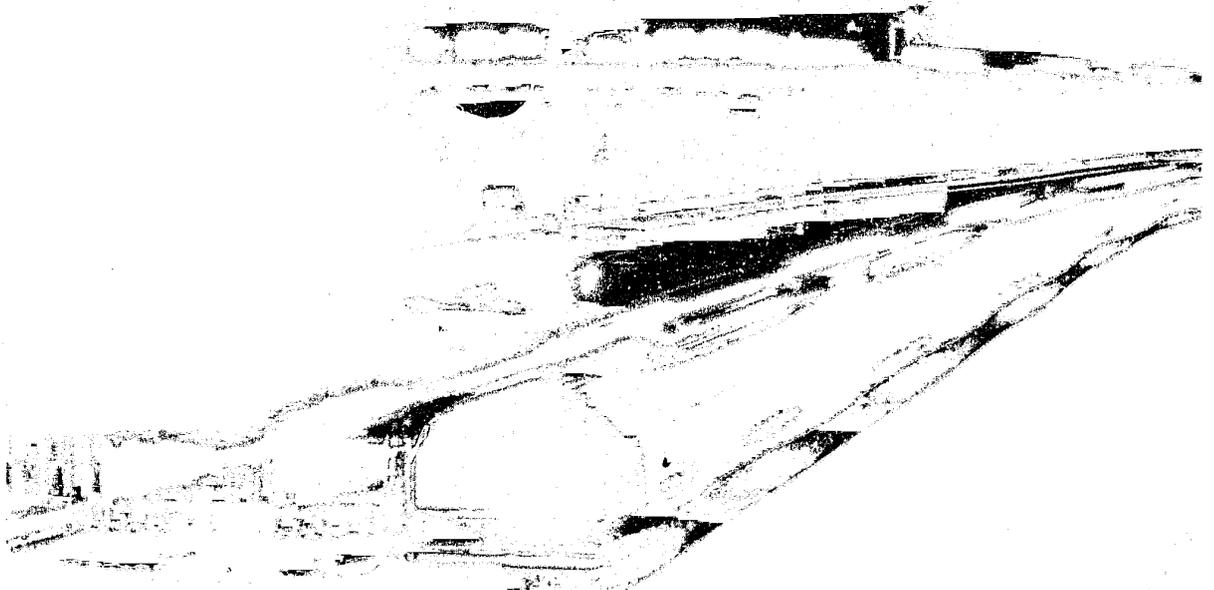




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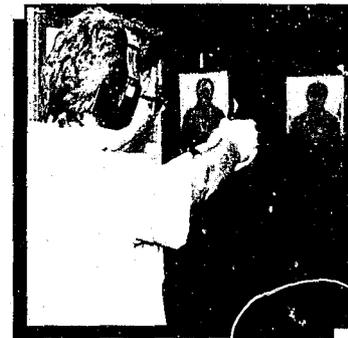
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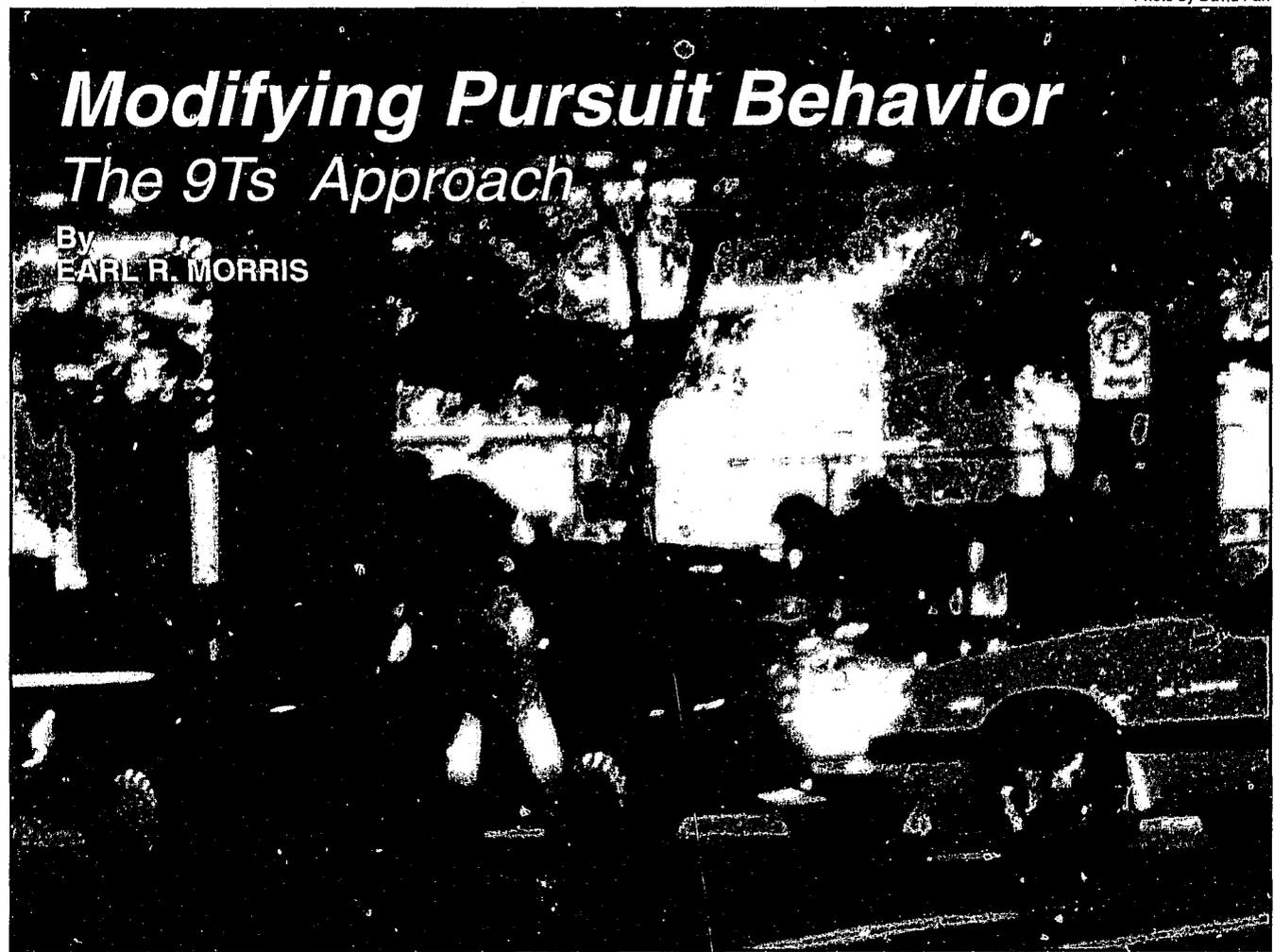
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Modifying Pursuit Behavior

The 9Ts Approach

By
EARL R. MORRIS

Law enforcement, as a profession, constantly stresses the importance of acquiring practical skills and knowledge of high liability topics. Yet, it sometimes falls short in the area of behavior-related training.

Litigation against law enforcement agencies does not generally focus on the lack of practical skills acquired by officers. Rather, the issues center on the failure of officers to use acquired skills properly while involved in stressful situations.

Officers attempting to control hostile situations with nightsticks serve as prime examples. During countless hours of training on the

proper use of the baton, recruits learn not to use the baton like a baseball bat and never to strike a suspect above the shoulders, except where the use of deadly force would be permitted.

Ironically, even when confronted with stressful situations that warrant less-than-deadly force, officers tend to double-grip the baton and swing it in a baseball fashion, oftentimes striking suspects above the shoulders. In all probability, the issues that come to light in such cases do not rest on a failure to train but on officers' failure to implement the training. The same may be true for pursuit training.

Emergency Vehicle Response and Pursuit

Looking at the training provided to officers in the areas of emergency vehicle response and pursuit, there appears to be a reasonable focus on the acquisition of practical skills. Officers learn to back the vehicle properly, to negotiate turns, to apply threshold braking, to change lanes safely, and to recognize an apex, etc. However, as analyses of actual pursuits show, the major reason that many of them go sour is not generally due to officers' lack of skills, but rather to their failure to apply them properly.

Consider the movie *The Blues Brothers*, in which an especially riveting chase scene occurs. During the span of approximately 10 minutes, officers from a large metropolitan area, in cluster fashion, pursue two known suspects through city streets at speeds exceeding 100 m.p.h. Narrowly missing several bystanders and unsuspecting motorists, they inflict monumental damage to numerous emergency vehicles and property. Amazingly, throughout the chase, never are any references made to deaths, injuries, or property loss. On the contrary, the movie depicts the scene to be one of willful and wanton disregard for life and property without the consequential responsibility that would normally accompany such actions.

Obviously, the perception of what stands as acceptable behavior for officers often depends on Hollywood's depiction of police actions. Or, it may be based on squad room interpretation of what is right or wrong. For the most part, none

reflect the safest and most responsible manner in which to conduct a pursuit.

A couple of years ago, at a national seminar, I met a man whose 19-year-old daughter died of injuries sustained in an automobile accident. The driver of the vehicle that hit her car ran a red light while being chased by police. The reason for the chase—a broken headlight.

As we talked about pursuits in general, the man gave me a piece of paper on which he wrote his approach to pursuit driving. Enlightened by his insight and impressed with the idea that law enforcement could do well to heed his simple counsel, I asked and received his permission to expand the concepts he proposed.

This article describes a 9Ts approach to pursuit driving. This approach attempts to expand and clarify basic principles of pursuit and to assist law enforcement officers in the key decision of whether to pursue or not.

The 9Ts

1) **Think**—Think about pursuits from all points of view—those of the officer, the suspect, and the innocent third parties.

Without question, it is difficult to focus on all potential hazards in the "heat" of the pursuit. I do believe, however, it is possible to contemplate the perspective of a pursuit from the standpoint of the suspect and the innocent third party, both prior to and during the pursuit.

Oftentimes, offenders believe that they can outrun the police or that if they go beyond jurisdictional limits, the police will end the chase—an idea obviously formed by watching many of today's television shows. Unfortunately, a number of individuals perceive this to be true.

It is difficult for police officers to combat this mentality. Therefore, when it becomes apparent that the fleeing suspect shows no inclination to stop, it would be advantageous for officers to consider other alternatives, such as properly establishing a roadblock or abandoning the pursuit.

The option to terminate often leads officers to believe that if one gets away, the violator and others will look at this as encouragement to continue the behavior. While this possibility exists, their immediate obligation is to ensure the safety of the public. That responsibility rests with law enforcement. Police officers need to resist the temptation to duplicate the immature behavior of those whom they pursue.

Then, there are the innocent third parties. From accounts given by these individuals, most third par-



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regulating pursuits.**
”

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ties had no warning prior to being struck either by the offender or the police. In other words, either they simply failed to hear the sirens or see the lights, or they didn't have time to react to them.

Faced with so many dilemmas during a pursuit, officers often fail to plan ahead and warn others in the path of the vehicles involved. Or, they simply lose sight of the fact that the public legally shares space with them. Remember, officers must ask for the right of way; they cannot demand it.

If this seems difficult to accept, all one needs to do is to talk with fellow officers whose family members became third-party victims of a pursuit. An individual's perception of police action changes dramatically when personally affected by a pursuit conducted in a reckless manner.¹

2) Talk—Talk about pursuits one on one, in group discussions, or by exchanging written communications, thereby constructively evaluating pursuit alternatives.

Numerous articles in professional journals recommend that all pursuit policies should include a mandatory review and critique after each pursuit.² Too many times, department administrators consider pursuits successful when officers apprehend the suspect and no injuries or fatalities occur. Yet, each pursuit offers the department a prime opportunity to learn, because the pursuit presents a real world example for those involved to critique the pursuit.

If administrators constructively evaluate each pursuit, they would find areas of vulnerability that could be improved or eliminated. Dis-

seminating the results of the evaluations not only reinforces appropriate pursuit behavior but also points out shortcomings and potential hazards. Such communications protect the officers and their departments in the event of future pursuits and possibly avoid a tragic experience for all involved.

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Police officers need to resist the temptation to duplicate the immature behavior of those whom they pursue.
”

3) Track—Track pursuits and use resulting data as a basis for training and formulating a pursuit policy.

Many departments fail to keep data on pursuits for fear of media exploitation or the possibility of enhancing a plaintiff's claim in a lawsuit. However, some departments see the value in compiling pursuit statistics.³ Agencies that maintain information on pursuits conducted by their personnel believe it is more important to rely on what really happened than to react to media sensationalism or the presumptions of plaintiffs' attorneys.

The California Highway Patrol (CHP) uses the information compiled to justify one of the most comprehensive driving programs in the Nation. Its critique of every pursuit allows the department to identify those officers who need to be re-

trained and to communicate problems to all employees, in order to minimize the danger to the public.

In 1988, the Utah Department of Public Safety conducted a survey of State law enforcement agencies to determine the number of officers involved in pursuits, the average duration of pursuits, and the number of accidents that resulted. The information obtained showed that a majority of the accidents, and the injuries and deaths that subsequently occurred, could have been prevented with more adequate training.

Armed with the firsthand knowledge of emergency vehicle activity, the Department of Public Safety succeeded in obtaining funds from the State legislature for a \$2 million driving facility. Additionally, the Utah Law Enforcement Academy increased the number of hours in its basic driving course from 12 to 30 and began an inservice driving program that now services all Utah law enforcement agencies.

Data on pursuits and emergency response can educate decision-makers as to what is really happening. Such information can substantiate current policies and practices regarding driver training or inspire departments to institute better training programs and pursuit policies.

4) Tailor—Tailor an unambiguous set of written guidelines and then use the guidelines to protect the officer, the department, and the public.

In today's litigious society, it is amazing to find that many law enforcement agencies do not have a pursuit policy, and of those that do, the policies are often ambiguous and misleading. To assume officers

involved in pursuits correctly understand the interpretation of the words "reasonable," "due regard," and "good judgment" without receiving the proper training borders on the ridiculous.

Individual interpretation of ambiguous terms or legal verbiage depends on an officer's frame of reference. In many cases, the interpretation deviates from the intent of the administrator or policy writer. Making a policy specific remains the only acceptable method to ensure common understanding and interpretation.

William Smith, a police academy attorney, and Geoffrey Alpert, a criminologist, laid out the necessary components for an understandable and legally defensible pursuit policy in an article entitled "Pulling in the Reins on Runaway Police Pursuits."⁴ In the article, the authors identified eight critical factors for an effective pursuit policy.

According to Smith and Alpert, police pursuit policies should include a mission statement, legal authorization for pursuits, continuation and termination factors, and detailed responsibilities for support units, supervisors, and communications personnel. The policies must also cover permissible vehicle tactics, pursuit activities in other jurisdictions, reviews of pursuit activities, and training requirements.

5) Train—Train all officers on when and how to initiate and to terminate a pursuit.

With the 1989 Supreme Court decision in *City of Canton v. Harris*,⁵ it becomes increasingly apparent that law enforcement adminis-

trators are under the scrutiny of legal precedent to provide training in the duties that are a condition of employment. Failure to do so would be considered "deliberately indifferent to the rights of citizens with whom officers will likely have contact."⁶ The Supreme Court's decision means that if an officer is going to engage in such an activity as a pursuit, then that officer must be given some training on how to carry out that responsibility.

“**Making a policy specific remains the only acceptable method to ensure common understanding and interpretation.**”

Pursuit driving requires specific skills and abilities not easily taught on neighborhood streets and interstate highways. Fortunately, these skills can be acquired without the use of an expensive facility or equipment.

In 1990, the National Highway Traffic Safety Administration (NHTSA), in cooperation with the International Association of Directors of Law Enforcement Standards and Training (IADLEST), produced the *National Law Enforcement Driver Training Reference Guide*. This guide serves as the nationally recognized benchmark for training law enforcement officers in emergency vehicle operations. It represents a 4-year project involving law

enforcement experts nationwide, who established the criteria necessary for a successful police driver training program. The principles can be taught in classrooms and then transferred to practical application at any available facility.

Another organization, the National Association of Professional Law Enforcement Emergency Vehicle Response Trainers (ALERT), also provides training information and assistance to law enforcement personnel in emergency vehicle operation. Administrators looking for direction in establishing a driver training program can contact ALERT to receive information on developing responsible pursuit training programs.

While more of a supervisory responsibility than a training issue, peer pressure nevertheless needs to be addressed. In some departments, an officer's unwillingness to engage in a pursuit or to continue one regardless of the inherent risks results in derogatory or distasteful remarks from other department members. This type of peer pressure, when allowed to flourish, often compels officers to take unwarranted or unnecessary risks.

When faced with this type of situation, supervisors must take immediate action to promote respect for officers who make the "right" decisions, regardless of the pressure to compromise their discretion. There can be no tolerance for disrespect of ethical and reasonable decisionmaking in any profession, especially law enforcement.

6) Toughen—Toughen laws to make eluding or evading the police

an offense equal to or greater than driving under the influence.

Recently, the State of New Jersey enacted laws designed to deter motorists from fleeing a police officer.⁷ The laws stipulate that motorists found guilty will have their driver's license suspended for a period of not less than 6 months but no more than 2 years.

Motorists who do not have valid driver's licenses may be imprisoned for 90 days for a first offense, 6 months for a second offense, and 1 year for any subsequent offense. The laws also provide for up to 18 months incarceration and a \$7,500 fine for licensed drivers. In addition, the laws include a rebuttable inference that the owner of the motor vehicle was the vehicle's operator at the time of the pursuit.

Fortunately, other States are examining the possibility of enacting laws similar to those in New Jersey to create a deterrent for the potential pursuit offender. The New Jersey laws, or the Utah law⁸ that makes evading the police a felony in most circumstances, send a clear message that the public and law enforcement will no longer tolerate any individual who jeopardizes the safety of others by engaging in conduct that threatens the well-being of the officer or innocent third parties.

While limited information exists regarding the public's opinion about pursuit driving,⁹ there appears to be widespread intolerance for law

violators. Therefore, it is reasonable to expect strong support for laws that punish fleeing suspects. Punishing suspects also reinforces the perception that they initiated the chase, not the police.

7) Technology—Technology, such as video interaction, and reflecting license plates should be used, where possible.

Commercially available pursuit simulators and model boards offer financially feasible electronic training enhancement. These simulation devices provide an alternative means of training in the practical application of driving principles taught in the classroom. The ability to put officers in pursuit situations in which instructors or supervisors could monitor their reactions to



changing and unexpected scenarios makes simulation an attractive alternative. Simulations allow for scenarios considered too dangerous to conduct on a driving course; the consequences of a simulated rollover or collision are restricted to a classroom environment.

Reflecting license plates illuminate the plate and enhance an officer's ability to confirm ownership without being extremely close to the vehicle. These plates help officers to determine whether the pursued vehicle has been stolen, to establish ownership, or to determine the possible criminal involvement of the owner/driver. In cases where there is a rebuttable inference law, such as the one in New Jersey, the officer maintains the option to terminate the pursuit in some cases and to employ enforcement proceedings at a later time.

8) Televise—Attempt to work with the media and entertainment industry to be more responsible in portraying high-speed chases. Also, make public service announcements to remind citizens of the seriousness of evading the police.

Viewers of Hollywood's versions of police pursuits cannot help but get caught up in the excitement of the chase. Remarkably, in the movies or on television, the ultimate goal is to apprehend the offender with absolutely no accountability and no apparent policy restrictions, regardless of

the consequences. Is it any wonder, then, that some "real" police officers involved in actual pursuits exhibit this same type of behavior?

After spending years watching television or going to the movies, impressionable police recruits enter driver training programs without a

realistic perspective on how to handle an emergency response, let alone a high-speed pursuit. Without proper training, supervision, and modification of unrefined behavior, law enforcement administrators can expect reenactments of Hollywood's version of police pursuits in a real world environment. When officers engage in tactics that they perceive necessary to stop a violator, the tactics should reflect proper training, not the latest movie release.

Currently, private organizations take the initiative to encourage the entertainment industry to give a more responsible depiction of the consequences of a pursuit. It is equally important that the law enforcement profession send the same message and require a more accurate portrayal of police duties.

Public service announcements, similar to the aggressive advertising sponsored by many States against drunk drivers, provide another means to make people aware of the dangers involved in fleeing the police. Perhaps an aggressive antipursuit campaign, broadcasting the hazards and ultimate consequences, would also deter motorists from trying to escape the police while in their vehicles.

9) Terminate—Terminate as many pursuits as possible.

By implementing the previous eight suggestions, the number of pursuits will likely decrease. Although there will always be some situations requiring pursuit, as many as 50% of present pursuits might be eliminated through comprehensive training, the develop-

ment of specific policies and procedures, and keener awareness of the outcome of pursuits. As the law enforcement community gains a better understanding of pursuits, it can be more responsive in developing a law enforcement perspective that should help to assist in curbing many tragic outcomes.

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Conclusion

All studies conducted on police pursuits report fatalities, injuries, and extensive property losses. Unfortunately, in any law enforcement function, a certain number of inadvertent casualties will occur. However, since many pursuits end in unnecessary tragedy, increased insurance costs, and liability suits, the choice to pursue rests with law enforcement.

Should law enforcement take a proactive stance to reduce the number of pursuits and their unwanted outcome, or do we sit back, while rationalizing that all is well? It would be truly unfortunate if our

“wake up” call came in the form of legislation aimed at taking away law enforcement's authority to pursue.

Judging from media programs and news documentaries, it is clear that many citizens believe that law enforcement does not act responsibly in regulating pursuits. It is also true that most of these programs take a few tragic incidents and portray them as representing the whole.

Law enforcement's response, unfortunately, has not been adequate. We must show that we are conducting research, implementing training, writing policies, and providing supervision to minimize the risks, while retaining the ability to apprehend violators. Although it is a difficult task, it is certainly surmountable and feasible if we move to implement a comprehensive 9Ts approach to pursuit driving. ♦

Endnotes

¹ Law Enforcement Training Network (LETN) broadcast on pursuit driving, December 1991.

² Geoffrey Alpert and William Smith, “Beyond City Limits and into the Woods,” *American Journal of Police*, November 1991.

³ These agencies include the California Highway Patrol, the Solicitor General's Office in Ontario, Canada, the Minnesota Board of Peace Officer Standards and Training, the Metro-Dade, Florida, Police Department, and the City of Miami, Florida, Police Department. See Alpert and Fridell, *Police Vehicles and Firearms*, 1992.

⁴ William Smith and Geoffrey Alpert, “Pulling the Reins on Runaway Police Pursuits,” *Public Risk Magazine*, December 1991.

⁵ *City of Canton v. Harris*, 109 S.Ct. 1197 (1989).

⁶ *Id.*

⁷ 19xx N.J. Laws 2C:29-2.

⁸ Utah Code Ann. 41-6-13 (19xx).

⁹ Fennessy et. al., “The Fennessy Report,” a study conducted in Fairfax County, Virginia, sponsored by the U.S. Department of Transportation, 1970.