4.2.0 OBJECTIVE

To establish guidelines for the use of marked and unmarked police vehicles by members of the Fayetteville Police Department (FPD) with regard to emergency driving, emergency response, pursuit driving, moving surveillance, and pacing. A respect for human life will guide officers in determining whether to engage in or terminate a vehicular pursuit. Officers will act within the boundaries of legal guidelines, good judgment, and accepted practices when engaging in or determining whether to engage in a vehicular pursuit. In any vehicle pursuit the safety of the public is the primary concern.

4.2.1 DEFINITIONS

A. Vehicle pursuit- the operation of a police vehicle with the intent to apprehend a law violator or suspect in another moving vehicle who is attempting to flee or escape a lawful arrest by using evasive tactics, high speed driving and other deliberate acts.

B. Primary Unit- the police vehicle which initially becomes involved in a pursuit or any unit that assumes control of the pursuit as the lead vehicle.

C. Secondary Unit- any police vehicle which becomes involved as a backup to the primary unit and follows the primary unit at a safe distance.

D. Assigned Unit- any unit other than the primary or secondary units which a Watch Commander, Sector Lieutenant or Supervisor has authorized to become involved in the pursuit.

E. Uncommitted Unit- an officer who is not directly involved in the pursuit as a primary, secondary or assigned unit.

4.2.2 STATUTORY AUTHORITY

A. N.C.G.S 20-141.5: Speeding to elude arrest, seizure and sale of vehicle

1. It shall be unlawful for any person to operate a motor vehicle on a street, highway, or public vehicular area while fleeing or attempting to elude a law enforcement officer who is in the lawful performance of his duties.

2. Pursuant to this statute, officers shall specifically consider factors outlined herein at section 4.2.5 in determining when to initiate or terminate a pursuit. The supervisor may authorize the pursuit long enough to obtain the make, description and or tag number of the vehicle pursuant to this policy.

3. Whenever evidence is presented in any court or administrative hearing of the fact that a vehicle was operated in violation of this section, it shall be prima facie evidence that the vehicle was operated by the person in whose name the vehicle was registered at the time of the violation, according to the Division's records. If the vehicle is rented, then proof of that rental shall be prima facie evidence that the vehicle was operated by the renter of the vehicle at the time of the violation.

B. N.C.G.S. 20-145: When speed limit not applicable

Speed limitations shall not apply to vehicles when operated with due regard for safety under the direction of the police in the pursuit or apprehension of violators of the law or of persons charged with or suspected of any such violation, nor to fire department or fire patrol vehicles when traveling in response to a fire alarm. This exemption shall not, however, protect the driver of any such vehicle from the consequence of a reckless disregard of safety of others.
C. N.C.G.S. 20-156: Exceptions to the right-of-way rule

The driver of a vehicle upon the highway shall yield the right of way to police and fire department vehicles when the operators of said vehicles are giving a warning signal by appropriate light and by bell, siren or exhaust whistle audible under normal conditions from a distance not less than 1,000 feet. When appropriate warning signals are being given, as provided in this subsection, an emergency vehicle may proceed through an intersection or other place when the emergency vehicle is facing a stop sign, a yield sign, or a flashing strobe light. This provision shall not operate to relieve the driver of a police or fire department vehicle from the duty to drive with due regard for the safety of all persons using the highway, nor shall it protect the driver of any such vehicle from the consequence of any arbitrary exercise of such right of way.

D. N.C.G.S. 20-217: Motor vehicles to stop for properly marked and designated school buses

The driver of a vehicle upon approaching from a direction on the same street or highway any school bus (including privately owned buses transporting children and school buses transporting senior citizens under G.S. 115C-243), while the bus is displaying its mechanical stop signal or flashing red stoplights, and is stopped for the purpose of receiving or discharging passengers, shall bring his vehicle to a full stop before passing or attempting to pass the bus, and shall remain stopped until the mechanical stop signal has been withdrawn, the flashing red stoplights have been turned off, and the bus has moved on.

4.2.3 EMERGENCY RESPONSE / EMERGENCY DRIVING

A. There are no tasks in the department of such importance to justify the reckless disregard of the safety of innocent persons. Department personnel will be held strictly accountable for the consequences of reckless vehicle operations. Officers will drive police cars in accordance with the law, departmental rules and regulations, and in an exemplary and courteous manner.

B. Emergency Driving: Operating a police vehicle in response to either an emergency call for service or any situation where the officer can articulate a threat of serious injury to an officer or citizen. This also includes whenever an officer attempts to catch up to another vehicle that would require the officer to drive in a manner not normally permitted by law or FPD policy.

C. When a police vehicle is involved in emergency operations, the blue light and siren will be used. An officer must operate both blue lights and siren when engaged in emergency driving in order to be in compliance with traffic laws. Officers not responding to calls for service will comply with the posted speed limit and all traffic laws.

D. Officers and/or Supervisors will make the determination to respond emergency traffic to a call for service and will notify the dispatcher of the emergency response. If an officer determines that emergency response to a situation is necessary, but immediate communication is not feasible, the officer may respond appropriately. However, communication to the Public Safety Dispatcher must be made as soon as possible.

E. Officers will always operate blue lights and siren under the following circumstances:

1. In extreme circumstances when emergency response requires an officer to travel into opposing traffic lanes.

2. When attempting to catch up to another vehicle that would require the officer to exceed the posted speed limits or to drive in a manner not normally permitted by law.

3. While attempting a u-turn for the purpose of attempting to catch up to another vehicle or to respond to any emergency call for service.
F. The immediate use of blue lights and siren may be excluded when observing a vehicle operated and/or occupied by suspected dangerous person(s) or when such use presents an imminent danger to the officer(s) or would aid in the escape of wanted person(s). (At no time will an officer excuse the posted speed limit without activating their siren and blue lights.

G. When approaching an intersection where signal lights or stop signs regulate the flow of traffic, officers will not proceed through the intersection until they are sure that each, individual lane of travel is clear and traffic has yielded the right of way in every lane. When multiple emergency vehicles come to an intersection where traffic signals are utilized, the traffic devices will determine the right of way.

H. When a violator’s vehicle travels the wrong way and into oncoming traffic, officers are prohibited from following the violator vehicle for the purposes of continuing the pursuit.

I. When approaching an intersection, stopped vehicular traffic or an item blocking the roadway, officers are authorized to travel left of center for the purposes of navigating around the stopped traffic or item if the maneuver can be done so in a safe and prudent manner. IMMEDIATELY after navigating around the stopped vehicles and or objects blocking the officer’s path, officers will return to an appropriate lane designated for the officer’s direction of travel.

J. Officers shall pass other vehicles on the left side of the roadway unless circumstances warrant an otherwise safe movement.

K. Officers will operate blue lights and siren when responding to all emergency calls.

L. Public Safety Dispatchers should notify all police vehicles to use caution when other emergency vehicles are making an emergency response.

M. Unmarked vehicles and motorcycles will not be assigned to respond to emergency calls unless absolutely necessary.

N. Emergency response is prohibited when responding to property damage accidents.

O. When stationary patrol is used for enforcement, officers shall not impede the flow of traffic.

P. Unmarked police vehicles will be equipped with blue light and siren and other supplied equipment as necessary. Unmarked vehicles may be used for speed enforcement and specialized patrol upon approval of the District/Division Commander.

Q. Undercover vehicles used for covert purposes will not have any police equipment installed and are not permitted to become involved in a pursuit or emergency driving.

4.2.4 PACING AND MOVING SURVEILLANCE

A. Moving surveillance, which requires operating a police vehicle over the posted speed limit, will only be allowed when the officer exercises due regard for the safety of all persons. Operations involving moving surveillance will be managed by a supervisor who is not actively engaged in the operation.

B. Pacing is discouraged.

4.2.5 PURSUIT OPERATIONS – INITIATING PURSUITS

A. Officers are authorized to pursue when:
1. The officer has reasonable suspicion that the driver or occupant of the vehicle has committed or is attempting to commit a crime which is considered to be dangerous to human life.

2. The officer can articulate the exigent need to apprehend the suspect(s) because of potential harm to the public if they are not apprehended without delay.

3. The Watch Commander or a supervisor may authorize a vehicular pursuit that does not meet the above criteria only in exceptional circumstances.

B. Initiating Pursuits

1. Upon initiating a pursuit, officers will continuously weigh the existing danger to themselves and the public.

2. Officers will notify Communications that a pursuit is in progress. The following factors will be communicated immediately by the officer:
   a) the reason for the pursuit
   b) present location
   c) direction of travel
   d) current speed
   e) description of pursued vehicle with registration and the number of occupants
   f) vehicle traffic and pedestrian traffic
   g) weather conditions

3. Officers involved in a pursuit will activate all appropriate emergency equipment.

C. Primary and Secondary Unit Involvement

1. No more than two FPD marked patrol units will be actively involved in a vehicle pursuit unless otherwise directed by a field supervisor, Watch Commander, Sector Lieutenant or higher Chain of Command.

2. Officers in adjacent areas of the pursuit may respond code traffic toward the area of the pursuit until a secondary unit can be established and identified.

3. Once a secondary unit has been established, additional responding units will downgrade to uncommitted status unless assigned by the supervisor monitoring the pursuit to continue with their involvement.

4. The primary pursuit vehicle will maintain a safe distance from the pursued vehicle allowing opportunity for defensive maneuvers.

5. The secondary vehicle will notify Communications of their involvement and, if possible, assume all radio communications allowing the primary unit full devotion to driving. The secondary unit will also maintain a safe distance that will allow for defensive maneuvers while remaining close enough to render assistance.

6. Officers should never attempt driving maneuvers that are beyond their ability, or, which could result in the loss of control of their vehicle.

7. Officers will not pass or attempt to pass another police vehicle involved in the pursuit unless advised to do so by the primary unit or field supervisor.

8. If the primary unit becomes disabled, the secondary unit will become the primary unit. If more officers are needed, the supervisor managing the pursuit will make the determination to authorize additional units based on the seriousness of the offense, number of suspects, and other articulable facts that directly concern officer and public safety.
D. Assigned Unit

The Watch Commander or designee has the authority to assign additional units to become actively involved in the pursuit based on circumstances involving the basis for the pursuit. They will be responsible for justifying this decision and documenting their reasons in the pursuit summary or internal investigative file.

E. Uncommitted Unit

1. Uncommitted units may not engage in any pursuit that already has a primary and secondary unit unless "assigned" by the supervisor who is managing the pursuit.

2. Uncommitted patrol units in the area may move toward the vicinity of the pursuit while obeying all traffic laws and not engaging emergency equipment.

3. All other uncommitted units will remain aware of the direction and progress of the pursuit, but will not actively participate unless specifically assigned as described above.

F. Suspect Apprehension

Once the pursuit is terminated, the secondary unit should attempt to make the physical apprehension. Felony vehicle stop procedures should be followed when practical. Officer safety is of primary concern and should be exercised at all times.

G. Special Purpose Vehicles

Officers operating unmarked vehicles, K-9 Vehicles or motorcycle units may initiate a vehicle pursuit. Once a marked unit joins the pursuit, the unmarked unit, K-9 unit or motorcycle unit must assume the position of secondary unit. Upon the arrival of a marked secondary unit, the K-9 unit, unmarked unit or motorcycle unit must abandon the pursuit.

H. Pursuit Termination

1. Police officers, who are engaged in a pursuit as well as the field supervisor, must continually evaluate the circumstances to determine whether they should continue or terminate the pursuit.

2. When a decision is made by the primary officer or an order is given by a supervisor to terminate a pursuit, police officers will:

   a) Immediately turn off their emergency lights and siren, radio their location to the dispatcher and verbally acknowledge the order to terminate the pursuit.

   b) No longer follow the suspect vehicle, nor may they violate any traffic laws in an effort to catch up or parallel the suspect vehicle.

3. The discontinuation of a pursuit may be the best course of action to take. Officers and supervisors will be held accountable for continuing a pursuit when it is determined that it should have been terminated. Officers will continuously weigh the importance of the pursuit and justify the totality of events by considering the following:

   a) Clear and present dangers to the officer and the public,

   b) The suspect's identity and the probability of a later apprehension,

   c) Environmental conditions
4. Failure to comply with the procedures in this Written Directive may be justification for the Supervisor or Watch Commander to terminate the pursuit.

4.2.6 IN-CAR CAMERA SYSTEMS

A. If equipped, officers are required to activate their in-car camera systems whenever they engage in Vehicle Pursuits and/or Emergency Vehicle Operations.

B. Officers should not deactivate their camera systems until after the triggering event has concluded.

C. Officers should refer to O.P. 3.21, In-Car Camera Systems for guidance on the proper operation of the in-car cameras.

D. While engaged in Vehicle Pursuits and/or Emergency Vehicle Operations, officers will turn off their AM/FM vehicle radios to prevent distortion while recording the events.

E. Officers should refer to O.P. 3.24, Body Camera Systems in the event the triggering event results in the officer leaving their patrol vehicle and traveling out of their in-car camera’s view.

4.2.7 TIRE DEFLATION DEVICES (TDD)

The use of TDD’s is prohibited during the course of a vehicle pursuit.

4.2.8 SUPERVISOR RESPONSIBILITIES DURING PURSUITS

A. Supervisors are responsible for managing every pursuit.

B. Supervisors will carefully consider the seriousness and necessity of the pursuit as it pertains to the factors listed in 4.2.5 under Initiating Pursuits and will allow the pursuit to continue only after all factors have been carefully weighed.

C. Supervisors will respond immediately to the point of termination and assume the responsibility for police investigation. Officers involved in a vehicle pursuit as a primary, secondary, assigned or responding to become a secondary unit, will complete a report detailing their involvement.

D. Supervisors will include in their review, details of every officer with any level of involvement.

E. Supervisors will initiate a Blue Team Pursuit Investigation whenever a pursuit is initiated. Supervisors should refer to Operating Procedure 1.01, Internal Investigative Procedures when completing all internal investigations.

4.2.9 JURISDICTION

A. Jurisdiction is defined as the incorporated city limits of Fayetteville, North Carolina and one mile beyond.

B. Supervisors may authorize pursuits beyond the city limits provided that radio contact can be maintained. Supervisors must ensure that the reason for the pursuit outweighs the risk to officers and citizens.

C. When law enforcement officers from neighboring agencies are involved in a pursuit which enters the Fayetteville city limits, no FPD officer will become actively involved unless formally requested by the pursuing agency and approved by a supervisor. The responsibility to weigh all factors lies with the supervisor. The supervisor’s decision to become involved should be based on FPD guidelines for authorized pursuits.

D. If two vehicles from another agency are involved in a pursuit in the Fayetteville city limits, no officer will become involved unless approved by a Supervisor, Watch Commander or Sector Lieutenant.
Officers assisting outside agencies will terminate their involvement when the pursuit leaves this jurisdiction, unless further assistance is requested by the agency and authorized by a supervisor.

E. When a pursuit leads outside of FPD jurisdiction and an assisting agency is asked to take over pursuing the suspect vehicle, FPD officers will drop to a secondary position until such time as the assisting agency officer has an established secondary unit authorized to pursue in the current jurisdiction. Exceptions to this requirement can only be authorized by a supervisor managing the pursuit.

F. Any officer or supervisor monitoring a pursuit has the authority to terminate its continuance regardless of the rank of pursuing officers.

4.2.10 RESTRICTIONS

A. Officers will not actively engage in pursuits while transporting prisoners, suspects, complainants, witnesses, or civilian ride alongs.

B. Officers will not pursue suspects traveling the wrong direction on interstates, highways or any divided highway.

C. Officers will discontinue a pursuit if the vehicle pursued is being operated by a known juvenile who is operating in such an unsafe manner that it is obvious the juvenile does not have the maturity to deal with the danger involved or if the offense is a misdemeanor or non-serious felony.

D. Officers will not use police cars to make deliberate contact with the suspect vehicle (ram) or force the pursued vehicle into parked vehicles or fixed objects.

E. Officers will not box-in, head off or drive beside the suspect vehicle unless the suspect vehicle is in a "stopped" or "nearly stopped" position. Boxing may be permitted to keep a stopped or nearly stopped vehicle from evading if it is otherwise safe to do so.

F. Moving and stationary roadblocks for the purpose of stopping a pursued vehicle are prohibited.

G. Use of Mobile Data Terminals (MDT) will be limited to times when typing and reading can be done safely and it does not distract the employee from the safe operation of the vehicle. Typing or reading MDT messages while a vehicle is in motion is a potentially dangerous practice and is, therefore, discouraged. Officers should type or read messages from their MDT while their vehicle is stationary. Short transmissions, such as entry of a license number for a stolen tag or vehicle or registration check, while the vehicle is in motion are permitted if they can be done safely. Reading messages while the vehicle is in motion should only be attempted when the message can be read safely.

H. Employees operating departmental vehicles are prohibited from text messaging on cellular phones at any time the vehicle is in motion.

I. Pursuits are not authorized for DWI or suspected DWI violation.

4.2.11 REPORTING OF VEHICLES FAILING TO STOP

A “Vehicle Refusal to Stop Report” will be completed by any officer who encounters a situation in which vehicles fail to stop and a pursuit is prohibited by this procedure. It is important that the Department keep track of the frequency of these refusals and the conditions existing in each situation. This report will be completed using the Field Contact Module in RMS, using the Reason Field “Refusal to Stop.” Officers should document as much information as possible regarding the suspect vehicle and information concerning the circumstances of the stop.