



SB 847: Law Enforcement Emergency Response and Vehicular Pursuits

November 15, 2010

Overview



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- Model Polices and Accreditation
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Study Authorization



- SB 847 was introduced by Senator Puller during the Regular Session of the 2009 Virginia General Assembly.
- SB 847 was referred to the Crime Commission by the Senate Courts of Justice Committee.
 - Additionally, the Crime Commission's Executive Committee added law enforcement vehicular pursuits to the purview of the study in 2010.

Background



- Pursuits and emergency response driving received considerable national attention during the 1990's.
- One study, based on National Highway Traffic Safety Agency (NHTSA) data, found that there were an average of 300 pursuit-related deaths per year, from 1994-2002.
 - Specifically, there were 3,146 deaths in the 9 year period, based on a total of 2,654 accidents.

Background



- As result of the attention in the 1990's, many jurisdictions adopted more restrictive pursuit policies.
- Generally, vehicular pursuit policies can be structured in the following ways:
 - Very restrictive;
 - Restrictive; or,
 - Less Restrictive.

Model Policies and Accreditation



- The Virginia Department of Criminal Justice Services (DCJS) and the International Association of Chiefs of Police (IACP) have developed model policies for pursuits and emergency responses.
- Law enforcement agencies are required to maintain written emergency response and pursuit policies in order to obtain accreditation.
 - Commission on Accreditation for Law Enforcement (CALEA)
 - Virginia Law Enforcement Professional Standards Commission (VLEPSC)

Model Policies and Accreditation



- There is no requirement in Virginia for law enforcement agencies to have an emergency response or pursuit policy, unless they are accredited by CALEA or VLEPSC.
- There is no statewide definition of what constitutes a vehicular pursuit. However, IACP does provide one:
 - “....an active attempt by an officer in an authorized emergency vehicle to apprehend a fleeing suspect, who is actively attempting to elude the police.”



- The U.S. Supreme Court has outlined the limits of force that may be used by law enforcement in Tennessee v. Garner, 470 U.S. 1 (1985):
 - Suspect must pose an immediate threat of serious physical harm to the officer or the public;
 - Deadly force must have been necessary to prevent escape; and,
 - Suspect given warning, if feasible.



- Additionally, the Supreme Court recently held, in Scott v. Harris, 550 U.S. 372 (2007), that a law enforcement decision to terminate a dangerous high speed car chase that poses a deadly threat to innocent bystanders, regardless of the threat to the suspect, does not violate the Fourth Amendment.

Virginia Law-Emergency Response



- § 46.2-920 exempts emergency vehicles from prosecution for specific traffic laws if the vehicle:
 - Is used in the “performance of public services;”
 - Is operated under “emergency conditions;” and,
 - Has activated lights and sirens, “as reasonably necessary.”
- Additionally, these exemptions must be exercised while having “due regard for the safety of persons and property.”

Virginia Law-Vehicular Pursuits



- § 19.2-77 permits law enforcement to cross jurisdictional lines in “close pursuit” of offenders and make warrantless arrests.
 - If the offender is arrested outside the officer’s jurisdiction, he must obtain a warrant from the magistrate outside his jurisdiction, based on the location of the accused’s original offense.

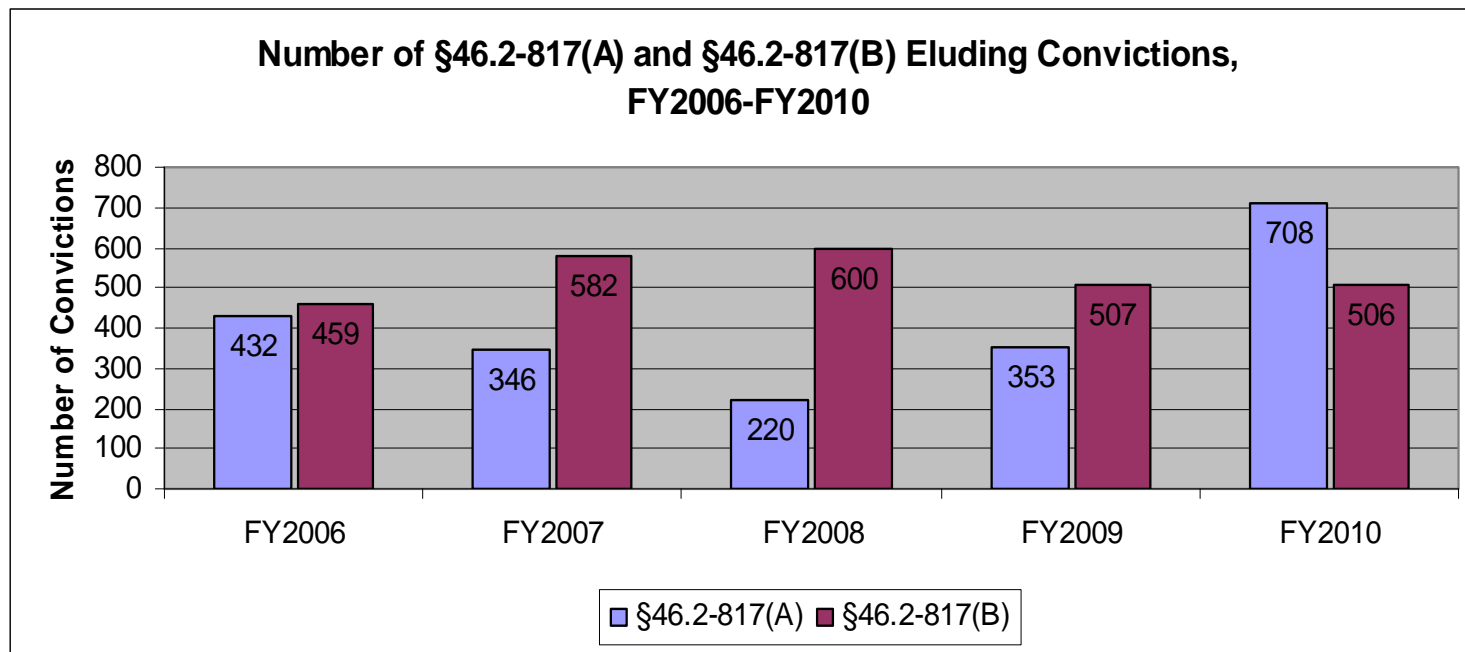
Virginia Law-Vehicular Pursuits



- § 46.2-817(A) penalizes eluding law enforcement if individuals ignore a signal to pull over and drive in a “wanton and willful disregard” of the signal. The penalty is a Class 2 Misdemeanor.
 - If done in a manner that may “interfere with or endanger” the law enforcement vehicle or a person, it is a Class 6 Felony under § 46.2-817(B).
 - If the law enforcement officer is killed as a proximate cause of the conduct, it becomes a Class 4 Felony.
- License may also be suspended for a violation of this section.



Misdemeanor and Felony Eluding Conviction Data



Source: Virginia Criminal Sentencing Commission, Court Automated Information System, Circuit and General District Courts.
Note: Figures account for convictions where eluding is the primary offense. Also, Circuit Court data is not complete as there is limited data from the cities of Alexandria and Virginia Beach and the counties of Fairfax and Prince William.

50 State Review



- There are 16 states that have at least some requirements, in statute, concerning pursuits/emergency responses.
 - GA, ME, MS, NH, and OH require all law enforcement agencies to have *written* pursuit/emergency response policies.
 - CT, MN, NE, NM, PA, RI, UT, and WA require all law enforcement agencies to adopt written pursuit policies, with specified minimum standards.
 - CA has minimum standards for pursuit policies, but it is discretionary. If adopted, the locality is provided civil immunity.

50 State Review



- CA, CT, MN, MS, NE, NM, OR, and UT all require pursuit/emergency response training.
 - OR requires entry level training in pursuit and pursuit techniques for all law enforcement agencies.
- IL required its Training Standards Board to develop a model pursuit policy.
- CA, PA, and WI have mandatory reporting systems for pursuits.

50 State Review



- Nearly every state penalizes eluding or fleeing from police, similar to Va. Code § 46.2-817, with graduated penalties for more serious or dangerous acts.
 - There are 8 states where the initial penalty is a felony.
 - 4 states specifically link a conviction of eluding (or fleeing) with vehicle forfeiture.

50 State Review



- There are at least 43 states that provide exemptions to traffic laws for emergency vehicles, similar to Va. Code § 46.2-920.
 - 14 of these states require the use of both lights and sirens to obtain the exemptions.
 - 29 states require either the lights or sirens operating to obtain the exemption.
 - Only one state, MA , requires emergency vehicles to make a complete stop at a controlled intersection.
 - 29 states require the officer to slow down or exercise due care when moving through a controlled intersection.

Training



- Currently, DCJS mandates that all Virginia law enforcement officers complete “Emergency Vehicle Operator’s Course” (EVOC) training. DCJS requires the following topics:
 - Factors applicable to initiating a pursuit;
 - Identifying hazards in emergency or pursuit driving;
 - Factors that influence the termination of a pursuit; and,
 - Legal considerations (Code, case law, and local policy).
- There are no statutory requirements for in-service emergency driving or vehicular pursuit training.

Pursuit Technology



- Traditional options available for terminating pursuits:
 - Tire deflators (Spike Strips, Stingers);
 - Roadblocks;
 - Rolling roadblocks;
 - License plate readers/suspect ID; and,
 - PIT maneuver.

Pursuit Technology



- Technological advancements to assist with terminating pursuits:
 - Stolen vehicle recovery (OnStar);
 - Remote ignition block (OnStar);
 - GPS real-time tagging and tracking devices (StarChase);
 - Radio frequency vehicle ID (SunPass);
 - Devices that grab vehicle causing complete stop;
 - Directed energy vehicle stopping (high powered microwaves and lasers);
 - Deployable stopping systems (tire entanglers);
 - Intersection warnings/alerts to nearby drivers; and,
 - Advanced control of intersection traffic signals (DSRC).



Law Enforcement Emergency Response/Pursuit Survey Results

Survey Results



- Staff disseminated surveys to all law enforcement agencies in Virginia.
- Information was collected relating to:
 - Agency Demographics;
 - Emergency Response to Calls for Service;
 - Vehicular Pursuit Policies;
 - Officer/Deputy Driving Training; and,
 - Vehicular Pursuit Data (CY09).

Survey Results



- Survey response rate was 81% (109 of 134 agencies).
 - 67 of 86 Sheriff's Offices with primary law enforcement duties;
 - 41 of 47 City and County Police Departments; and,
 - Virginia State Police.
- Staff received 47 additional surveys from other agencies, including:
 - Town Police Departments (n=22);
 - College/University Police Departments (n=12);
 - Sheriff's Offices without primary law enforcement (n=9); and,
 - Virginia ABC, Port Authority, Capitol Police, and Airport Police Departments (n=4).
- Total responding agencies, N= 156.

Emergency Response to Calls for Service



- 89% (139 of 156) of agencies reported having a written policy for when officers should activate emergency vehicle equipment.
- 58% (91 of 156) of agencies indicate that patrol officers are *primarily* responsible for the initial assignment of response codes to calls for service.
 - 29% (46 of 156) dispatchers;
 - 3% (5 of 156) supervisor; and,
 - 7% (11 of 156) other (i.e., combination of above).

Emergency Response to Calls for Service



- Based on data from 74 agencies, a total of 1,972 traffic accidents were reported that occurred as a result of an officer or deputy responding to a call for service/officer-initiated activity (not pursuit related).
 - Most reported accidents involved property damage only (n=1,182).
 - 75 agencies reported that there were 0 accidents.

Emergency Response to Calls for Service



- 8% (13 of 156) of agencies reported being involved in litigation (new or continuing law suits) resulting from an officer's response to a call for service.
 - These agencies reported having anywhere from 1 to 10 new or continuing lawsuits during CY2009.
- 3 agencies indicated that they had lost or settled litigation resulting from an officer's or deputy's response to a call for service during CY2009.

Vehicular Pursuit Policies



- 95% (148 of 156) of agencies reported having a written policy for vehicular pursuits.
 - 38% (59 of 156) have modified their policy within the past two years.
 - 30 of these agencies either made their policy more restrictive or only made updates/clarifications to general order.
- 71% (110 of 156) of agencies have a formal definition of a vehicular pursuit.
 - Definitions vary, but most adhere closely to the IACP definition.

Vehicular Pursuit Policies



- Type of offenses for which pursuits are permitted by responding agencies:
 - 15% Very restrictive- (23 of 156 agencies)
 - 43% Restrictive- (67 of 156 agencies)
 - 42% Less restrictive-(66 of 156 agencies)

Vehicular Pursuit Policies



- 84% (131 of 156) of agencies permit unmarked patrol units to be involved in pursuits.
 - Many agencies permit only until unit is relieved by a marked unit (n=98).
- 85% (132 of 156) of agencies permit officers or deputies to pursue violators who elude on motorcycles.
 - Some agencies specify certain restrictions (n=39).

Pursuit Interventions/Alternatives



- 83% (130 of 156) of agencies have specific criteria for when pursuits must be terminated. Criteria is fairly consistent across agencies. For example:
 - Risks of pursuit outweigh benefit of apprehension;
 - Weather, traffic, pedestrian, road conditions;
 - Supervisor orders termination or when supervisor is not participating in pursuit;
 - Equipment or mechanical failure of officer's vehicle;
 - Suspect is identified;
 - Violator vehicle has outdistanced pursuing officer such that its location is not known; and/or,
 - Officer/Deputy is not in full control of his/her emotions.

Pursuit Interventions/Alternatives



- 62% (96 of 156) of agencies' policies reference the advisability, in some instances, of terminating a pursuit once the suspect is identified.
 - Some agencies call for termination in all cases (n=15).
- Only 10% (15 of 156) of agencies reported routinely utilizing helicopters or fixed winged aircraft to assist in pursuits.

Pursuit Interventions/Alternatives



- Interventions permitted by agencies:
 - 67% (104 of 156) Tire deflators;
 - 43% (67 of 156) Running/rolling roadblock;
 - 40% (62 of 156) Roadblocks;*
 - 23% (36 of 156) Plate identification;
 - 17% (27 of 156) Channelization;
 - 13% (21 of 156) PIT maneuver;*
 - 9% (14 of 156) Ramming;*
 - 9% (14 of 156) Use of firearms;*
 - 6% (10 of 156) Caravanning;
 - 2% (3 of 156) Electrical system deactivations;
 - 1% (2 of 156) Remote engine disabler; and,
 - 1% (1 of 156) GPS technology.

*Agencies specify that these interventions must be authorized by a shift commander and/or are only to be used when deadly force is justified.

Multi-jurisdictional Pursuits



- At least 14 agencies adhere to a multi-jurisdictional or regional pursuit policy.
- 68% (106 of 156) of agencies have a written policy addressing communication with other jurisdictions during a pursuit.
- 92% (144 of 156) of agencies reported having *some* ability to communicate with other jurisdictions during a pursuit.
 - 64% (92 of 144) reported limitations.

Multi-jurisdictional Pursuits



- 85% (132 of 156) of agencies have a written policy that addresses pursuits originating in *their* jurisdiction going into another jurisdiction.
- 74% (115 of 156) of agencies have a written policy that addresses pursuits originating in *another* jurisdiction that come into their jurisdiction.
- 13% (20 of 156) of agencies reported having a MOU with another jurisdiction regarding pursuit protocol between the two jurisdictions.

Pursuit Investigation/Litigation



- 86% (135 of 156) of agencies reported conducting some type of follow-up evaluation to determine adherence to agency pursuit policy.
- 3 agencies reported being involved in litigation (new or continuing law suits) resulting from a vehicular pursuit.
 - Two of these agencies reported having one new or continuing lawsuits during CY2009.
 - No agencies reported that they had lost or settled litigation resulting from a vehicular pursuit during CY2009.

Training



- 51% (79 of 156) of agencies reported that officers/deputies received some type of continuing classroom education related to vehicular pursuits during CY2009.
- 35% (54 of 156) of agencies reported that officers/deputies received some type of practical/hands-on emergency vehicle handling during CY2009.
- 17% (27 of 156) agencies reported that they required their officers or deputies to complete practical/hands-on driving courses above and beyond basic training requirements.



- Based on 104 of 156 agencies with useable data:
 - Officers/deputies logged a median of approximately 18,300 miles per year on patrol vehicles.
 - Ranged from 100 to 55,000 miles per officer per year.

Vehicular Pursuit Data



- 57% (89 of 156) of agencies reported that they formally maintained data on vehicular pursuits.
 - Of the 156 responding agencies, 142 submitted CY2009 vehicular pursuit data.
 - 63% (89 of 142) of agencies reported having at least 1 pursuit; and,
 - 37% (53 of 142) of agencies reported having 0 pursuits.

Vehicular Pursuit Data



- There were a total of 1,227 pursuits reported in CY2009.
 - The number of reported vehicular pursuits varied widely across the 89 agencies, ranging from 1 to 241.
- Agencies were able to either submit their inter-agency pursuit reports OR complete a standardized form created by Crime Commission staff.
 - Therefore, there was a vast difference in the amount and type of information collected by each agency.

Vehicular Pursuit Data



- Median length of pursuit= 3 minutes
 - Average= 5 minutes;
 - Range= less than 1 minute to almost 1 hour;
 - n= 1,008 useable pursuit data rows.

- Median distance of pursuit= 1.9 miles
 - Average= 4 miles;
 - Range= less than 1 mile to over 50 miles;
 - n= 961 pursuits

Vehicular Pursuit Data



- Maximum speed achieved:
 - Median= 67 mph;
 - Average= 72 mph;
 - Range= 10 mph to 156 mph.
- Type of vehicle driven by violator:
 - 64% (622 of 972) of pursuits involved automobiles;
 - 23% (219 of 972) Van/Pick-up/SUV;
 - 12% (121 of 972) Motorcycle; and,
 - 1% (10 of 972) Other (ATV, moped, tractor trailer).

Vehicular Pursuit Data



- 95% (806 of 847) of reported pursuits were monitored by a supervisor.
- 61% (576 of 950) of pursuits did NOT involve any additional units (from same agency).
- 83% (657 of 795) of pursuits did NOT involve any additional outside agencies.

Vehicular Pursuit Data



- Initial Violation:
 - 47% (531 of 1,132) of pursuits involved a traffic violation.
 - 40% (457 of 1,132) involved a criminal misdemeanor;
 - Vast majority involved reckless driving and suspected DUI offenses.
 - 13% (144 of 1,132) involved a criminal felony.
- However, many violators received additional charges, above and beyond the initial violation, once apprehended.

Vehicular Pursuit Data



- Time of Day
 - 52% (504 of 968) occurred at night;
 - 30% (297 of 968) occurred during the daytime;
 - 17% (167 of 968) occurred during dusk.
- Traffic Conditions
 - 77% (436 of 565) light traffic;
 - 20% (112 of 565) moderate traffic;
 - 3% (17 of 565) heavy traffic.
- Road/Weather Conditions
 - 88% (569 of 647) dry roadway
 - 11% (73 of 647) wet roadway
 - 1% (5 of 647) icy, snowy, or foggy roadway.

Vehicular Pursuit Data



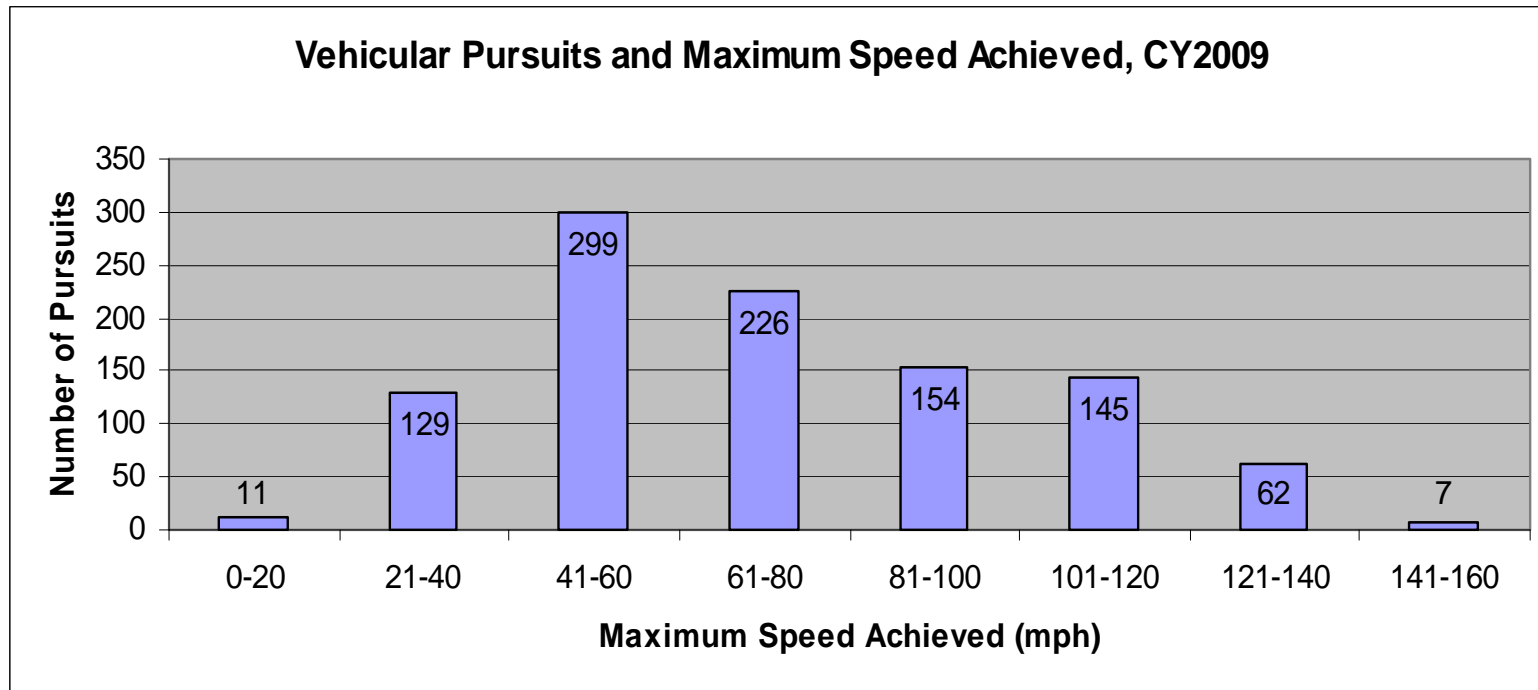
Demographics	Number of Pursuits	Percent
Suburban	176	20%
Interstate	155	17%
Rural	137	15%
Urban	127	14%
Residential	107	12%
Highway (not interstate)	89	10%
Commercial	64	7%
Combination of Areas	38	4%

Source: Virginia State Crime Commission, Vehicular Pursuit Data Analysis, CY2009
n=893 vehicular pursuits

Vehicular Pursuit Data



Maximum Pursuit Speed



Source: Virginia State Crime Commission, Vehicular Pursuit Data Analysis, CY2009
n=1,033 vehicular pursuits

Vehicular Pursuit Data



How Pursuit Ended	Number of Pursuits	Percent
Violator stopped voluntarily	338	33%
Violator crashed (no outside interference)	149	15%
Discontinued by officer or supervisor	140	14%
Violator stopped/wrecked vehicle and bailed on foot (subsequently caught)	132	13%
Violator eluded	129	13%
Vehicle crashed (not specified who was involved)	56	5%
Violator vehicle stopped by police action	47	5%
Other (exited jurisdiction or vehicle disabled)	17	2%
Officer and violator both crashed	9	1%
Officer crashed	2	0.01%

Source: Virginia State Crime Commission, Vehicular Pursuit Data Analysis, CY2009
n=1,019 vehicular pursuits

Vehicular Pursuit Data



- 78% (868 of 1,114) of pursuits resulted in the arrest of the violator.
 - 22% (243 of 1,114) of pursuits did not result in the arrest of the violator.
 - 2 other cases involved pending charges and one involved a violator fatality.

Vehicular Pursuit Data



- *At least 22% (275 of 1,227) of pursuits involved a violator who was impaired.**
 - 81% (224 of 275) alcohol;
 - 7% (20 of 275) drugs;
 - 7% (18 of 275) alcohol and drugs;
 - 2% (5 of 275) mental illness; and
 - 1% (3 of 275) alcohol/drugs and mental illness.

* Many agencies did not capture or submit information on this question.

Vehicular Pursuit Data



- Law Enforcement Injuries and Deaths
 - There was a minimum of 19 pursuits resulting in a minor injury to an officer or deputy.
 - There were no serious injuries or fatalities reported.
- Violator Injuries and Deaths
 - There was a minimum of 90 pursuits resulting in a minor injury to a violator.
 - 8 pursuits resulted in a serious injury to the violator.
 - 11 pursuits resulted in a fatality to the violator.
- Uninvolved Injuries and Deaths
 - There was a minimum of 14 pursuits resulting in a minor injury to a third party.
 - 1 pursuit resulted in a serious injury to a third person.
 - There were no fatalities of uninvolved persons reported.

Vehicular Pursuit Data



- Vehicle and Property Damage
 - There was a minimum of 66 pursuits resulting in damage to a law enforcement vehicle.
 - There was a minimum of 283 pursuits resulting in damage to a violator vehicle.
 - There was a minimum of 138 resulting in damage to an uninvolved vehicle or other property.

Vehicular Pursuit Data



- In sum, based on the data submitted from 89 agencies, most pursuits:
 - Last a median of 3 minutes;
 - Travel a median of 1.9 miles;
 - Involve automobiles;
 - Occur at night and are initiated on dry road conditions and in light traffic conditions;
 - Are monitored by a supervisor;
 - Do not involve additional patrol units or outside agencies;
 - Are initiated due to a traffic violation or criminal misdemeanor;
 - Result in the arrest of the violator(s);
 - Result in additional subsequent charges for the violator;
 - Rarely result in injury or death to officers and violators.

Acknowledgements



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- Sherry Sprague, Northern Virginia Criminal Justice Academy.
- NIJ Pursuit Management Technical Work Group.

Policy Recommendations



1. Endorse a version of SB 847, which amends Va. Code § 46.2-920.
2. Establish a standardized definition of vehicular pursuit.
3. Establish standardized reporting forms so consistent data can be captured throughout the Commonwealth.
4. Establish a state-wide pursuit database.
5. Require in-service driver training standards.
6. Increase penalties for eluding to include vehicle forfeiture.



Discussion