

**ADMINISTRATIVE INVESTIGATION OF OFFICER-INVOLVED SHOOTING**

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<b>SUSPECT:</b>	LUU, Huynh, Thai
<b>INVOLVED OFFICER:</b>	Vince BROWN, #1140
<b>DATE / TIME OF SHOOTING:</b>	10-9-2002 / 2235 Hours
<b>LOCATION OF SHOOTING:</b>	7000 University Avenue, La Mesa
<b>OFFICER-INVOLVED SHOOTING TEAM:</b>	Detective Smith, #1153 Detective Falcione, #1138

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**CONFIDENTIAL**

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**SYNOPSIS:**

Suspect Huynh Thai LUU fired a 12-gauge shotgun in an unknown direction in the vicinity of a police K-9 training exercise being held in the City of San Diego. Two National City K-9 officers gave chase as LUU returned to his vehicle. LUU failed to yield to police and engaged the officers in a high-speed vehicle pursuit through the City of San Diego, into the City of La Mesa.

Master Officer Brown, the acting field supervisor, was driving the patrol sergeants' vehicle, a marked black and white police car, Unit # 25. He was driving W/B on University Avenue from the area of Parks Avenue when he heard that San Diego police officers were involved in a vehicle pursuit in the area of College Avenue and University Avenue. He heard on the SDPD radio frequency that the pursuit was E/B on University Avenue, approaching the City of La Mesa. M.O. Brown also heard that there were National City Police units involved in the pursuit and that shots had been fired in San Diego, earlier in the pursuit. He was not sure who had fired the shots. M.O. Brown stopped on the northeast corner of the intersection of University Avenue and 70<sup>th</sup> Street in the W/B # 2 lane, just east of the intersection. He had his normal nighttime lighting equipment on. He did not have any emergency lights activated because he was not involved in the pursuit; he was simply stopped at the red light waiting for the approaching pursuit in order to determine if the pursuing units would need any assistance.

As LUU entered the City of La Mesa, he intentionally drove into the driver's side door of M.O. BROWN's marked La Mesa Police car, which was not involved in the pursuit, totaling the police car. LUU then leaned out the driver's window of his vehicle and fired his shotgun at all of the police officers present after the collision. M.O. BROWN, along with other officers, returned fire. LUU was killed in the ensuing gunfight with police. Please see Detective Smith's criminal investigation report for further details of the incident.

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**WEAPONS:**

**Huynh Thai LUU(suspect):** LUU was armed with a Mossberg, Model 500A, twelve-gauge, pump-action shotgun, Serial #P807909. The shotgun was all black, with an 18-inch barrel, and a plastic pistol grip.

Dick's Sporting Goods in Saratoga Springs, New York originally sold this shotgun to \_\_\_\_\_ Greenwich, New York. \_\_\_\_\_ is reported to be a deceased drug user by New York law enforcement sources. It is unknown how LUU came to possess this shotgun. Please see Detective Smith's report for further details on the origination of the shotgun.

LUU fired a total of four shotgun rounds at police. The ballistic evidence suggests that the rounds were a mix of Winchester slugs and target-shot. There was one more live shotgun round in the chamber of LUU's shotgun. LUU's shooting background was a mix of open and closed retail businesses, occupied single and multi-family residences, and vehicles driving through a major intersection within the City of La Mesa.

In addition to the shotgun that LUU fired at police, there was also a black leather jacket on the passenger floorboard of LUU's car. The jacket pockets contained a black Gamo, Model P-23, air pistol and a Buck folding-knife. This Gamo pistol is a replica of a Sig-Sauer, 9mm handgun. The Gamo air gun is a gas-operated, semi-automatic, hand-held air gun, capable of firing bb's or pellets. The gun was fully charged, loaded, and ready to fire. Although these items were readily available on the floorboards, LUU did not exhibit them during the vehicle pursuit or the subsequent exchange of gunfire. Also found inside LUU's car were a black ski mask, with eye-holes crudely cut out, and extra bb's and gas cartridges for the Gamo air gun.

**Master Officer BROWN (victim):** M.O. BROWN was utilizing his Department issued handgun, a .40 caliber Glock, Model 22, Serial # CCS941US. He was not carrying a back-up weapon. He used the standard LMPD issued ammunition (Federal Classic 180 grain "Hi-Shok" jacketed hollow points). He fired a total of 16 rounds from his duty firearm at LUU. All of M.O. BROWN's rounds appeared to be in the direction of the suspect and the suspect's vehicle. A number of rounds passed through the suspect's body, but it is not possible to determine how many of M.O. BROWN's bullets hit the suspect. There was a clear pattern of rounds that were fired into the suspect vehicle's hood and windshield that came from M.O. BROWN's position. We did not locate any other damage that appeared to be caused by M.O. BROWN's gunfire.

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**INJURIES:**

**Huynh Thai LUU (suspect):**

LUU sustained a total of 25 gunshot wounds. Cause of death is listed as "Multiple Gunshot Wounds". Because there were several wounds in which the bullets passed completely through LUU's body, a total of only 11 bullets were recovered from his body, and two from his clothing, during the autopsy. One of the .45 caliber bullets entered LUU's chin at a downward trajectory, exited his neck, entered his upper chest, traveled through his heart from top to bottom, and then lodged in his spine. It appeared that LUU must have been leaning forward or falling forward, to the point where he was approximately parallel with the ground, at the time he received this wound. LUU appeared to have received the wounds to his back as he twisted from side to side while he was shooting at the various officers at the scene. This is consistent with witness statements, shooting trajectories and shooting positions, and the fact that none of the officers were ever behind LUU. Please see the Autopsy Report contained in Detective Smith's investigation for further details.

**LMPD Master Officer BROWN #1140 (victim):**

M.O. BROWN sustained a cut lip, a cracked tooth, bruising and pain to his right shoulder, hip, lower back, left knee, and left leg as a result of LUU intentionally driving into his driver's door.

**RELATED DEPARTMENT POLICIES:**

- |                               |                  |
|-------------------------------|------------------|
| 1) Department Instruction 413 | Use of Force     |
| 2) Department Instruction 607 | Pursuit Policy   |
| 3) Rules and Regulations 3.32 | Use of Seatbelts |
| 4) Rules and Regulations 4.12 | Use of Force     |
| 5) Rules and Regulations 4.18 | Shooting Policy  |

**OFFICER ADHERENCE TO DEPARTMENT POLICY:**

**DI 413 – Use of Force:** Reads in part: "It is the policy of this Department that officers shall use only the amount of force which reasonably appears necessary, given the facts and circumstances perceived by the officer at the time of the event, to effectively bring an incident under control." This entire policy section is attached for review.

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### DI 413 continued:

**Adherence:** M.O. Brown was trapped in his car, with the driver's door pinned shut, after LUU intentionally struck his vehicle. M.O. BROWN heard the "ting, ting, ting" of bullets striking metal and thought that his car was "taking rounds". His car did sustain one bullet hole. Because of the gunfire, and the fact that he was trapped inside his car, M.O. BROWN felt that he and the other officers were in mortal danger. He unholstered his duty sidearm, pointed it out the driver's window over his left shoulder, and looked outside. He saw LUU pointing a gun at him. He immediately returned fire, shooting an entire magazine (15 +1 in the chamber, for a total of 16 rounds) at the suspect. He reloaded another magazine, as the suspect turned to the left (east) to face another officer. As he brought his weapon to bear on the suspect, after the reload, the suspect began to fall down. After the suspect fell from sight, M.O. Brown stopped firing because he no longer had any target acquisition. All of M.O. BROWN's rounds, that could be located, appeared to strike the suspect vehicle, in the immediate area of the suspect.

**DI 607 - Pursuit Policy: Reads in part:** "Upon notification of a pursuit in progress, the field supervisor and/or Watch Commander assumes the responsibility to monitor and take appropriate action for pursuit control." "Units shall not join in an active pursuit unless specifically requested and then only with the approval of a supervisor or as authorized by Communications." "The supervisor or designee shall, as necessary, contact pursuing officers at the location of the pursuit termination to provide on-scene supervision, coordination, and evaluation." "Shooting at or from a moving vehicle is prohibited, except when immediately necessary to protect persons from death or serious bodily injury." This entire policy section is attached for review.

**Adherence:** M.O. BROWN monitored the allied agency pursuit on his radio, drove to the appropriate border area of La Mesa, and stood by in case his assistance was needed. He never entered into the vehicle pursuit. These actions are in accordance with this policy and the past practice of this Agency. All of the vehicles were stopped when the shooting took place. After the shooting stopped, M.O. BROWN took command of the scene and gave orders regarding scene containment and control. This was appropriate since the shooting took place with the jurisdictional boundaries of the City of La Mesa.

**R&R 3.32 – Use of Seatbelts: Reads in part:** "Members of the Department, while operating or riding in police vehicles which are equipped with safety belts or other safety devices, shall secure the belt on their persons."

**Adherence:** M.O. BROWN had stopped his vehicle prior to taking off his seatbelt. He was anticipating the possibility of a foot pursuit and taking appropriate action to prepare for that possibility. The fact that he was not wearing his seatbelt when LUU struck his vehicle most likely prevented him from sustaining more serious injuries.

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**R&R 4.18 – Shooting Policy: Reads in part:** “The use of firearms shall be considered as a use of deadly force and shall be guided by the Department Policy on the Use of Force.”

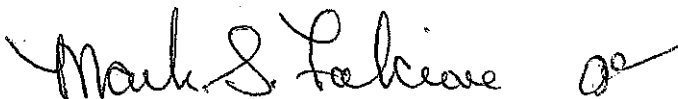
**Adherence:** Please see DI 413 listed above, and R&R 4.12 listed below.

**R&R 4.12 – Use of Force: Reads in part:** “It is the policy of this Department that officers shall use only the amount of force which reasonably appears necessary, given the facts and circumstances perceived by the officer at the time of the event, to effectively bring an incident under control.”

**Adherence:** M.O. BROWN was returning hostile gunfire. The use of this amount of force was obviously necessary to bring this situation under control because the suspect continued firing and still had ammunition left in his weapon.

**RECOMMENDATIONS:**

All of the facts, evidence, and statements by all of the persons involved in this incident indicate that Master Officer Brown acted within the guidelines of Department policies and instructions during this entire event. He employed the appropriate force in response to an immediate threat to his life, the lives of the other police officers and civilians present at the scene. He quickly recovered from the suspect’s unprovoked attack against him and took charge of the duties and responsibilities that the incident scene demanded.



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**Detective Falcione #1138**

**April 16, 2003**

# La Mesa Police Department

## USE OF FORCE

Date: 6/1/96 (Revised 2/97)

No: 413

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### I. PURPOSE

This policy recognizes that the use of force by law enforcement officers requires constant evaluation. Even at its lowest level, the use of force is a serious responsibility. The purpose of this policy is to provide officers of this department with guidelines for the use of force.

### II. PHILOSOPHY

The use of force by law enforcement personnel is a matter of critical concern both to the public and the law enforcement community. Officers are involved on a daily basis in numerous and varied human encounters and, when warranted, may use force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, the limitations on their authority -- particularly with respect to overcoming resistance from those with whom they come in official contact.

This department recognizes and respects the value of all human life and the dignity of the individual without prejudice to anyone. It is also understood that vesting officers with the authority to use force and protect the public welfare requires a careful balancing of all human interests.

### III. POLICY

It is the policy of this department that officers shall use only the amount of force which reasonably appears necessary, given the facts and circumstances perceived by the officer at the time of the event, to effectively bring an incident under control. "Reasonableness" of the force used must be judged from the perspective of a reasonable officer on the scene at the time of the incident. Facts unknown to an officer, no matter how compelling, cannot be considered in later determining whether the use of force was justified.

California Penal Code § 835 (a) provides that:

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

Given that no policy can realistically predict every possible situation an officer might encounter in the field, it is recognized that each officer must be entrusted with well-reasoned discretion in determining the appropriate use of force in each incident. While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this policy requires an officer to actually sustain physical injury before applying reasonable force.

As noted, any application of force by a member of this department must be judged by a standard of "reasonableness". When determining whether or not to apply any level of force, a number of factors should be taken into consideration. Those factors should include, but are not limited to:

- \* The conduct of the individual being confronted (as reasonably perceived by the officer at the

- time)
- \* Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion, number of officers vs. subjects)
- \* Influence of drugs/alcohol (mental capacity)
- \* Proximity of weapons
- \* Availability of other options (What resources are reasonably available to the officer under the circumstances)
- \* Seriousness of the suspected offense or reason for contact with the individual
- \* Training and experience of the officer
- \* Potential for injury to citizens, officers and suspects
- \* Risk of escape

It is recognized that officers are expected to make split-second decisions, and that the amount of time available to evaluate and respond to changing circumstances may impact an officer's decision.

While various levels of force exist, each officer is expected to respond with only that level of force which reasonably appears appropriate under the circumstances at the time to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

#### IV. USE OF DEADLY FORCE

It is the policy of the La Mesa Police Department that officers shall use deadly force only as a last resort when it reasonably appears necessary:

1. To protect themselves from death or serious bodily injury.
2. To protect another officer or any other person from death or serious bodily injury.
3. To prevent the escape of a fleeing subject if there is probable cause to believe: 1) the subject has committed a felony involving the infliction or threatened infliction of serious physical injury or death, and 2) the subject's escape would pose an imminent danger of death or serious physical injury to the officers or other persons. 3) If feasible, and if to do so would not increase the danger to the officer or others, a verbal warning to submit to the authority of the officer shall be given prior to the use of deadly force.

#### V. REPORTING OF THE USE OF FORCE

Any actual use of physical force by a member of this department to overcome resistance, that is likely to cause or does cause injury, shall be documented by that member in an appropriate report depending on the nature of the incident. (e.g. arrest report, crime report, incident report, report supplement). The documentation shall include the circumstances (subject's aggressive/resistive actions) that led to the need for force, a detailed description of the force used, and the outcome of the use of force (e.g. compliance, subject subdued, injury(s) resulting from the use of force to both officer(s) and subject). The reporting threshold is set where the officer uses actual physical force to overcome resistance. If compliance is achieved through the threat of force, no documentation is required.

The use of particular weapons such as chemical agents, may also require the completion of additional forms as required by department policy and/or law.

Supervisory notification shall be made as soon as practical following the application of physical force which caused visible physical injury or a complaint of pain. The supervisor shall ensure that photographs are taken of the subject and any injury to demonstrate the extent and limit of injury.

Medical assistance shall be obtained immediately for subjects who have sustained life threatening injury. Medical assistance may be obtained for subjects with other injuries upon evaluation by a supervisor.

Supervisory personnel shall complete a 'Use of Force' statistical form at the time of the use of force incident or when approving the report. These forms will be turned in to the Watch Commander separate from the approved report.

VI. SUMMARY

The decision to use force rests with each officer. While there is no way to specify the exact amount or type of force to be applied in any situation, each officer is expected to use these guidelines to make such decision in a professional, impartial, reasonable, and safe manner.

CHIEF WALTER W. MITCHELL \_\_\_\_\_ DATE: \_\_\_\_\_



LA MESA POLICE DEPARTMENT INSTRUCTION

**PATROL: PURSUIT POLICY**

Date: July 15, 1988 (Revised 11/93, 06/94, 1/95 & 10/97)

No: 607

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I. POLICY STATEMENT

The purpose of this policy is to provide police officers specific guidelines for conducting vehicular pursuits with the highest consideration for public safety and in keeping with Section 17004.7(c) of the California Vehicle Code.

II. BACKGROUND

- A. A police vehicle pursuit exposes the public, officers, and fleeing violators to the potential risk of death, serious injury, or damage to personal property. Officers may be subject to administrative action for negligent emergency vehicle operation and the City may be found liable in civil actions. If the emergency vehicle operation rises to the level of criminal negligence, an officer may be subject to criminal prosecution.
- B. When engaged in a pursuit, officers should weigh the seriousness of the violator's suspected crime against the potential for death or injury if the chase is continued. Frequently, discontinuance of a pursuit in the interest of public safety is most appropriate.
- C. Officers should not assume that all persons who flee from the police and refuse to yield are serious criminal suspects. Experience has shown that many pursuits involve non-violent crimes or traffic violations.
- D. In the heat of a chase, the violator frequently refuses to give up and the officer feels an obligation to succeed in the pursuit. This psychological phenomenon can cloud one's judgment and may cause the officer to continue the chase beyond the point where common sense and good judgment would require the pursuit to be discontinued.

III. DEFINITION

A pursuit is an event involving one or more law enforcement officers, who are operating an authorized emergency vehicle, attempting to apprehend a suspect operating a motor vehicle, while the suspect is trying to avoid arrest by using evasive tactics, such as high speed driving, driving off a highway, turning suddenly, or driving in a legal manner but willfully failing to yield to the officer's signal to stop.

#### IV. LEGAL REQUIREMENTS

- A. A public entity is liable for death, injury, or damage proximately caused by negligent or wrongful act or omission in operation of a motor vehicle by an employee acting within the scope of employment. (17001 CVC)
- B. A public entity is liable for death or injury to person or property to the same extent as a private person. (17002 CVC)
- C. A public employee is not liable for civil damages resulting from the operation, in the line of duty, of an authorized emergency vehicle while responding to an emergency call or when in the immediate pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm or other emergency call. (17004 CVC)
- D. A public agency is immune from liability from injury, death, or damage caused by the collision of a vehicle being operated by an actual or suspected law violator being pursued by peace officer(s) employed by a public entity if the agency adopts a written policy on vehicle pursuits that meets listed minimum standards. (17004.7(c) CVC)
- E. The driver of an authorized emergency vehicle is exempt from the "rules of the road" provided that the red light and siren (defined as "yelp" or "wail" only) of the vehicle are activated. (21055 CVC)
- F. The "rules of the road" exemption does not relieve the driver from the duty to drive with due regard for the safety of all persons using the highway, nor does it protect him/her from the consequences of an arbitrary exercise of the privileges granted in that section. (21056 CVC)
- G. It is unlawful to drive on the wrong side of a divided roadway, including freeways (against oncoming traffic). Any willful violation of this section, which results in injury to or death of a person shall be punished by imprisonment in the state prison (21651(b) and 21651(c). Emergency vehicle operators may not be immune from prosecution if involved in a wrong-way collision that results in injury or death. (21651(b) and 21651(c) CVC.) Notwithstanding CVC 21651(b) emergency vehicle operators are immune from civil liability if involved in a wrong-way collision if the operator observes compliance with this policy.
- H. Upon the approach of an authorized emergency vehicle that is sounding a siren and has at least one lighted lamp exhibiting red light, the surrounding traffic shall yield to the emergency vehicle. (21806 CVC)

I. The provisions of section 21806 shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with DUE REGARD FOR SAFETY of all persons and property. The officer should not assume that the right-of-way will be yielded. (21807 CVC)

V. PROCEDURES

When balancing the interests of public safety with effective law enforcement, each officer and supervisor involved in a pursuit should carefully and continuously consider the following factors in determining whether or not to initiate, limit, discontinue, or otherwise control the pursuit.

A. INITIATING A PURSUIT

1. Seriousness of the offense and its relationship to community safety.
2. Safety of the public and the pursuing officer.
3. Traffic conditions (pedestrian and vehicles).
4. Weather conditions.
5. Roadway conditions (road design, construction, surfaces, and visibility).
6. Location / familiarity of pursuing officers with the area of the pursuit.
7. Speed.
8. Time of day.
9. Capabilities and condition of vehicles involved.
10. Quality of radio communications (Communications Center).
11. Juvenile occupant(s) of vehicle pursued.
12. Capabilities / conditions of involved personnel.

B. CONTINUATION OF A PURSUIT

A pursuit requires constant evaluation. Each officer and supervisor involved in a pursuit should carefully and continuously consider the initiating factors in determining continuance of the pursuit.

C. DISCONTINUANCE OF A PURSUIT

1. Absolutes for discontinuing a pursuit
  - a. Approaching the International Border.
  - b. Directed to do so by a supervisor.
  - c. The danger posed by continued pursuit, to the officer, the suspect, or the community, is greater than the value of apprehending the suspect(s).
2. Factors to consider in determining a pursuit should be discontinued are the same factors used in pursuit initiation, plus:
  - a. Wrong side of divided highway against oncoming traffic (generally prohibited);
  - b. Proximity to the pursued vehicle / location of the pursued vehicle is no longer known;
  - c. Identification of suspects; able to apprehend at a later time.

VI. PURSUING OFFICER'S RESPONSIBILITIES

Each officer has the responsibility for safely pursuing the suspect and discontinuing the pursuit when the conditions do not support pursuit driving. Generally, pursuits should be limited to two (2) pursuit units and one (1) supervisor. Each pursuing officer shall activate the red light and siren continuously when involved in a pursuit.

A. PRIMARY PURSUIT UNIT

1. Definition
  - a. The Primary Pursuit Unit is generally the vehicle closest to the suspect vehicle.
  - b. The Primary Pursuit Unit should remain so until that status is relinquished to another unit either by the Primary Pursuit Unit or as directed by a supervisor.
2. Responsibilities
  - a. Upon initiating a pursuit, the Primary Pursuit Unit shall immediately notify the dispatcher that a pursuit is in progress, giving:
    - (1) Location;

- (2) Direction and speed of travel;
  - (3) Reason for the pursuit;
  - (4) Description and license plate number of the suspect vehicle;
  - (5) Number of occupants;
  - (6) Identity of occupants;
  - (7) Any other factors necessary to ensure safe and effective pursuit tactics.
- b. During a pursuit, the Primary Pursuit Unit shall continually provide Dispatch with all the changes to the above, and any other pertinent information until the Secondary Unit takes over "calling the pursuit."

B. SECONDARY UNIT

1. Definition

- a. The Secondary Unit is the unit responsible for backup and immediate cover for the Primary Pursuit Unit.

2. Responsibilities

- a. The Secondary Unit, if not assigned, shall notify Communications immediately.
- b. The Secondary Unit shall be prepared to take over primary responsibility for the pursuit if the Primary Pursuit Unit becomes disabled or if requested to do so by the Primary Pursuit Unit.
- c. The Secondary Unit involved in a pursuit, under most circumstances, should take over "calling the pursuit."
- d. Provide all changes to information about the pursuit, and any additional information available.

C. ASSISTING UNIT(S)

1. Assisting units require the approval of the pursuit supervisor.
2. All units that enter the pursuit shall notify Communications immediately.

VII. ADDITIONAL UNITS

A. Officers in all other units shall:

1. Remain alert to the pursuit progress and location;
2. Stay out of the pursuit, unless specifically requested to join by the Primary Pursuit Unit or supervisor;
3. Minimize radio transmissions on the frequency being used for the pursuit;
4. Move to an alternate channel / frequency as directed.

VIII. SUPERVISORY RESPONSIBILITIES

Upon notification of a pursuit in progress, the field supervisor and/or Watch Commander assumes the responsibility to monitor and take appropriate action for pursuit control.

- A. All sworn supervisors and the Watch Commander have the authority to order a pursuit discontinued when, in their judgment, the potential safety risks outweigh the need for apprehension.
- B. The supervisor shall ensure that no more units than necessary are involved. The Primary Pursuit Unit and the Secondary Unit are generally sufficient for the actual pursuit. Assisting Units may be added for safety and security, with the supervisor's approval.
- C. The supervisor shall consider the following in deciding to add units:
  1. the type of vehicle being pursued;
  2. the seriousness of the offense; and
  3. the danger that the occupants of the vehicle being pursued pose to others.
- D. When more than two units are permitted to participate in a pursuit, the supervisor shall as soon as reasonably possible, direct the additional units to discontinue the pursuit.
- E. The supervisor shall make continual assessment during the progress of a pursuit. Factors to be considered include weather, vehicle and pedestrian traffic levels, roadway and environmental conditions, juveniles occupy the suspect vehicle, the suspect has been identified to the point that later apprehension can be accomplished, and pursuit speed considerations.
- F. The supervisor shall ensure that affected allied agencies are notified of the pursuit and specific assistance requested, including canine and air support.

- G. The supervisor or designee shall, as necessary, contact pursuing officers at the location of the pursuit termination to provide on-scene supervision, coordination, and evaluation.
- H. The supervisor shall ensure vehicle pursuits are reported to the California Highway Patrol on an approved form (CHP 187), as mandated by Section 14602.1 of the California Vehicle Code. Each pursuit shall be evaluated for compliance with all codes and policies and appropriate action initiated.

IX. COMMUNICATIONS CENTER RESPONSIBILITIES

- A. Upon being notified that a pursuit is in progress, Dispatch shall:
  - 1. Ensure that a Supervisor is assigned to the pursuit;
  - 2. Notify appropriate law enforcement agencies of the pursuit, specify if assistance is needed, and specific support requested;
- B. During the pursuit, Dispatch shall:
  - 1. Monitor all radio traffic concerning the pursuit;
  - 2. Move all other radio traffic to an alternative channel / frequency, if necessary;
  - 3. If a Canine Unit is involved in the pursuit, the radio dispatcher shall broadcast that information for officer safety purposes.

X. MOTORCYCLE UNITS

- A. Relinquish the primary position to the first marked four wheel vehicle.
- B. Disengage the secondary position when the second marked four wheel vehicle joins the pursuit.

XI. UNMARKED UNITS

- A. Unmarked units, without emergency equipment, shall not join in a pursuit.
- B. Officers in unmarked vehicles may become involved in emergency activities involving serious crimes or life endangering situations. In those instances, it may be necessary to follow a suspect vehicle while summoning assistance from a marked vehicle with emergency equipment.
- C. When officers in an unmarked vehicle become aware that a marked unit has arrived, the unmarked unit will disengage.

XII. AIRCRAFT ASSISTANCE

- A. Units involved in pursuits should request air support assistance.
- B. Aircraft can provide valuable information to ground units concerning upcoming traffic congestion, hazards, or other factors which might endanger the safety of the officer(s) or the public.
- C. Once the pursued vehicle is overtaken by a law enforcement aircraft, the aircraft becomes an assisting unit responsible for broadcasting on-going radio updates on the route of travel.
- D. Once the aircraft is in position, the supervisor, in the interest of safety, shall evaluate the tactical involvement of ground units in the pursuit.

XIII. PURSUITS APPROACHING THE INTERNATIONAL BORDER

- A. Under no circumstances will pursuing units cross the International Border.
  - 1. Discontinue the pursuit a minimum of one mile prior to the International Border.
  - 2. Pursuit units should not approach within five hundred (500) feet of the International Border gates.
- B. In order to give warning to Mexican authorities and to provide them an increased degree of safety, the Border Patrol will be advised by Dispatch. The Border Patrol will, in turn, advise the Mexican authorities.

XIV. USE OF FIREARMS

Shooting at or from a moving vehicle is prohibited, except when immediately necessary to protect persons from death or serious bodily injury.

XV. FORCIBLE STOPS (LEGAL INTERVENTION)

- A. A forcible stop is one in which a vehicle or other object is used to physically stop or otherwise alter the course of another vehicle's movement. These tactics include ramming of vehicles, box-ins, channelization, barricades, or placing of objects in the path of the vehicle, and must be considered a force likely to result in death or great bodily harm.
- B. These tactics shall only be used when the suspect's actions constitute an immediate and life threatening danger to the public, and generally only in felony cases.



- C. If barricading is deemed absolutely necessary, a supervisor may approve the use of police vehicles if no other suitable equipment is available. In no case will roadways be barricaded by occupied vehicles.

XVI. INTER-AGENCY PURSUITS

The guidelines formulated for inter-agency pursuits are designed to provide for the safe coordination of pursuits involving more than one agency. Agencies requested to assist, or receive the transfer of, a pursuit from another agency will continue to balance the interests of public safety in determining whether or not to provide the requested assistance or receive the transfer.

A. Notification

1. When a pursuit is approaching or entering another jurisdiction, the agency with primary responsibility for the pursuit shall notify the appropriate agency for that jurisdiction.
2. Communications will notify the respective agency/ jurisdiction of the pursuit in the following manner.
  - a. "This is [AGENCY]. This is a pursuit notification."
    - (1) Notification will not be construed as a request for assistance.
  - b. "This is [AGENCY]. This is a pursuit standby."
    - (1) This is a message requesting that an agency monitor the pursuit, move into appropriate position, and be prepared to assist if requested.
  - c. "This is [AGENCY]. This is a pursuit message requesting assistance."
    - (1) Specify assistance requested
      - (a) Assisting Unit(s)
      - (b) Air Support
      - (c) Other specialized units
  - d. "This is [AGENCY]. This is a pursuit message requesting transfer of a pursuit."

3. When the initial call is made, communications will transmit to that agency the following information:
  - a. Direction of travel, location, and speed;
  - b. Vehicle and suspect description;
  - c. Officer safety considerations;
  - d. Type of crime;
  - e. Number of occupants;
  - f. Number of units involved;
  - g. Unit designator of Supervisor involved;
  - h. Radio frequency(s) being used;
  - i. Air support being used / or requested;
  - j. Unit designator of officer(s) involved.
4. The Primary Pursuit Unit, or Pursuit Supervisor, should specify if assistance is needed and the type of assistance requested.
5. The allied agency(s) will assist the initiating agency only by specific request and will provide only the specific services requested.
6. On all requests for assistance or transfer, the agency receiving the request shall identify the supervisor accepting or declining the request.

B. Communications

1. Communication operators should clarify any requests for assistance with the requesting agency and obtain pertinent information as previously listed.
2. Communications shall notify a sworn supervisor of the request and receive direction for the degree of involvement provided to the requesting agency.
3. In addition to a formal request by an allied agency, officers may be summoned by hand/arm gestures and/or verbal requests.

If officers respond to these types of requests, the officer shall immediately notify Communications and the supervisor.

4. During pursuits involving allied agencies, communication centers shall provide coordination between pursuing units and allied agencies including:
  - a. Continuously monitor progress of the pursuit, transmitting pertinent information and updates;
  - b. Coordinate radio communication on the appropriate mutual aid frequency;
  - c. Relay information via telephone if radio communications from car to car fail.

C. Procedures

1. Units shall not join in an active pursuit unless specifically requested and then only with the approval of a supervisor or as authorized by Communications.
2. Once a pursuit has been initiated, the initiating agency will generally retain jurisdiction and control of the pursuit, even when the pursuit enters another jurisdiction.
3. When entering another law enforcement jurisdiction (including military installation), the pursuit shall be discontinued immediately when a supervisor of that agency recognizes a condition that constitutes an immediate and life threatening danger to the officers or public and recommends discontinuance.
4. The California Highway Patrol (CHP), may respond to a specific request for assistance on pursuits conducted on the freeway system. Once in place, the CHP will assume control of the pursuit until they relinquish it. When CHP has control of the pursuit, all other units not needed will discontinue their involvement.
5. When entering another agency's jurisdiction, the Primary Pursuit Unit or the pursuit supervisor should determine if the allied agency should be requested to assume the pursuit.
6. An allied agency which accepts responsibility for the pursuit, may elect to proceed with or discontinue the pursuit.
7. The officer with initial probable cause and/or that officer's supervisor should trail the pursuit at a reduced speed.

D. Transfer

1. There is no legal requirement for an agency to assume a pursuit. A supervisor may determine it is in the best interest of public safety and / or the agency to refuse acceptance. Once responsibility is assumed, the pursuit may be discontinued by the assuming agency at any time.

2. The supervisor of the assuming agency should notify the initiating agency in the most expedient fashion that control has been assumed.
3. Responsibility for a pursuit transfers when:
  - a. the pursuing agency requests the transfer, and
  - b. a supervisor of the assuming agency agrees to accept the pursuit, and
  - c. a unit of the assuming agency becomes the Primary Pursuit Unit.
4. An agency accepting transfer and assuming the Primary Pursuit Unit position, should have sufficient resources to control the pursuit.

E. End of Pursuit

1. Responsibilities of the stopping agency:
  - a. Notify all involved agencies that the pursuit has ended, its location, and supervisor to contact.
  - b. Provide a supervisor at the location(s) where the pursuit ends for coordination with other agencies.
2. Responsibilities of Other Involved Agencies
  - a. The agency of the officer who initiated the pursuit shall ensure that the officer with probable cause (or that officer's supervisor) contacts the stopping agency's supervisor to provide assistance.
  - b. All agencies with information, witnesses, or criminal charges related to the pursuit shall contact the stopping agency.
  - c. All agencies involved in the pursuit shall provide supplementary reports as requested by the stopping agency (or booking agency, if different).
3. Prisoner Processing
  - a. In the absence of any other agreement, the suspect(s) from the pursuit shall be turned over to the custody of the agency which has the most significant charges.
  - b. Absent more significant charges by another agency, custody and booking of the suspect(s) shall be the responsibility of the agency initiating the pursuit.

c. The agency assuming custody shall be responsible for processing, booking, and all related reports.

4. Traffic Collision Investigation

The investigation of traffic collisions resulting from the pursuit shall be the responsibility of the agency within whose jurisdiction the collision occurred.

XVII. PURSUIT REPORT REQUIREMENTS

- A. California Vehicle Section 14602.1 requires that all police pursuits be reported on the California Highway Patrol Pursuit Report (CHP187). The form shall be prepared on pursuits initiated or assumed by officers of each involved department.
- B. The Field Supervisor shall include a factual evaluation concerning compliance with the Department's pursuit policy. Violations shall be identified and listed in the report narrative.
- C. It is recommended that Department pursuits be tallied chronologically and separated into categories for further analysis. The purpose is to identify specific problem areas which include, but are not limited to the following items:
  - 1. Pursuit related collisions;
  - 2. Policy violations;
  - 3. Training needs;
  - 4. Equipment issues;
  - 5. Officer safety concerns/tactical methodology;
  - 6. Policy or legislative concerns.

XVIII. USE OF SPIKE STRIPS

- A. The following rules apply to the use of a spike strip and are intended to insure the safe and effective deployment of the spike strip when attempting to terminate the movement of a vehicle which is being pursued by law enforcement officers.
- B. All sergeants, officers and reserve officers shall be trained in the use of the spike strip and receive periodic refresher training.

C. A spike strip may be deployed by a trained member of the Department to terminate a vehicle pursuit, with the approval of the field supervisor or watch commander. A trained member of the Department may deploy a spike strip without approval from the field supervisor or watch commander if circumstances make it impractical to obtain permission and a delay in deployment, to obtain permission, would compromise an opportunity to safely and effectively deploy a spike strip.

D. A spike strip shall not be used to terminate a pursuit of any two-wheeled vehicles. A spike strip should not be deployed to stop the following vehicles unless the continued movement of the pursued vehicle poses a greater danger to the public and/or innocent passengers than would be created by the stopping of the vehicle by means of a spike strip.

1. Any vehicle transporting a hazardous material as defined in Vehicle Code Section 2402.7.
2. Any passenger bus transporting passengers.
3. Any school bus transporting pupils.
4. Any vehicle that would pose an unusual hazard to innocent parties.

E. The officer deploying the spike strip shall be responsible for:

1. Broadcasting by radio to the units involved in the pursuit that the spike strip will be deployed and the location where the deployment will occur.
2. Selection of a deployment location with adequate sight distance to the pursued and pursuing vehicles, limited opportunity for the pursued vehicle to drive around the spike strip, and which avoids conditions that would increase the risk of injury to the suspect(s), such as curves, waterways, or roadways bounded by steep embankments.
3. Retrieval of the spike strip immediately after the pursued vehicle has passed over the strip.

F. The following safety practices should be adhered to by department personnel deploying a spike strip.

1. Officers should not attempt to overtake and pass a pursued vehicle in order to deploy the spike strip.
2. The spike strip should be prepared for deployment on the roadway shoulder or center divider.
3. Sufficient lead time must be provided to allow for the safe deployment of the spike strip.
4. The selected deployment site should provide some form of protection for the officer deploying the spike strip. The officer should remain behind the protection until the

pursued vehicle has encountered the spike strip and it is safe to leave the protected area.

5. Whenever practical, officers should wear leather gloves, included in each spike strip case, when deploying the spike strip.

CHIEF WALTER W. MITCHELL \_\_\_\_\_ DATE: \_\_\_\_\_

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### 3.32 USE OF SEAT BELTS

Members of the Department, while operating or riding in police vehicles which are equipped with safety belts or other safety devices, shall secure the belt on their persons.

This order will also apply to persons who are in custody and are being transported in police vehicles provided they are riding in seats which are equipped with seat belts.

Members of the Department shall require the use of seat belts in police vehicles by persons who are being transported in police equipment, but who are not in custody.

### 3.33 ACCIDENTS INVOLVING DEPARTMENT PERSONNEL OR VEHICLES

Any member of the Department involved in a traffic accident resulting in any damage or injury while operating a Department vehicle is required to notify the Field Supervisor and/or Watch Commander immediately.

The member involved in such accident shall, if able, make a detailed report in writing concerning such accident as soon as possible.

The Field Supervisor or, in his/her absence, an officer designated by the Field Supervisor or Watch Commander, shall investigate the cause of such accident. The complete accident investigation shall be reviewed by the Division Commander of the officer involved in the accident and appropriate recommendations forwarded to the Chief of Police.

### 3.34 DEPARTMENT PROPERTY IN POSSESSION OF MEMBERS

Whenever any member of the Department resigns or is discharged or in any way vacates their office, they shall surrender to the Services Division Commander, all of the property in their possession belonging to the Department. In the absence of the Services Division Commander, such property shall be surrendered to the Watch Commander.

### 3.35 FIREARMS

For the purposes of safety, all loaded, non-duty firearms, coming into the possession of any member of the Department shall, immediately upon receiving the firearm, be unloaded unless required in such loaded condition as evidence.

### 3.36 DISPLAYING FIREARMS

Officers shall not display their firearms or draw them in any public place except for necessary inspection or use. Officers firing a gun accidentally or intentionally, except on the target range, shall report same in writing. Officers shall not intentionally fire their guns except as authorized by law.

### 3.37 COURT ATTENDANCE

All members of the Department concerned in cases before the courts are to be punctual in attendance and shall appear either in full uniform or civilian clothes of business-like appearance. The wearing of part uniform and part civilian clothes shall not be permitted. Their clothes must be neat and clean.

Members shall have the cases in which they are concerned properly prepared, and all property



where employees are exposed to victims of violent crime, accident or misfortune. Those to be directed to receive evaluation will be determined by the Division Commander upon evaluation of exposure and incident details. Employees assigned to sex crimes, vice, or narcotics details shall be evaluated by the department psychologist yearly upon the anniversary of their assignment. When the accumulated stress of any assignment manifests itself in articulable problem behaviors such as irritability, decline in job efficiency, increased sick leave usage, increased citizen complaints, and drug and/or alcohol abuse, the officer demonstrating those behaviors shall be directed by the Division Commander to the department psychologist for a fitness for duty evaluation. The counseling services required in these instances is mandatory and the results are confidentially reported to the Chief of Police or his designate.

- b. Employees who are exhibiting mild stress related symptoms may be encouraged to utilize the services of the Personnel Assistance Program. The counseling services of this program are voluntary, are available to the family of the employee, and the results are confidentially reported to the employee.

#### 4.18 SHOOTING POLICY

As long as members of the public are victims of violent crimes and officers in the performance of their duties are confronted with deadly force, it will remain necessary for police officers to be properly armed for the protection of society and themselves. The use of firearms shall be considered as a use of deadly force and shall be guided by the Department Policy on the Use of Force.

##### A. Discharge of weapons:

A firearm should be drawn or displayed only under conditions or circumstances that are recognizable by the officer as potentially requiring the use of deadly force.

##### B. Warning or Attention Shots:

1. Shots fired into the air or ground in an attempt to cause a fleeing suspect to stop or surrender present a danger to the officer and innocent persons, and are prohibited.
2. In extremely rare and extraordinary situations where the safety of the officer or another person is involved, the firing of a warning shot may be permissible.

##### C. Moving Vehicles:

Firing at or from moving vehicles is generally prohibited. Experience shows that such action is rarely effective and is extremely hazardous to innocent persons. Only in extremely rare and extraordinary situations is such action justified.

##### D. Officers Surrendering Weapons:

An officer or a partner may be at the mercy of an armed suspect who has the advantage, but experience has shown that the danger to officers is not reduced by giving up their weapon upon demand. Surrendering their weapon might mean giving away their only chance for survival, therefore, officers should use every tactical tool at their disposal to avoid surrendering their weapons.

4.12 USE OF FORCE

It is the policy of this department that officers shall use only the amount of force which reasonably appears necessary, given the facts and circumstances perceived by the officer at the time of the event, to effectively bring an incident under control. "Reasonableness" of the force used must be judged from the perspective of a reasonable officer on the scene at the time of the incident.

Any use of physical force by a member of this department, that is likely to cause or does cause injury, shall be documented by that member in an appropriate report depending on the nature of the incident.

Members of the Department shall refrain from using unnecessary force or violence in making arrests, and shall not strike a prisoner or any other person except when necessary in self-defense or to overcome actual physical resistance in making an arrest. However, they must be firm, resolute and energetic, exercising the necessary means to perform their duty properly. When it is necessary to use force, a narration of the circumstances shall be included in the arrest report on the case.

4.13 MARKING OFFICIAL NOTICES

Officers or employees of the Department shall not mark, mar, alter, or deface any printed or written notices relating to police business. All notices of a personal nature and of a derogatory character relating to official transactions within the Department or regarding any Division or person, are prohibited.

4.14 TREATMENT OF PERSONS OR ANIMALS

No member of the department shall at any time, for any reason, inflict unnecessary pain or cruelly treat any person or animal, or neglect the necessary humane attentions which may be required.

4.15 GENERAL RULES OF PROCEDURE

- a. Officers are responsible for all property which comes into their possession in accordance with Department Property Policies, Municipal Code law and the laws of the State of California. When an officer seizes or takes possession of property from a person or suspect for examination, they shall safeguard said property, process or secure it in accordance with Department Policy, or return it to the owner or person it was taken from, as soon as is practical.
- b. All property surrendered by persons giving up their property rights to said property, except contraband and personal property surrendered to the Police Department for safekeeping or destruction, when given to police employees while acting in an official capacity for the City of La Mesa, shall become the property of the City of La Mesa. Officers shall process this property as directed by the Services Commander.
- c. Officers shall conduct all searches of persons in accordance with State and Federal law. Officers shall not search injured persons except when it is necessary for weapons, evidence, contraband or identification. Deceased persons will be searched in accordance with the San Diego County Medical Examiner's policy.
- d. All prisoners shall be carefully searched for weapons, contraband and evidence to protect the officer's life, fellow officers and innocent bystanders, and to prevent prisoner escapes. Officers shall not conduct careless searches which result in a prisoner disposing of weapons or contraband within the police vehicle, booking facility or jail, or result in a prisoner taking a weapon or contraband into the jail.