



*City of Petaluma*




***POLICE***

**Pursuits and Officer Response**

**Policies 314 & 316**

**December 2019**



# Purpose of the Training



- Enhance officer safety and survivability
- Enhance community safety and survivability
- Decrease personal and departmental liability

# Purpose of the Training



**Court of Appeal, Fourth District, Division 1, California.**

**Rosemary MORGAN et al., Plaintiffs and Appellants, v. BEAUMONT POLICE DEPARTMENT et al.,  
Defendants and Respondents.**

**D069308**

**Decided: April 04, 2016**

Plaintiffs and appellants Rosemary Morgan and Michelle Luna (collectively plaintiffs) are the widow and daughter, respectively, of decedent Mike Wayne Morgan. Morgan suffered fatal injuries when defendant Thomas Durnin crashed head-on into Morgan's vehicle as Durnin was fleeing from Beaumont Police Officer Brian Stehli during a vehicle pursuit that lasted nearly 12 minutes. As relevant to this appeal, plaintiffs' operative complaint alleged a wrongful death cause of action against defendants City of Beaumont (City) and the Beaumont Police Department (BPD) (sometimes collectively defendants).

The trial court granted defendants' motion for summary judgment, concluding they were immune from liability pursuant to Vehicle Code section 17004.7. This statute immunizes public entities from liability for injuries resulting from police pursuits of suspected criminals. In granting the motion, the court found that defendant BPD had a "policy and procedure in place" and, therefore, that section 17004.7 applied.

On appeal, plaintiffs contend the court erred in granting summary judgment because defendants failed to show by sufficient evidence that BPD as a matter of law promulgated a vehicle pursuit policy and provided the requisite training as required under section 17004.7. As we explain, we agree with plaintiffs that defendants failed to proffer sufficient evidence to establish as a matter of law that BPD promulgated its vehicle pursuit policy as required under section 17004.7. We therefore reverse the trial court's decision.

# Purpose of the Training



*Ramirez vs. City of Gardena (PIT Maneuver) 2017*

*State of California 2<sup>nd</sup> Appellate District*

Mark Gamar was a passenger in a pickup truck that was being pursued by employed by City of Gardena police officers on February 15, 2015. Gamar died from injuries he sustained when the truck spun into a light pole after one of the officers bumped the left rear of the truck using a maneuver called a "Pursuit Intervention Technique" (PIT). **Irma Ramirez, Gamar's mother, filed a wrongful death suit against the City of Gardena, claiming that the officer acted negligently and committed battery in conducting the PIT maneuver.**

Shortly after 11:00 p.m. on the night of February 15, 2015, several Gardena PD officers heard reports of an armed robbery that had occurred about 10 minutes previously. The suspects had reportedly fled in a blue 1980's Toyota pickup truck. Officer Michael Nguyen saw a 1980's Toyota pickup truck and noticed that the two occupants matched the descriptions of the robbery suspects. Nguyen attempted to stop the vehicle by activating his emergency lights and siren, but the vehicle fled, failing to stop at traffic signals and veering into oncoming traffic. Nguyen pursued, followed by several other patrol vehicles. The truck made several turns before approaching the Harbor Freeway. **At times the truck was traveling about 60 miles per hour in a 35 mile per hour residential zone.**

**The pursuing officers testified that they believed the truck was about to enter the freeway going in the wrong direction.** Nguyen performed a PIT maneuver by ramming his patrol vehicle into the left rear portion of the pickup truck's bed. The truck lost control, spun, and collided into a light pole. The driver climbed out of the driver's door and was detained. **The officers saw that the passenger (Gamar) had a shotgun next to him.** The officers removed the shotgun and pulled Gamar from the truck. They laid him on the sidewalk, where he received medical assistance. **The pursuit lasted between one and two minutes before the crash occurred.**

# Purpose of the Training



## *Ramirez vs. City of Gardena (PIT Maneuver) Continued:*

The trial court granted summary judgment in favor of the City of Gardena, finding that the City was immune from liability for the officer's conduct under Vehicle Code section 17004.7. **That statute provides immunity to a "public agency employing peace officers" when the agency adopts and promulgates a policy on vehicular pursuits in compliance with the requirements of the statute.** Ramirez argues that (1) the City's vehicular pursuit policy did not comply with section 17004.7 because it did not adequately specify the criteria for employing pursuit intervention tactics, and (2) the City did not adequately promulgate its policy. We reject both arguments and affirm.

At the time of the incident, **the City had a written policy on vehicle pursuits that was contained in a portion of the police manual. The policy contained sections on initiating and discontinuing a vehicle pursuit (discussed in more detail below).**

**The policy also contained a section addressing vehicular pursuit driving tactics.** That section stated that the PIT maneuver "can be used to stop a pursuit, as soon as possible, with Watch Commander approval, if practical." Another portion of that section instructed officers that "[a]ll forcible stop tactics (e.g., roadblocks, ramming, boxing-in, or channelization) shall only be used as a last resort in order to stop a fleeing violator in keeping with Departmental guidelines regarding use of force and pursuit policy."

**The City provided training to its police officers on its pursuit policy on at least an annual basis. As part of that training, officers were required to certify electronically that they had received, read, and understood the pursuit policy.**

## Case Law



### *Brower vs. Inyo County, 1989 (Roadblocks)*

On the night of October 23, 1984, William James Caldwell (Brower) was killed when the stolen car that he had been driving at high speeds for approximately 20 miles in an effort to elude pursuing police crashed into a police roadblock. His heirs brought action in Federal District Court under 42 U.S.C. 1983, claiming that respondents used "brutal, excessive, unreasonable and unnecessary physical force" in establishing the roadblock, and thus effected an unreasonable seizure of Brower, in violation of the Fourth Amendment. Petitioners alleged that "under color of statutes, regulations, customs and usages," officers caused an 18-wheel tractor-trailer to be placed across both lanes of a two-lane highway in the path of Brower's flight, "effectively concealed" this roadblock by placing it behind a curve and leaving it unilluminated, and positioned a police car, with its headlights on, between Brower's oncoming vehicle and the truck, so that Brower would be "blinded" on his approach.

#### Ruling:

"Seizure" alone is not enough for 1983 liability; the seizure must be "unreasonable." Petitioners can claim the right to recover for Brower's death only because the unreasonableness they allege consists precisely of setting up the roadblock in such manner as to be likely to kill him. This should be contrasted with the situation that would obtain if the sole claim of unreasonableness were that there was no probable cause for the stop. In that case, if Brower had had the opportunity to stop voluntarily at the roadblock, but had negligently or intentionally driven into it, then, because of lack of proximate causality, respondents, though responsible for depriving him of his freedom of movement, would not be liable for his death. Thus, the circumstances of this roadblock, including the allegation that headlights were used to blind the oncoming driver, may yet determine the outcome of this case.

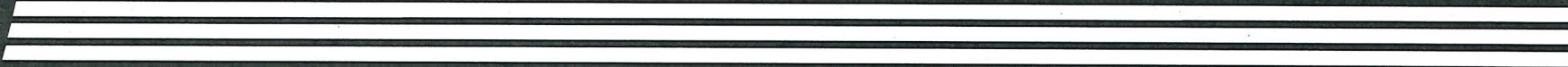
The complaint here sufficiently alleges that respondents, under color of law, sought to stop Brower by means of a roadblock and succeeded in doing so. That is enough to constitute a "seizure" within the meaning of the Fourth Amendment. Accordingly, we reverse the judgment of the Court of Appeals and remand for consideration of whether the District Court properly dismissed the Fourth Amendment claim on the basis that the alleged roadblock did not effect a seizure that was "unreasonable."



# *Policy 314 Pursuits*



## Purpose and Scope:

- Pursuits are inherently dangerous to officers and the public alike
  - Policy provides guidance to officers in balancing the need to apprehend a suspect vs. the need for officer/community safety
  - Policy is intended to reduce the potential for pursuit-related collisions
  - Policy states the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing officers
  - No officer or supervisor shall be criticized or disciplined for deciding not to engage in a vehicular pursuit because of the risk involved, even if policy would permit the initiation or continuation of the pursuit.
  - Officer's conduct during the course of the pursuit must be objectively reasonable, applying the "reasonable officer" standard
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# Policy 314 Pursuits



## Vehicle Pursuits Defined:

- Involves one or more officers **attempting to apprehend a suspect**
- Suspect is **attempting to avoid arrest** while operating a motor vehicle
- Suspect is using **high-speed driving or other evasive tactics**
- **Or driving in a legal manner but willfully failing to yield** to an officer's signal to stop

## Officer Responsibilities:

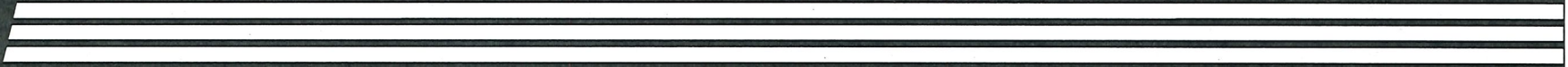
- Pursuits must be conducted with **red lights and siren** per **Vehicle Code 21055**
- Officers must drive with **due regard and caution** for the safety of all persons on the road per **Vehicle Code 21056**

## **WHEN TO INITIATE A PURSUIT:**

- **Upon reasonable belief that a suspect is attempting to evade arrest or detention by fleeing in a vehicle**
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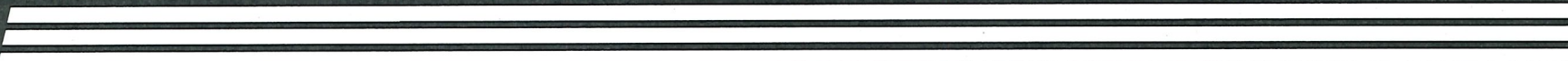


## *FACTORS TO CONSIDER WHEN DECIDING TO ENGAGE IN A PURSUIT:*

- **Seriousness** of the known or suspected crime
  - Is there an **imminent threat to the public** if suspect escapes?
  - **Undue risk to the public** would result by pursuing the suspect
  - Suspects represent **serious threat to public safety**
  - **Suspect identities are known**; they can be caught later at minimal risk
  - **Public environment unsuitable for safe pursuit** (time of day, size of crowds, heavy traffic, speed of pursuit unsafe for area, bad weather)
  - **Pursuing officer variables**: Is officer familiar with area? Can radio communication be maintained? What are the officer's driving capabilities? What are the capabilities of the patrol vehicle?
  - Is the pursuit at an inherently **unsafe speed**?
  - Other people in the fleeing vehicle (**hostages, passengers, other suspects**); other people in the officer's vehicle (**prisoners, ride-alongs**)
  - Are there other resources that can follow or intercept fleeing vehicle (**helicopter**, etc.)
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## WHEN TO TERMINATE A PURSUIT

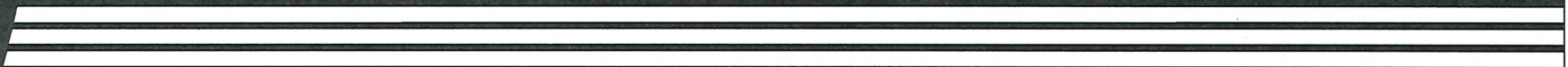
- Risk of continuing the pursuit outweighs risk posed by suspect escaping
  - Officers and Supervisors must continually weigh “risk vs. reward” to officers, suspects, and the public when deciding to allow pursuit to continue
  - Suspect vehicle is too far away to reasonably and safely pursue
  - Suspect vehicle’s whereabouts are unknown
  - Officer’s vehicle is unsafe to drive due to mechanical problem/damage
  - Extended pursuits for non-violent misdemeanors/minor crimes is discouraged
  - Hazards posed to uninvolved bystanders/motorists
  - Suspect is known, can safely be arrested later, and his/her immediate escape poses little danger to public
  - Supervisor terminates pursuit
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## *Pursuit Speeds*


- **Speed** is a factor officers and supervisors must continually evaluate
- Public safety, officer safety, and suspect safety **shall** be considered when assessing if pursuit speed is unsafe

Discontinue when:

- Pursuit speeds are inherently unsafe
  - Speeds exceed driving capability of officer
  - Speeds exceed mechanical ability of patrol car
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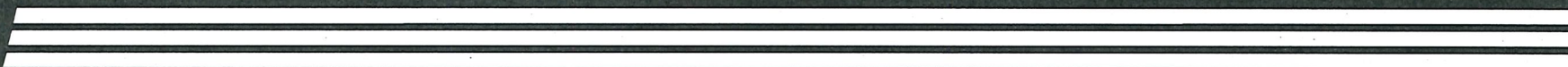


## *Pursuing Units: Number & Type*

- Pursuing units should be limited to **two units and a supervisor**
  - Involved units **may vary** with circumstances
  - Officer or Supervisor may request additional units to join if they are needed to make a safe arrest of the suspect(s)
  - **Uninvolved units should not self-dispatch**, but should monitor pursuit progress and location
  - Involved officers **who drop out** of pursuit may, when needed, **proceed to pursuit termination point** (obeying rules of the road/speed laws); other units may need “intel” from initial pursuing officer, especially if pursuit terminates in another jurisdiction
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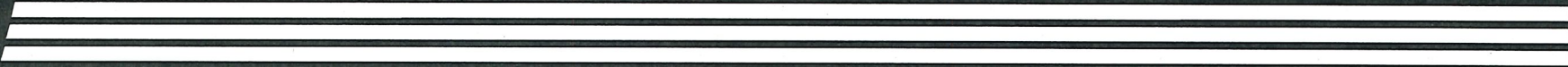


## MOTORCYCLES AND CARS WITHOUT RED LIGHT/SIREN:

- Distinctively marked patrol cars should replace police motorcycles in a pursuit as soon as practicable
  - Exemptions provided by Vehicle Code section 21055 do not apply to officers using vehicles in a pursuit without emergency equipment (red light/siren)
  - In an extreme/exigent circumstance, officers without proper emergency equipment may find themselves involved in a pursuit; they should terminate involvement as soon as possible. They are not exempt from rules of the road without red light/siren.
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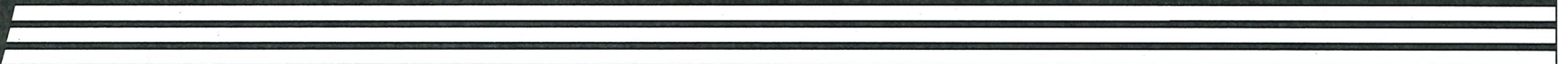
# *Primary Unit Responsibilities*

- Initial pursuing unit is designated the “primary”
  - The primary responsibility of the officer initiating the pursuit is suspect apprehension, without creating unreasonable danger to self/other officers, the suspect, or the public
  - Primary officer will notify Dispatch of: reason for pursuit; location and direction of travel; speed; suspect vehicle description and license plate; number of occupants; identity/description of occupants; officer and other safety information (firearms use, threats of violence, injuries, hostages, etc.)
  - Primary officer shall broadcast progress of the pursuit unless/until relieved by a supervisor or secondary unit.
  - If practicable, primary unit should leave broadcasts to secondary unit so as to focus on driving
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## *Tactics/Procedures for Uninvolved Units*

- Officers along the pursuit path can use emergency equipment to clear intersections of other traffic/pedestrians
- Officers should not parallel the pursuit route
- Officers should not become involved unless directed by supervisor
- **Someone has to “mind the store”** and be available for other calls for service

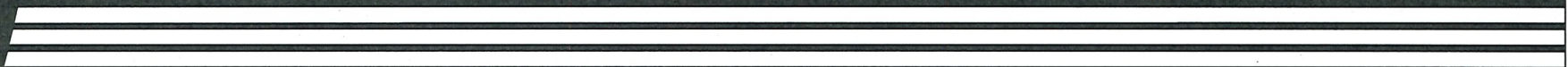




## Pursuit Trailing


- “Trailing” means to follow the path of the pursuit at a safe speed while **obeying all traffic laws** and without activating emergency equipment.
- Trailing is typically done by the initial pursuing unit and/or a supervisor, whose input/observations may be useful to officers at the eventual pursuit termination point.


## Aircraft Assistance

- **Aircraft assistance should be requested when available**
  - Air units should assume control of pursuit when they have visual contact with suspect vehicle
  - **Air units** should coordinate activities of ground resources, provide updates and alerts to hazards, and **can terminate the pursuit if ground units have no sight of the suspect, and the air units deems the pursuit unsafe to continue**
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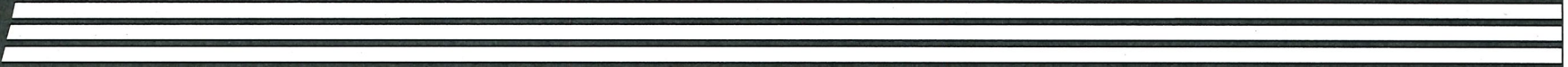


## Supervisor Responsibility

- “It is the policy of this department that available **Supervisory and Management control** will be exercised over all vehicle pursuits involving officers from this department.”
  - Supervisor must **immediately ascertain** if required information / risk factors are known or have been broadcast in order to ensure pursuit stays within policy
  - Engage in pursuit, when appropriate, to provide **direct supervision**
  - **Manage and control pursuit**, even if not directly involved in it
  - Ensure only the **required** number of units is involved in the pursuit
  - **Terminate the pursuit** if circumstances dictate
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- **Ensure** aircraft have been requested, if available
  - **Ensuring** proper radio channel is being used
  - **Ensure** notification is made to outside agencies as needed/appropriate
  - Controlling/managing PPD units entering another jurisdiction
  - Conduct post-pursuit debrief for **training purposes**

### **WATCH COMMANDER RESPONSIBILITY**

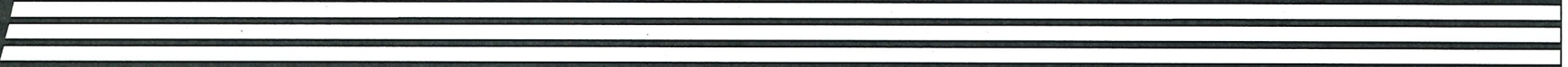
- Monitor and continually assess situation and ensure pursuit is conducted within policy guidelines.
  - Watch Commander is in overall command and has **final responsibility** for coordination, control, and termination of pursuit
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## Communications


- Within City limits, pursuit should be broadcast over Channel One unless otherwise directed by a supervisor or dispatcher.
- Pursuits leaving the City should, if practicable, switch over to an allied agency channel
- Dispatch will: coordinate pursuit communications of involved units, notify and coordinate with allied agencies, ensure field supervisor is aware of pursuit, assign case number and update CAD, broadcast pertinent safety information and pursuit updates as appropriate, ensure Watch Commander is notified of pursuit

## Loss of Pursued Vehicle

- Primary unit should broadcast pertinent information to assist other units with locating suspects. Primary unit coordinates further searches for suspect vehicle or suspects fleeing on foot.
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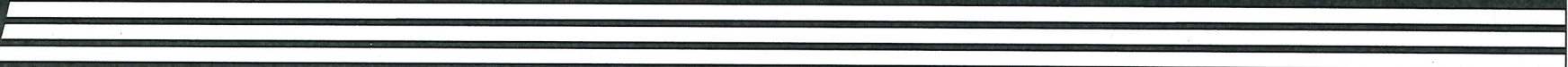


## INTER-JURISDICTIONAL CONSIDERATIONS

- Pursuits entering another jurisdiction may involve **lack of familiarity with area, lack of radio communication**, etc.; such factors should be considered when evaluating whether to turn pursuit over to an allied agency
  - PPD should **advise allied agencies of pursuits coming into their jurisdictions**, regardless of whether their help is requested
  - **When an allied agency has assumed the pursuit**, PPD units will drop out unless their further assistance is requested. The primary unit may “trail” to the termination point under circumstances previously noted in this presentation
  - **Requests to (or from) another agency to assume a pursuit should be specific.**
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## PURSUIITS EXTENDING INTO THE CITY OF PETALUMA

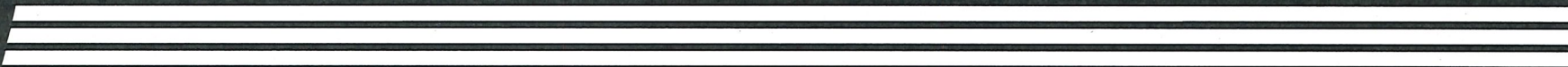
- Allied agencies pursuing a vehicle into Petaluma shall be responsible for conducting their pursuit
  - Petaluma PD units should not become involved unless specifically requested to do so
  - An exception is when a single allied agency's vehicle is pursuing a suspect into Petaluma. In such a case, a PPD unit may join the pursuit until sufficient allied agency's back-up arrives.
  - PPD assistance in another agency's pursuit will terminate at the City limits, provided the other agency's unit has sufficient assistance from other sources. Once they get it, we back out.
  - If an outside agency's pursuit terminates in Petaluma, PPD officers shall provide appropriate assistance to officers from that agency
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## PURSUIT INTERVENTION

- Examples: Road spikes, blocking, boxing, Pursuit Intervention Technique (PIT), ramming, roadblocks
- Pursuit intervention should be employed only after supervisor approval; **some may be considered application of deadly force**
- **“Risk vs. reward”** should be assessed in determining whether to employ pursuit intervention
- “It is **imperative** that officers act within the bounds of legality, good judgment, and accepted practices”

## USE OF FIREARMS

- Not prohibited per policy, but discouraged because of **risk and ineffectiveness**
  - Can be used when **necessary** to protect life, including your own; circumstances must demonstrate a need for **application of deadly force**
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**BLOCKING OR VEHICLE INTERCEPT** should be considered only in cases of felony suspects or impaired drivers posing a threat to public safety, when the target vehicle is stopped or at low speed, and other intervention techniques didn't work (or wouldn't be effective).

Civilian vehicles are **not** to be used to deploy this technique.

Blocking or interception techniques should **only** be employed by officers who have received training in such tactics.

Officers may not employ the PIT maneuver unless they have been trained in its use, and only then with supervisor approval. The supervisor must weigh "**risk vs. reward**" in assessing appropriateness of use.

Ramming should be employed **only** after all other reasonable tactical means have been exhausted. **A present or immediately foreseeable serious threat to the public must exist for ramming to be authorized.**

**Boxing:** Supervisor should give approval first; requires careful coordination

**Spike Strips:** Supervisor should approve; don't spike the wrong car(s)

**Roadblocks:** Discouraged, but supervisor should approve and only under **extraordinary** circumstances

**"RISK VS. REWARD" MUST ALWAYS BE EVALUATED AND CONSIDERED BEFORE  
DEPLOYMENT**





## Capture of Suspects

Self-discipline, sound professional judgment, and appropriate use of force are expected to be employed after pursuit ends and suspect is apprehended.

## Reporting Requirements

- Primary officer completes crime/arrest report
- Watch Commander ensures form **CHP 187** is filed with CHP within 30 days
- Primary officer or Sergeant will complete **Blue Team entry** detailing pertinent facts of pursuit (date & time, duration, involved officers, reason for pursuit, start and termination points, disposition of suspect, injuries/property damage, etc.)

## Training

- **Annual pursuit training and signing of attestation forms is required under state law, per Vehicle Code section 17004.7**, in addition to any other POST training on pursuits received
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