forceful, foot pursuits are nonetheless dangerous.⁴ As a result, officer safety and public safety should be an officer's primary concern when initiating a foot pursuit and throughout the course of the foot pursuit. If an officer doubts that there is sufficient justification for a foot pursuit, the balance should be resolved against the pursuit and in favor of alternative approaches like surveillance and containment.⁵ We recommend including an explicit statement in a written foot pursuit policy that no officer or supervisor will be criticized or disciplined for deciding not to engage in a foot pursuit if the officer or supervisor perceives that the risk of a foot pursuit, to any officer or to the public, outweighs the benefit of apprehension.⁶

Because officers may naturally be focused on the risk of losing sight of an individual who is suspected of criminal activity, we recommend including a discussion of some risks inherent in the decision to pursue an individual on foot, so that officers will be better prepared to balance those risks. For example, the model policy notes that an officer who pursues a suspect on foot may find their judgment compromised during the pursuit, as a result of adrenaline or fatigue.⁷ Officers engaged in a foot pursuit may experience impaired perception that can cause them to misperceive an individual's quick or sudden movements as threats, which can lead to unnecessary force escalations and deadly consequences that could have been avoided.⁸

As a final introductory consideration, we recommend including, for emphasis, a prohibition on the use of excessive force when apprehending an individual after a foot pursuit.

B. Preventing Foot Pursuits

In light of the dangers inherent in foot pursuits, we recommend including a section regarding measures that can prevent the need for a foot pursuit by reducing the likelihood that an individual will flee from police contact.⁹ These measures include maintaining a calm tone and engaging in a dialogue with the individual, and utilizing tactical positioning to restrict the individual's opportunities for flight, as appropriate.¹⁰ Based on an officer's assessment of the situation and the individual's reaction, an officer might find it appropriate to position themselves so that the individual feels at an advantage, for example by sitting. In other situations, the officer

might choose to assert control over the situation, in words or through nonverbal communication.¹¹

C. Authorization and Initiation of a Foot Pursuit

The model policy acknowledges that officers are legally constrained in initiating foot pursuits. An officer may legally initiate a foot pursuit of an individual only when the officer has probable cause to believe the individual has violated a law or ordinance, or when the officer has reasonable suspicion that would be sufficient to justify a *Terry* stop.¹² We also note specifically that an officer is not justified in initiating a foot pursuit on the sole ground that an individual flees from the officer, if the officer does not also have a legally sufficient suspicion of that individual's criminal activity.¹³

We also incorporate into the model policy that, even when an officer has legal justification to initiate a foot pursuit, a foot pursuit is only authorized when the benefit of immediately apprehending a person suspected of committing a crime outweighs the risks to public and officer safety. To help facilitate this determination, we recommend including a specific, non-exhaustive list of practical factors that officers should consider relating to risks of a foot pursuit. The factors that we listed in our model policy are based on the list provided by the International Association of Chiefs of Police (IACP) in its Model Policy for Foot Pursuits.¹⁴ In addition to outlining the major risks of foot pursuits, we follow the IACP's approach in including a list of alternatives to a foot pursuit that officers should consider before initiating a pursuit on foot: aerial support, containment, a canine search, saturation of the area with patrol personnel, or, when enough information is available, apprehending the individual at another time and place.¹⁵ We also emphasize that containment and surveillance are often the safest tactics for apprehension, and that these tactics should be used instead of foot pursuits whenever circumstances allow.¹⁶

In addition to providing factors for consideration, we recommend including specific rules for situations when a foot pursuit will not be appropriate except under the most extraordinary circumstances. One such rule is a prohibition on foot pursuits for certain classes of offenses, including non-arrestable offenses.¹⁷ We concur with the judgment of police departments that certain situations will almost always present too little benefit and too high a risk to justify engaging in foot pursuits.¹⁸

D. Conduct of a Foot Pursuit

We recommend that when deciding to initiate a foot pursuit, an officer should immediately activate their body-worn camera.¹⁹ The initiating officer should ensure that their body-worn camera is activated throughout the entire pursuit.²⁰

Officers should also identify themselves as officers and order the fleeing individual to stop.²¹ The officers should communicate their decision to initiate a pursuit to the department's central communications center, along with their call sign identifiers, their location and direction, the reason for the pursuit, and any information known about the persons being pursued. If the officers are unable to communicate this information effectively at the outset of the pursuit, the pursuit should be terminated.²²

In accordance with the IACP model policy²³ and with many existing department policies, our foot pursuit policy includes detailed provisions regarding the communication systems and channels that should be used throughout a foot pursuit: between the initiating officer, the field supervisor who assumes control over the pursuit, supporting officers who join the pursuit, and the department's central communications system. The details of these communications systems may vary by department, and each department adopting a foot pursuit policy may benefit from adjusting these communication provisions to fit the department's practices and capabilities. However, the underlying principle, that communication is key to executing an effective foot pursuit, should be central to any foot pursuit policy.

Another central element of the foot pursuit policy is the oversight of a supervisor, who has the authority to terminate the foot pursuit at the outset or at any point during the pursuit. If the supervisor decides that the pursuit should be terminated, the pursuing officers must immediately comply with that direction.²⁴

Further, several elements of the foot pursuit policy emphasize that a pursuit should be organized to protect the safety of the officer and avoid a one-on-one encounter with a fleeing individual, to the greatest extent possible. We provide that one officer, acting alone, should not attempt to pursue multiple suspects.²⁵ While the pursuit proceeds, the primary officer should work with assisting officers to establish a perimeter around the individual being pursued.²⁶ The primary officer's goal is not to catch up with the individual, but to stay within sight of the individual until there is an opportunity to safely take the individual into custody.²⁷ If two officers undertake the pursuit together, one officer should be primarily responsible for coordination and communication, while the other officer takes the lead role in maintaining visual contact with the pursued individual.²⁸ The two officers should endeavor to stay together and maintain communication with one another during the pursuit.²⁹

The same principle applies when two officers undertake a pursuit of multiple individuals and the individuals flee in different directions. The officers may be inclined to split up as well and to continue separate pursuits. But the model policy emphasizes it is preferable to successfully contain one of those individuals than for the officers to split and each continue a splintered pursuit alone.³⁰ Coordination is key to a successful foot pursuit, and the model policy adopts the position that it will be more effective for officers to engage in pursuits with support, wherever possible. We emphasize that the role of supporting officers is to assist the primary officer in containing the pursued individual, and that supporting officers therefore should not respond to the location of the primary officer until the primary officer communicates a need for assistance at their location.³¹ By ensuring that adequate support is present when officers encounter a fleeing individual, making successful containment more likely, these policies also promote officer safety.

All officers should proceed with extreme caution when using firearms in the course of a foot pursuit. We adopt the Houston Police Department's recommendation that firearms should be holstered while officers are running in pursuit, in the majority of circumstances.³² Officers who perceive the need to unholster their firearm while running must proceed with extreme caution. Officers running with unholstered firearms must keep their trigger fingers outside of the trigger guard unless they are justified in using deadly force and have made a conscious decision to do so.³³

Special Considerations for Plainclothes and Undercover Officers. We recommend devoting a section of the policy to considerations for plainclothes and undercover officers who become involved in foot pursuits.³⁴ Because these officers are not immediately visibly recognizable as police officers, their involvement creates special risks to them and to the public during a fast-moving pursuit. We therefore recommend requiring, as the Houston Police Department does, that plainclothes and undercover officers involved in a foot pursuit should: (1) as soon as possible, alert a dispatcher that they are in plainclothes and provide a description of their clothing; (2) follow a uniformed officer's commands while engaged in a pursuit; (3) end their participation once a sufficient number of uniformed officers have joined the pursuit; (4) if in plainclothes, attempt to be visible as a police officer by wearing a raid jacket or other identifying outer garment.³⁵

E. Terminating a Foot Pursuit

We reiterate that an officer must terminate a foot pursuit at any time if directed to do so by the pursuit supervisor. We also include a requirement that the pursuing officer and the supervisor consider throughout the foot pursuit how conditions are developing. In considering whether to terminate a foot pursuit, officers and supervisors should consider a list of factors that will counsel in favor of terminating a pursuit unless an immediate threat to public safety or other officers' safety exists.³⁶ Those factors, which are discussed in more detail in our recommended policy, emphasize that terminating a pursuit should be considered as the officer becomes fatigued, as the officer loses tactical advantages, if information about the pursued individual becomes available such that immediate apprehension is either unnecessary or impractical, and as the environment of the pursuit becomes less conducive to an effective pursuit and apprehension.³⁷

Independent of any of these factors, we also reiterate that an officer must terminate a pursuit at any point if the danger of continuing the pursuit outweighs the need to immediately apprehend the suspect. Further, we recommend including a statement that a supervisor is responsible for the decision to terminate a pursuit as soon as it appears that the pursuit is no longer legally or factually justified. For example, the pursuit must be terminated if another suspect has been apprehended elsewhere, so that reasonable suspicion no longer exists as to the pursued individual.³⁸

Upon terminating the pursuit, whether the individual is apprehended or a decision has otherwise been made to end the pursuit, the primary officer should immediately notify the coordinating communications center of their location and what, if any, assistance is needed.³⁹ The supervisor should travel to the location where the pursuit ended to support and control the situation as needed.⁴⁰

F. Reporting Requirements Following a Foot Pursuit

We recommend that the initiating officer be required to document, in writing, the fact that a foot pursuit occurred and the following details: the date and time of the pursuit, the reason for the foot pursuit, the distance and path of the pursuit, the alleged offenses, the names of involved officers and the supervisor, the reason for the pursuit's termination, and the results of the pursuit.

The officer should also report any medical injuries and property damage that occurred as the result of the pursuit.⁴¹

A pursuit is not itself a reportable use of force, but if any officer involved in the pursuit uses force during a pursuit, that officer should also document that use of force in accordance with department policy.⁴²

II. ALTERNATIVE APPROACHES

Over the past decade, many departments across the country have recognized that a policy that teaches officers to consider the risks and benefits of pursuing suspects on foot can reduce the number of pursuits that end in deadly confrontations.⁴³ However, many other police departments have still not adopted policies to govern foot pursuits, even if they have detailed policies for vehicle pursuits.⁴⁴

Departments that have not adopted policies that govern foot pursuits may have opted against such policies based on beliefs that: a formal policy on foot pursuits is unnecessary; foot pursuits are quintessential police work that can be taught in training alone; or adopting a policy would be too restrictive, in an area where officers should have discretion to do what they believe is necessary.⁴⁵ Even if these departments have adopted detailed policies regarding vehicle pursuits, they may not view foot pursuits as posing significant risks.

Foot pursuits and vehicle pursuits do not present the same risks or the same degree of risk, but foot pursuits are nevertheless dangerous to the public and to the officers who undertake them. Not only have foot pursuits ended in police shootings in a number of recent high-profile incidents,⁴⁶ but more than that, a number of studies have shown that between 12% and 48% of officer shootings in a number of U.S. cities had been preceded by foot pursuits.⁴⁷

Foot pursuits present risks to officers and the public alike, and a formal policy on foot pursuits is one way to provide officers with consistent, reliable information to guide their decisions about when a foot pursuit is justified. Our model policy emphasizes that officers' decisions will be guided by the circumstances of the pursuit and the officer's own policing experience. But the policy outlines criteria that officers should consider in undertaking a foot pursuit and, in a limited number of situations, establishes bright-line rules where the danger of a foot pursuit will not be outweighed by the benefit of apprehending a person who flees from police—for example, if the person has committed an offense that is not eligible for arrest.

Some police departments that have implemented foot pursuit policies have chosen to omit bright-line rules and instead leave all decisions to the officer on the ground, but these policies still provide officers with a consistent set of criteria on which to evaluate the potential dangers of a pursuit.⁴⁸ Other departments make clear that their foot pursuit policies are only advisory and that no discipline will follow actions that do not comply with the policy.⁴⁹ A department that is skeptical of the value of a foot pursuit policy might consider taking either—or both—of these approaches. The result would be a foot pursuit policy that lists situational, environmental, and individual factors that officers should consider before deciding to undertake a foot pursuit, but which does not discipline officers who make decisions that are not based on those factors.

A discretion-based advisory policy would still provide some of the benefits of the foot pursuit policy that we have proposed. Much of the danger of a foot pursuit comes from the need to make split-second decisions based on imperfect information, while an officer may be physically fatigued and influenced by adrenaline.⁵⁰ The value of even an advisory policy would be to expose officers to the list of factors they should consider in a potential foot-pursuit situation, long before the officers find themselves in the position to make these decisions.⁵¹ An officer who has previously learned and internalized the risk factors will be better prepared to make informed decisions when they find themselves in the field, deciding whether to pursue a subject on foot. If a department is deciding between an advisory policy on foot pursuits and no policy on foot pursuits, the advisory policy will give officers more consistent guidance that they can use in the field to avoid undertaking dangerous and unnecessary foot pursuits.

Nevertheless, our policy recommends a foot pursuit policy that is non-advisory, and which declares that foot pursuits will be inappropriate in certain situations. We concur with the departments that have drafted more restrictive foot-pursuit policies, recognizing that some situations will present risks that are categorically disproportionate to the benefit of a foot pursuit. In these circumstances, officers should not have to pause to consider whether a foot pursuit might still be justified, and instead, they can act directly on an alternative strategies of coordination and containment.

III. SELECTED RESOURCES CONSULTED

Police Department Policies

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- Baltimore Police Dep't, Policy 1505: Foot Pursuits (2021).
- Dallas Police Dep't, General Order 311.00: Foot Pursuits (2018).
- Detroit Police Dep't, Detroit Police Department Manual, Directive 202.7: Foot Pursuit (2020).
- Denver Police Dep't, Operations Manual, No. 204.00: Police Pursuits (2019).
- Houston Police Dep't, General Order No. 600-11: Foot Pursuits (2020).
- New Orleans Police Dep't, Operations Manual Ch. 41.4: Foot Pursuits (2015).
- Sacramento Police Dep't, General Order 580.13: Foot Pursuits (2018).
- Santa Ana Police Dep't, Policy Manual, Policy 424: Foot Pursuits (2019).

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- Nirej Sekhon, *Blue on Black: An Empirical Assessment of Police Shootings*, 54 Am. Crim. L. Rev. 189 (2017).
- Statement of Ronald L. Davis, Chair, Legislative Committee, Nat'l Organization of Black Law Enforcement Execs., Before the H. Comm. on the Judiciary Hearing on Policing Practices and Law Enforcement Accountability (June 10, 2020), <https://d3i6fh83elv35t.cloudfront.net/static/2020/06/Davis-Testimony.pdf>.
- Patrick Smith, *Chicago's Release of Police Shooting Videos May Change Foot Pursuit Policy*, NPR (Apr. 30, 2021), <https://www.npr.org/2021/04/30/992298572/chicagos-release-of-police-shooting-videos-may-change-foot-pursuit-policy>.
- Molly Sullivan & Anita Chabria, *After Stephon Clark Shooting, Sacramento Police Create New Policy for Chasing Suspects*, Sacramento Bee (Aug. 13, 2018), <https://www.sacbee.com/news/local/crime/article216317495.html>.

PART 4: COMPARISON MEMO SUMMARY

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We have evaluated numerous other model policies, use of force guidelines, and state law mandates and compared them to the Model Policy provisions. The following memo reflects a summary of our opinions about the key differences or similarities between the reviewed policies and the Model Policy. In particular, this Comparison Memo Summary compares our Model Policy provisions concerning Foot Pursuits with other policies.

The national, state, and local policies we compared⁵²—and the comparisons derived from them—provide a general opinion on differences in use of force options. We will continually review and update these comparisons. This Comparison Memo Summary is currently in draft form as a part of the Model Policy Beta Release. Some of the information provided may be subject to change.

SEPARATE POLICY ON FOOT PURSUITS

- Many policies do not have a separate policy on foot pursuits. Examples include Lexipol, Campaign Zero, Minnesota, New York, Texas, and Santa Monica. Santa Monica makes minor mentions of foot pursuits, but do not have a standalone section on foot pursuits.
- The SCRJ Policy dedicates an entire chapter to providing clear standards and guidance regarding when foot pursuits are authorized and how they should be conducted.

STAGE-BY-STAGE GUIDANCE ON FOOT PURSUITS

- Many policies do not have specific protocols for the different stages of a foot pursuit: Prevention, Initiation, Conduct, and Termination. Examples include Lexipol, Campaign Zero, Minnesota, New York, Texas, and Santa Monica.
- The SCRJ Policy:
 - Provides guidance on how officers can prevent the need for a foot pursuit in the first instance. This helps to limit unnecessary foot pursuits and facilitates safe encounters with suspects.
 - Clearly sets forth the threshold requirements for initiating a foot pursuit and identifies risk factors and alternative strategies that must be considered. This provides officers with the necessary tools to decide whether a foot pursuit is authorized and should be conducted.
 - Outlines specific protocols for the pursuing officers, central communications, and the controlling supervisor in connection with the conduct of a foot pursuit. This increases the safety of the officers, the community, and the suspect.
 - Outlines when an officer must terminate a foot pursuit, including when the risk to public safety outweighs the benefit of immediate apprehension, and provides specific factors to consider. The policy also provides instructions to follow immediately upon the termination of the foot pursuit to further ensure public and officer safety.

REPORTING FOOT PURSUITS

- Many policies do not have specific protocols for reporting foot pursuits. Examples include Lexipol, Campaign Zero, Minnesota, New York, Texas, and Santa Monica.
- The SCRJ Policy requires that the initiating officer complete a report specific to foot pursuits and include certain details. It also requires an officer to complete a use of force report if force was used during the foot pursuit. This increases transparency and accountability.

ENDNOTES

¹ See, e.g., Denver Police Dep't, Operations Manual, No. 204.00: Police Pursuits 3 (2019) (defining “[p]ursuit” in the context of the policy as “an active attempt by an officer operating a police vehicle . . . to apprehend the operator of a motor vehicle”); see also *Policies*, Honolulu Police Dep't, <https://www.honoluluupd.org/information/policies/> (showing the existence of a policy for “Vehicle Pursuits,” and no similar entry for a foot pursuit policy); Indianapolis Metro. Police Dep't, General Orders, <https://citybase-cms-prod.s3.amazonaws.com/015f6a6a9ae3493aaa93d3029ee47857.pdf> (including a general order on the subject of “Vehicle Pursuits” and no general order discussing foot pursuits).

² See, e.g., Police Exec. Research Forum, Re-Engineering Training on Police Use of Force 55 (2015) (statement of Oakland Deputy Chief Danielle Outlaw) (noting that a more restrictive policy on undertaking foot pursuits “reduces the incidence of chance encounters, which is where we were seeing a lot of our officer-involved shootings”).

³ See Police Exec. Research Forum, Guiding Principles on Use of Force 16 (2016) (“Many police departments have chosen to go beyond the bare requirements of *Graham*. For example, many police agencies have detailed policies and training on issues such as . . . rules on pursuits . . . that are not mentioned in or required by *Graham*.”).

⁴ See, e.g., Nirej Sekhon, *Blue on Black: An Empirical Assessment of Police Shootings*, 54 Am. Crim. L. Rev. 189, 191, 207 (2017) (more than half of officer-involved shootings in Chicago over the study period occurred during foot chases); Robert J. Kaminski, Jeff Rojek & Mikaela Cooney, *Police Foot Pursuits: Report on Findings From a National Survey on Policies, Practices and Training*, Univ. of S.C. Dept. of Criminology and Crim. Just., 1, 2 (2012) (48% of officer-involved shootings in Philadelphia between 1998 and 2003 “involved foot pursuits”).

⁵ See, e.g., Baltimore Police Dep't, Policy 1505: Foot Pursuits 3 (2021).

⁶ See, e.g., Detroit Police Dep't, Detroit Police Department Manual, Directive 202.7: Foot Pursuit 1 (2020); New Orleans Police Dep't, Operations Manual Ch. 41.4: Foot Pursuits 1 (2015); Sacramento Police Dep't, General Order 580.13: Foot Pursuits 1 (2018); see also Int'l Ass'n of Chiefs of Police, Model Policy: Foot Pursuits 1 (2003).

⁷ New Era of Public Safety: A Guide to Fair, Safe, and Effective Community Policing 127-28 (2019).

⁸ *Id.*; see also Police Exec. Research Forum, Re-Engineering Training, *supra* note 2, at 22-23 (statement of Dallas Assistant Chief Tom Lawrence) (discussing how foot pursuits have ended in shootings that were justified in the moment but which prompted a review of “how we got there”); *id.* at 23 (statement of Dallas Assistant Chief Charles Cato) (explaining that during a foot pursuit, “[p]hysiological changes happen in your body. Your heart rate increases, your respiratory rate increases, you lose your fine motor skills, the fight-or-flight syndrome kicks in, and it can affect your cognitive ability.”).

⁹ See, e.g., Dallas Police Dep't, General Order 311.00: Foot Pursuits 1 (2018).

¹⁰ *Id.*

¹¹ *Id.*

¹² See, e.g., *id.*; New Orleans Police Dep't, *supra* note 6, at 1; see also New Era of Public Safety, *supra* note 7, at 127 (“Many factors may motivate an innocent person to flee . . .”).

¹³ See Dallas Police Dep't, *supra* note 9, at 1 (citing *Illinois v. Wardlow*, 529 U.S. 119 (2000)).

¹⁴ Int'l Ass'n of Chiefs of Police, Model Policy: Foot Pursuits, *supra* note 6, at 1-2 (listing risk factors that officers should consider when initiating or continuing a foot pursuit).

¹⁵ *Id.* at 1.

¹⁶ Santa Ana Police Dep't, Policy Manual, Policy 424: Foot Pursuits 1 (2019).

¹⁷ See Baltimore Police Dep't, *supra* note 118, at 3.

¹⁸ On the utility of rules that “[i]dentify what activities police should and should not be engaging in,” see Statement of Ronald L. Davis, Chair, Legislative Committee, Nat'l Organization of Black Law Enforcement Execs., Before the H. Comm. on the Judiciary Hearing on Policing Practices and Law Enforcement Accountability 10 (June 10, 2020), <https://d3i6fh83elv35t.cloudfront.net/static/2020/06/Davis-Testimony.pdf>. See also *id.* (recommending that this process of identifying appropriate police functions be undertaken in “[c]ollaboration with the community”).

¹⁹ Baltimore Police Dep't, *supra* note 5, at 4; Sacramento Police Dep't, *supra* note 6, at 2.

20 Baltimore Police Dep't, *supra* note 5, at 4.
21 Sacramento Police Dep't, *supra* note 6, at 2.
22 Santa Ana Police Dep't, *supra* note 16, at 3.
23 Int'l Ass'n of Chiefs of Police, Model Policy: Foot Pursuits, *supra* note 6, at 2.
24 *Id.* at 2.
25 Dallas Police Dep't, *supra* note 9, at 2.
26 *Id.*
27 *Id.*
28 *Id.*
29 *Id.*; *see also* Houston Police Dep't, General Order No. 600-11: Foot Pursuits 3 (2020).
30 *See* Baltimore Police Dep't, *supra* note 5, at 5; Dallas Police Dep't, *supra* note 9, at 2.
31 Int'l Ass'n of Chiefs of Police, Model Policy: Foot Pursuits, *supra* note 6, at 2.
32 Houston Police Dep't, *supra* note 29, at 3.
33 *Id.*
34 *See id.* at 4-5.
35 *Id.* at 5.
36 Int'l Ass'n of Chiefs of Police, Model Policy: Foot Pursuits, *supra* note 6, at 2.
37 Int'l Ass'n of Chiefs of Police, Model Policy: Foot Pursuits, *supra* note 6, at 2; New Orleans
Police Dep't, *supra* note 6, at 2-3.
38 Baltimore Police Dep't, *supra* note 5, at 7.
39 Int'l Ass'n of Chiefs of Police, Model Policy: Foot Pursuits, *supra* note 6, at 2.
40 *Id.* at 3.
41 Austin Police Dep't, General Order 215: Foot Pursuits 123-23 (2020).
42 Santa Ana Police Dep't, *supra* note 16, at 4-5; Houston Police Dep't, *supra* note 29, at 5.
43 *See* Police Exec. Research Forum, Re-Engineering Training, *supra* note 2, at 19, 22-23, 55; *see also* Jonathan Hogan, *Recent Incidents Raise Questions About Foot Pursuits*, Idaho Falls Post Register (July 26, 2019), https://www.postregister.com/news/crime_courts/recent-incidents-raise-questions-about-foot-pursuits/article_99a36058-adfb-5223-bba0-28776b20a0a4.html; Molly Sullivan & Anita Chabria, *After Stephon Clark Shooting, Sacramento Police Create New Policy for Chasing Suspects*, Sacramento Bee (Aug. 13, 2018), <https://www.sacbee.com/news/local/crime/article216317495.html>.
44 *See, e.g.*, Megan Cassidy, *Phoenix Police Rethinking Traditional Foot Pursuits*, AZCentral (Oct. 11, 2015), <https://www.azcentral.com/story/news/local/phoenix/2015/10/11/phoenix-police-rethinking-traditional-foot-pursuits/73585196>; *see also* Robert J. Kaminski & Jeff Rojek, *Police Foot-Pursuit Policies, Practices and Training: Findings from a National Survey* (Aug. 10, 2015) (unpublished manuscript), https://www.researchgate.net/publication/280829775_Police_foot-pursuit_policies_practices_and_training_Findings_from_a_national_survey (surveying large law enforcement agencies in the U.S. and concluding that the majority do not have a written foot pursuit policy, despite rising concerns regarding risk and safety).
45 *See id.*; *see also* Police Exec. Research Forum, Re-Engineering Training, *supra* note 2, at 23 (statement of Dallas Assistant Chief Tom Lawrence (“This is something new; I was never trained in foot pursuits. It was just, ‘Run as hard as you can, and whoever is faster will win.’”)); Shannon Bohrer, Edward F. Davis & Thomas J. Garrity Jr., *Establishing a Foot Pursuit Policy: Running into Danger*, 69 FBI L. Enforcement Bull. 10, 10-11 (2000) (observing that many department fail to adopt foot pursuit policies because pursuit is “a basic function of law enforcement” and officers fail to recognize the risk).
46 *See* Hogan, *supra* note 43; Sullivan & Chabria, *supra* note 43; *see also* Patrick Smith, *Chicago’s Release of Police Shooting Videos May Change Foot Pursuit Policy*, NPR (Apr. 30, 2021), <https://www.npr.org/2021/04/30/992298572/chicagos-release-of-police-shooting-videos-may-change-foot-pursuit-policy> (detailing two high-profile, pursuit-related police shootings that led to the enactment of Chicago’s first foot pursuit policy).
47 *See* Robert J. Kaminski & Jeff Rojek, *Police Foot-Pursuit Policies, Practices and Training: Findings from a National Survey 3* (Aug. 10, 2015) (unpublished manuscript), https://www.researchgate.net/publication/280829775_Police_foot-pursuit_policies_practices_and_training_Findings_from_a_national_survey.
48 *See generally, e.g.*, Austin Police Dep't, *supra* note 41; Sacramento Police Dep't, *supra* note 22.
49 *See, e.g.*, Dallas Police Dep't, *supra* note 9, at 3.
50 *See* Police Exec. Research Forum, Re-Engineering Training, *supra* note 2, at 23 (statement of Dallas Assistant Chief Charles Cato) (discussing the “[p]hysiological changes” that occur during a pursuit).

⁵¹ See *id.* (statement of Dallas Assistant Chief Charles Cato) (explaining that “[i]n a stimulus-response situation” like a foot pursuit, “we want you to do the thinking *before* you get to that point”).

⁵² Selected policies include:

- Lexipol National Use of Force Policy
- International Association of Chiefs of Police National Consensus Policy on Use of Force
- Campaign Zero Model Use of Force Policy
- Minnesota Use of Force and Deadly Force Model Policy
- New York Use of Force Model Policy
- Texas Police Chiefs Association Use of Force Model Policy
- New Jersey Office of the Attorney General Use of Force Policy
- Santa Monica Use of Force Policy
- Police Executive Research Forum Guiding Principles on Use of Force
- NYU Policing Project Police Use of Force Policy Guidelines