

# **U.S. CUSTOMS AND BORDER PROTECTION**

**DIRECTIVE NUMBER:**  
4510-026A

**DIRECTIVE TITLE:**  
U.S. Customs and Border Protection  
Emergency Driving and Vehicular Pursuits

**EFFECTIVE DATE:**  
May 2023



**U.S. Customs and  
Border Protection**

## **What are Freedom of Information Act (FOIA) “Exemptions”?**

Not all information within records is required to be released under the FOIA. Congress established nine exemptions from disclosure for certain categories of information to protect against certain harms, such as an invasion of personal privacy, or harm to law enforcement investigations. The FOIA authorizes agencies to withhold information falling under these categories when an agency reasonably foresees that disclosure would harm an interest protected by one of the nine exemptions are described below.

### **Exemption 1**

Classified Information: Information specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such executive order.

### **Exemption 2**

Personnel Rules and Practices: Information related solely to the internal personnel rules/practices of an agency.

### **Exemption 3**

Information Exempted by Statute: Information specifically exempted from disclosure by statute if that statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or establishes particular criteria for withholding or refers to particular types of matters to be withheld; and if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to 5 U.S.C. § 552(b)(3).

### **Exemption 4**

Trade Secrets and Confidential Commercial Information: Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

### **Exemption 5**

Privileged Information: Inter-agency or intra-Agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency, provided the deliberative process privilege shall not apply to records created 25 years or more before the date on which the records were requested.

### **Exemption 6**

Personal Information: Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

### **Exemption 7**

Certain Law Enforcement Information: Records or information compiled for law enforcement purposes (but only to the extent that the production of such law enforcement records/information) that:

7(A) Could reasonably be expected to interfere with enforcement proceedings.

7(B) Would deprive a person of a right to a fair trial/impartial adjudication.

7(C) Could reasonably be expected to constitute an unwarranted invasion of personal privacy.

7(D) Could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a law enforcement authority in the course of a criminal investigation execution of a lawful national security intelligence investigation, information furnished by a confidential source.

7(E) Would disclose techniques and procedures for law enforcement investigations/prosecutions or would disclose guidelines for law enforcement investigations/prosecutions if such disclosure reasonably risked circumvention of the law.

7(F) Could reasonably be expected to endanger the life or physical safety of any individual.

### **Exemption 8**

Information About Financial Institutions: Information contained in or related to examination, operating or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

### **Exemption 9**

Information About Wells: Geological or geophysical information and data, including maps, concerning wells.

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*Additional descriptions and examples of each FOIA Exemption Category above can be found at:*  
<https://www.dhs.gov/foia-exemptions>



## **Commissioner's Message: Emergency Driving and Vehicular Pursuits Policy Updated May 2023**

As a professional law enforcement organization, U.S. Customs and Border Protection (CBP) is continuously updating its policies to reflect best practices, evolving public expectations, and public safety needs. As part of that process, in 2021, CBP's Law Enforcement Safety and Compliance Directorate (LESC) conducted a review of the Agency's vehicular pursuit incidents. This review examined trends, statistics, and outcomes associated with CBP's pursuits and culminated in a number of recommendations for improvement. Following completion of that review, I directed CBP to initiate an update to the Agency's Emergency Driving and Vehicular Pursuits policy.

Vehicular pursuits pose inherent risks – to members of the public, officers and agents, and vehicle occupants. CBP's newly updated Emergency Driving and Vehicular Pursuits policy acknowledges these risks and shifts our Agency's overall approach to a risk-based model when it comes to pursuits. The policy adopts a "**reasonableness**" standard that is familiar to, and found throughout, a majority of other law enforcement agencies across the United States.

This policy provides a clear framework for weighing the risks associated with vehicular pursuits (e.g., the dangers posed to the public), against the law enforcement benefit or need. The policy addresses multiple factors that require consideration when deciding if a vehicle should be pursued, and when a pursuit should be terminated. In addition to laying out these risk factors, the policy restricts pursuits in certain circumstances that are considered especially dangerous and also prohibits specific emergency driving procedures that have proven unsafe or ineffective.

Importantly however, this updated policy does not prohibit vehicular pursuits. CBP's unique border security mission requires that we retain an ability to effectively pursue vehicles. Instead, the policy entrusts agents, officers, and their supervisors with the ability to conduct pursuits based on their analysis of risk factors, encourages them to consider other available means of apprehending suspects, and reaffirms the overall law enforcement need to conduct pursuits.

Finally, the policy clarifies the role of supervisors, and establishes clear reporting requirements to ensure we learn and improve over time. We welcome your feedback and suggestions, and we will continue to work with all CBP operational offices, as well as the LESG and the Office of Training and Development, to further refine and improve this updated policy going forward.

Immediately following the release of this policy, LESG will work with CBP's operational offices to initiate a phased implementation plan for establishing Agency-wide compliance with the new policy's enhanced standards and training requirements. Mandatory compliance with the newly revised training standards and operational procedures will be required following the completion of this phased implementation roll-out on May 1, 2023.

# U.S. DEPARTMENT OF HOMELAND SECURITY

## U.S. Customs and Border Protection

CBP DIRECTIVE NO. 4510-026A

EFFECTIVE DATE: May 2023

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ORIGINATING OFFICE: OC-PD

SUPERSEDES: CBP Dir. 4510-026

REVIEW DATE: May 2026

### U.S. Customs and Border Protection Emergency Driving and Vehicular Pursuits

- 1. PURPOSE.** This directive establishes guidelines to ensure U.S. Customs and Border Protection (CBP) conducts Emergency Driving and Vehicular Pursuits (ED-VPs) in accordance with law and in a manner that minimizes risks to the public, officers/agents, other law enforcement, and vehicle occupants. The purpose of this directive is also to ensure that ED-VPs are properly monitored and reviewed in a timely manner.
- 2. BACKGROUND.** The preservation of human life and safety of the American public and the communities we serve are paramount to CBP operations. ED-VPs may present risks to human life, including to the CBP personnel involved in such Vehicular Pursuits. Therefore, in all instances, CBP personnel must consider whether the need to take Exception to Traffic Laws or take an enforcement action exceeds the risk to human life and safety presented by the action before deciding to engage in ED-VPs. This directive guides CBP personnel in balancing these considerations and establishes minimum standards regarding ED-VPs.
- 3. SCOPE.** This directive applies to all CBP offices and law enforcement personnel engaging in motor vehicle operations. This directive does not apply to maritime vessel pursuits or aircraft pursuing other aircraft. This directive should be read in conjunction with CBP Publication No. 4500-002A, *CBP Use of Force Policy*, dated January 2021 and replaces CBP Directive No. 4510-026, *Emergency Driving Including Vehicular Pursuits by U.S. Customs and Border Protection Personnel*, dated January 16, 2021.
- 4. POLICY.** It is CBP policy to conduct ED-VPs in accordance with law and in a manner that minimizes risk to the public, the officer/agent, other law enforcement, and vehicle occupants.

  - 4.1 Only Authorized CBP Officers/Agents (herein referred to as Authorized Officers/Agents) who are trained and certified to engage in ED-VPs may conduct ED-VPs, and only when those ED-VPs are deemed to be Necessary and Objectively Reasonable.
  - 4.2 As outlined throughout this directive and in Subsection 8.47, CBP has determined there are instances where the risk to human life is so significant that engaging in ED-VPs must be restricted or prohibited. Authorized Officers/Agents are to exercise self-discipline and sound professional judgment when performing ED-VP actions.
  - 4.3 CBP will not question any Authorized Officer/Agent's decision to Terminate a Vehicular Pursuit. An Authorized Officer/Agent involved in a CBP Pursuit may Terminate that Pursuit at any time, for any reason.
  - 4.4 Pursuit Supervisors have a responsibility to closely monitor the progress of each Vehicular Pursuit and ensure that the Pursuit is being conducted in accordance with this directive.

4.5 Any Agency employee with knowledge of an improper action by CBP law enforcement personnel shall, without unreasonable delay, report it to CBP's Office of Professional Responsibility (OPR) and, as appropriate, their chain of command.

4.6 Responsible Officials (ROs) may impose additional ED-VP programmatic restrictions. ROs may not lessen the requirements in this directive without written consent of CBP's Commissioner.

## 5. AUTHORITIES/REFERENCES.

5.1 U.S. Code (U.S.C.) Title 8 § 1357, Powers of Immigration Officers and Employees.

5.2 18 U.S.C. § 758, High Speed Flight from an Immigration Checkpoint.

5.3 19 U.S.C. § 1433, Report of Arrival.

5.4 19 U.S.C. § 1436, Penalties for Violations of Arrival.

5.5 19 U.S.C. § 1459, Reporting Requirements.

5.6 19 U.S.C. § 1461, Penalties for Failure to Declare.

5.7 19 U.S.C. § 1581(d), Penalty for Failure to Stop at Command.

5.8 Code of Federal Regulations Title 8 § 287.8, Standards for Enforcement Activities.

5.9 CBP Directive No. 1420-012, *CBP National Use of Force Review Board*, dated December 2020.

5.10 CBP Directive No. 4320-030B, *Incident-Driven Video Recording System*, dated August 6, 2021.

5.11 CBP Publication No. 4500-002A, *CBP Use of Force Policy*, dated January 2021.

5.12 CBP Handbook No. 4500-002B, *CBP Use of Force - Administrative Guidelines and Procedures Handbook*, dated January 2021.

## 6. DEFINITIONS.

6.1 Apprehension Efforts: Any attempted seizure of a Subject Vehicle by Authorized Officers/ Agents accomplished through the use of Activated Emergency Equipment or other show of authority.

6.2 Authorized Officer/Agent: CBP officers; U.S. Border Patrol (USBP) agents; Air and Marine Operations (AMO) agents and officers; OPR special agents and investigators; and other qualified CBP law enforcement personnel as designated by the CBP Commissioner.

6.3 Blind Mode: A radio communications tactic that involves a transmission made without obtaining a receipt, or acknowledgment of receipt, from the intended receiving station. (b) (7)(E)

(b) (7)(E)

(b) (7)(E)

6.4 Boxing-In: A technique which involves surrounding a moving Subject Vehicle with moving Emergency Vehicles, which then slow to a stop alongside the Subject Vehicle, causing the Subject Vehicle to come to a stop. This technique is no longer trained nor authorized under CBP Policy.

6.5 Caravanning: More than three units following in close proximity to the Subject Vehicle during a Vehicular Pursuit. When determining whether there are three or more Emergency Vehicles following the Subject Vehicle, CBP units and other law enforcement units will be considered.

6.6 CBP Communications Center: USBP Law Enforcement Communications Center, Port of Entry (POE) Watch Command Center, or any location where radio communications are coordinated.

6.7 Checkpoint: A permanent or temporary location, other than a POE, where a Federal law enforcement inspection is conducted.

6.8 Emergency Driving: The operation of a CBP Emergency Vehicle, informed by a state's Emergency Vehicle Traffic Laws, in the course of an Authorized Officer/Agent's official duties. Engaging in Emergency Driving requires, at a minimum, the use of front and rear facing red and blue emergency lights. Engaging in Vehicular Pursuits requires Activation of all Emergency Equipment (both red and blue emergency lights as well as audible sirens).

6.9 Emergency Equipment: Permanently or semi-permanently installed equipment on CBP Emergency Vehicles, including front and rear mounted red and blue emergency lights that are visible in all directions when activated and audible sirens. The use of Emergency Equipment signals to the public that the Authorized Officer/Agent is engaged in a law enforcement activity which may require Excepting Traffic Laws. It is also a signal to the driver of the Subject Vehicle that they should yield to the Authorized Officer/Agent's authority.

6.9.1 Activation of/Activated Emergency Equipment: The activation of an Emergency Vehicle's audible sirens **and** red and blue emergency lights.

6.10 Emergency Vehicle: A Marked or Unmarked Vehicle equipped with permanently or semi-permanently installed Emergency Equipment.

6.11 Enforcement Action Statistical Analysis and Reporting System (E-STAR): A CBP computer system for recording assaults, reportable uses of force, Vehicular Pursuits, reportable firearms discharges, and other related data.

6.12 Failure to Yield: A situation that occurs during an Authorized Officer/Agent's active attempt to stop a Subject Vehicle by Activating their vehicle's Emergency Equipment (lights and siren) and the suspect Fails to Yield/stop within a reasonable time and distance.

6.13 Feasible: Reasonable possibility of being completed or accomplished.

6.14 Following: When an Authorized Officer/Agent drives in close proximity to a Subject Vehicle without making any Apprehension Efforts.

6.15 Foreseeability of Risk/Foreseeable Risk: The degree to which a reasonable officer/agent in a given situation should know that a specific harm might result from the actions being performed and the circumstances present. For the purpose of this directive, such specific harm includes the specific risk of collision, injury, or death to Vehicle Occupants, agents/officers, or others. When determining "Foreseeability of Risk," the Authorized Officer/Agent shall consider all applicable Pursuit Risk Factors (see Subsection 6.31).

6.16 Governmental Interest: The compelling reason the Government has to effect or attempt a seizure. The interest may be higher or lower based on the severity of the crime being committed and

the level of threat posed by the subject. Governmental Interest must be weighed against the potential adverse effect that the seizure presents. When determining Governmental Interest, the Authorized Officer/Agent shall consider: (1) the severity of crime at issue, not including the mere act of fleeing as the crime at issue, and (2) whether the subject poses an Imminent Threat to the safety of the officers/agents or others, not including reckless driving in an attempt to evade arrest. Governmental Interest and Foreseeability of Risk are evaluated at the time the Authorized Officer/Agent initiates the Vehicular Pursuit and continuously throughout the duration of the Pursuit.

6.17 High-Risk Stop: Any stop where additional reactionary space or cover is required due to an Imminent Threat posed by the occupants of a Subject Vehicle. Such stops include, but are not limited to, those involving suspected felons, armed individuals, or potentially dangerous person(s).

6.18 Imminent Threat: The existence of any condition that poses an immediate danger to the life, health, or safety of the public, the officer/agent, or other law enforcement.

6.19 Imminent Threat Response: The operation of an Emergency Vehicle in response to the existence of an Imminent Threat.

6.20 Marked Emergency Vehicle: CBP Emergency Vehicles equipped with Emergency Equipment to include red and blue emergency lights and audible sirens, and marked with lettering, insignia, and/or striped paint clearly indicating that the vehicle is a law enforcement/Emergency Vehicle.

6.21 Minimized/Minimizing Visibility: Attempts by an Authorized Officer/Agent to conceal their participation in a Vehicular Pursuit from the Subject Vehicle (e.g., by utilizing factors including, but not limited to, topography, distance, and/or alternative routes).

6.22 Necessary: A reasonable conclusion by an Authorized Officer/Agent that there is a need to *immediately* apprehend a subject as part of their enforcement duties based on the totality of the facts and circumstances known to, and reasonably assessed by, the Authorized Officer/Agent.

6.23 Non-Emergency/Normal Vehicle Operations: Normal driving, without the use of Emergency Equipment, in compliance with the state laws governing the operation of an emergency/law enforcement vehicle in performance of official duties during Non-Emergency Operation/Normal Vehicle Operations.

6.24 Non-Emergency Vehicles: Any vehicle not defined as a Marked or Unmarked Emergency Vehicle in Subsections 6.20 and 6.46. Non-Emergency Vehicles may not engage in ED-VPs or be used to effect vehicle stops.

6.25 Objectively Reasonable: When the Governmental Interest in apprehending a subject at the moment outweighs the Foreseeability of Risk to the public, other law enforcement, and vehicle occupants. It is the constant responsibility of all officers/agents involved in a Vehicular Pursuit to continue weighing Pursuit Risk Factors if a Subject Vehicle continuously Fails to Yield to an Authorized Officer/Agent's authority. If after weighing these factors, a Pursuit is no longer Objectively Reasonable, the Pursuit must be Terminated consistent with the requirements of this directive. Objective Reasonableness is based on the totality of the circumstances known by the officer/agent at the time of the event rather than the advantages/benefits of post-incident hindsight.

6.26 Offensive Driving Technique (ODT): Any driving technique, consistent with CBP training, that is intended to end a Vehicular Pursuit through the intentional use of vehicle-to-vehicle impact(s). Additional details regarding ODTs can be found in CBP's Use of Force Policy.

6.27 Officer/Agent Assist: The operation of an Emergency Vehicle to assist another officer/ agent when there is an Imminent Threat.

6.28 Overloaded Vehicle: Any vehicle that visibly and/or reasonably appears to be overloaded, or a vehicle carrying excess cargo or occupants in excess of its seating capacity.

6.29 Paralleling: Indirectly participating in a Vehicular Pursuit, with or without Emergency Equipment, while driving in an adjacent lane. Paralleling does not include driving on an adjacent roadway with Activated Emergency Equipment for as short a time as possible in order to join the Pursuit as a Secondary/Support Unit.

6.30 Primary Unit: The first Emergency Vehicle to become involved in a Vehicular Pursuit or any Emergency Vehicle that later assumes control of the Pursuit as the lead vehicle (the first pursuing Emergency Vehicle behind the Subject Vehicle). The Primary Unit may be a state, local, or Federal law enforcement unit.

6.31 Pursuit Risk Factors: In general, Authorized Agents/Officers should balance the Governmental Interest in initiating or continuing a Vehicular Pursuit with the potential dangers posed to the public, officers/agents, other law enforcement, vehicle occupants, and the community through which the Pursuit is taking place. Risk factors that should be considered may include but are not limited to:

- (1) if the speed or the erratic, dangerous, or unlawful driving nature of the Subject Vehicle and/or other nearby moving vehicles contributes to unsafe operation, loss of control, or an increased likelihood of injuries resulting from a collision;
- (2) if the Subject Vehicle is traveling towards areas with dense traffic or intersections that would increase the chance of collision with bystanders, other vehicles, or other objects;
- (3) if the nature of the area is likely to create unnecessary elevated risks to the public at large (residential, commercial, presence of pedestrian traffic);
- (4) if weather conditions or lighting might impair visibility or increase the risk that vehicles may lose traction/control;
- (5) if road conditions (curves, lanes, bridges, unpaved roads, asphalt condition, etc.) increase the risk that vehicles may lose control and/or impact bystanders, other vehicles, or other objects;
- (6) if the Subject Vehicle appears to be an Overloaded Vehicle, creating unsafe handling characteristics;
- (7) (b) (7)(E)
- (8) if the distance between the pursuing Authorized Officer/Agent and the fleeing vehicle is so great that further efforts would be futile or require the Vehicular Pursuit to continue for an unreasonable time and/or distance.

6.32 Pursuit Supervisor: A permanent or acting first-line (or higher-level) law enforcement supervisor who has completed the requisite training and maintains the authority to oversee a Vehicular Pursuit. The Pursuit Supervisor cannot be a supervisor directly engaged in any Emergency Driving that is part of/in response to the active Pursuit.

6.33 Pursuit Termination/Terminate/Terminated: When an Authorized Officer/Agent deactivates their vehicle's Emergency Equipment and ceases all attempts to maintain visual contact with the Subject Vehicle consistent with this directive.

6.34 Reasonable Amount of Time: The amount of time, under the circumstances present, considered reasonable for a person to yield to an Emergency Vehicle making Apprehension Efforts or the amount



of time considered reasonable for the Subject Vehicle to distance itself from the Authorized Officer/ Agent such that the subject and public would clearly recognize that a Vehicular Pursuit has ended.

6.35 Re-Engagement: Where an Authorized Officer/Agent engages in the Vehicular Pursuit of a Subject Vehicle that was previously being pursued.

6.36 Remote Vehicle Tracking: (b) (7)(E) This must be done consistent with law and CBP policy.

6.37 Responsible Official (RO): The individual responsible for implementing and enforcing CBP's policies and procedures within their designated Area(s) of Responsibility (AORs). ROs consist of the following positions (who may delegate their RO responsibilities to subordinate personnel, as appropriate): Executive Assistant Commissioners (EACs); Chief, USBP; Assistant Commissioners; Chief Patrol Agents; Directors, Field Operations and Port Directors, Office of Field Operations (OFO); Director, AMO, Deputy Director Air Operations, Deputy Director Marine Operations; Executive Director of the Law Enforcement Safety and Compliance Directorate (LESC); Executive Directors, OPR; Division Directors, Office of Training and Development (OTD); and other officials designated in writing by CBP's Commissioner.

6.38 Restricted Area: A geographic region or zone, designated by ROs, that has a dense population concentration or is substantially used for residential, commercial, or recreational purposes with a significant level of pedestrian and vehicular traffic that could foreseeably result in a heightened level of risk to the public if a Vehicular Pursuit were to be conducted there. (b) (7)(E)

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Restricted Areas remain subject to change based on evolving traffic patterns/volume, fluctuations in population densities, new infrastructure developments (b) (7)(E) (b) (7)(E). ROs will ensure that all relevant personnel are sufficiently advised of any updates to Restricted Areas within their Area(s) of Responsibility (AORs).

6.39 School Zone: An area near a school with a special, reduced speed limit designated by the local authority. These zones generally include the campus, school property, and streets directly adjacent to the school property.

6.40 Secondary Unit: The Emergency Vehicle following behind the Primary Unit at a safe distance during a Vehicular Pursuit to provide support and relay informational updates to a CBP Communications Center.

6.41 Shadowing: An Emergency Driving response that involves indirectly following a Vehicular Pursuit at any distance, or along parallel/adjacent roadways, by any CBP Emergency Vehicle(s) not directly involved as the Primary, Secondary, or Support Unit. Shadowing does not include instances where Remote Vehicle Tracking is used by an aircraft or ground unit (not engaged in the Pursuit) to observe and monitor the Subject Vehicle.

6.42 Subject Vehicle: A vehicle that an Authorized Officer/Agent has reasonable suspicion to believe contains a person who has committed a violation of law that the Authorized Officer/Agent has the authority to enforce.

6.43 Support Unit: A third, backup Emergency Vehicle, following the Primary and Secondary Units (at a safe distance) during a Vehicular Pursuit. The Support Unit also provides backup, for apprehension purposes, and additional coverage during a High-Risk Stop.

6.44 Traffic Laws: State or municipal ordinances that direct and regulate vehicular movement on roads and highways. These ordinances may be conveyed through posted traffic control signs (e.g., yield, stop, and other directional signs), traffic lights, intersection markings, and crosswalks.

6.45 Traffic Law Exception/Exception to Traffic Laws: The intentional deviation from posted signs, traffic controls, and/or other laws governing vehicular movements on roads and highways. The operation of a CBP Emergency Vehicle is informed by the Traffic Laws of the states or municipality in which they operate. Therefore, Authorized Officers/Agents must exercise reasonable care for public safety when taking Exception to Traffic Laws.

6.46 Unmarked Emergency Vehicle: CBP Emergency Vehicles, equipped with Emergency Equipment to include red and blue emergency lights and audible sirens, that have no visible markings/lettering, insignia, and/or striped paint to otherwise indicate/identify the vehicle as a law enforcement/Emergency Vehicle.

6.47 Unrestrained Occupants: Occupants in a moving motor vehicle who are not wearing safety belts or who, when applicable, are not placed in child safety seats.

6.48 Vehicle Contact Action: A technique not covered in CBP training (e.g., ramming) that is designed to cause contact between the Authorized Officer/Agent's Emergency Vehicle and the Subject Vehicle. Vehicle Contact Actions are prohibited unless being used to block stationary vehicles, stop driverless vehicles, or in deadly force incidents, in accordance with CBP's Use of Force Policy.

6.49 Vehicle Immobilization Device (VID): A specialized device that when deployed is intended to result in the controlled deflation of a vehicle's tire or otherwise cause a vehicle to stop.

6.50 Vehicle Incursion: The unauthorized crossing of a vehicle over the international boundary of the United States at a place other than at an open Port of Entry (POE).

6.51 Vehicular Pursuit: An active attempt by an Authorized Officer/Agent to apprehend the occupant(s) of another moving vehicle (Subject Vehicle), where the Subject Vehicle's driver is aware of and actively resisting apprehension by maintaining or increasing speed, disobeying Traffic Laws, or by attempting to elude the Authorized Officer/Agent. Engaging in Vehicular Pursuits requires sustained Activation of all Emergency Equipment (red and blue emergency lights and audible sirens). A Vehicular Pursuit will not exist if the Subject Vehicle yields within a Reasonable Amount of Time or the Subject Vehicle Fails to Yield and the initiating Officer/Agent does not attempt to maintain contact with the Subject Vehicle.

## **7. RESPONSIBILITIES.**

### **7.1 CBP Commissioner.**

#### **7.1.1 Designates CBP's ED-VPs Executive Agent.**

## 7.2 Operations Support, LESC.

7.2.1 Serves as the Executive Agent for CBP ED-VPs, with duties including programmatic oversight, policy instruction, training guidance, trend analysis as well as equipment research and implementation.

7.2.2 Maintains an automated reporting mechanism within E-STAR that incorporates the applicable data fields in Appendix A.<sup>1</sup>

7.2.3 Coordinates and collaborates with OTD, as well as outside Subject Matter Experts, to ensure training development and delivery aligns with evolving analytical trends, best practices, logistical restraints, and legal requirements associated with this directive.

7.2.4 Coordinates with the Chief-USBP, Assistant Commissioner-OPR, and EACs-OFO, AMO, and Enterprise Services to develop, implement, and maintain CBP's ED-VP training curriculum (including regular supervisory refresher/sustainment training) and a certification process that ensures unified implementation of this directive.

## 7.3 Office of the Commissioner, OPR.

7.3.1 Responds to and reviews all Vehicular Pursuits resulting in serious bodily injury or death.

## 7.4 USBP, Sector Chief Patrol Agents and AMO/OFO/OPR, Directors.

7.4.1 Ensure that subordinate personnel understand and comply with this directive and all associated training requirements.

7.4.2 Review all incident reports, available data, and other information pertaining to a Vehicular Pursuit incident, including body worn camera footage, photographs of vehicle or property damage, and witness statements and submit a memorandum to the recipients outlined in Subsection 7.4.4 providing an analysis of decision-making related to the Pursuit.

7.4.3 This analysis should include:

- (1) An assessment of the supervisor's determination of compliance or non-compliance with this directive based on the information available at the time of the assessment. Vehicular Pursuits involving a reportable use of force, vehicle accident, property damage, or injury to subjects, bystanders, or officers/agents will be referred to the applicable Use of Force Review Board or Vehicular Pursuits Review Committee and therefore do not require a supervisor's determination of compliance or non-compliance.
- (2) Whether the law enforcement or public safety benefit justified the potential risk.
- (3) Strengths and weaknesses of the Pursuit-related decisions.
- (4) Whether the supervisor conducted an after-action debriefing related to the Vehicular Pursuit, including any feedback provided in such briefing.

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<sup>1</sup> This reporting and tracking requirement shall not supersede existing CBP WATCH Reporting responsibilities, existing CBP Motor Vehicle Management procedures, Personal Property and Asset Management procedures and Occupational Safety and Health procedures as applicable when ED-VP actions results in injury or damage to equipment or property.

(5) Each memorandum shall include the E-STAR incident number associated with the Vehicular Pursuit incident.

7.4.4 This memorandum must be submitted within 14 calendar days of the Vehicular Pursuit to the involved officer/agent's headquarters leadership (i.e., Chief of USBP's Law Enforcement Operations Division, the Executive Director of OFO's Operations Directorate, Executive Director of AMO's Operations Directorate) and the Executive Director of OPR's Office of Investigative Operations.

7.4.5 A copy of each memorandum required in Subsection 7.4.2 shall be provided to LESC to be analyzed as part of the annual Vehicular Pursuits report.

## 7.5 Responsible Officials.

7.5.1 Execute and/or delegate, as appropriate, the responsibilities outlined in this directive.

7.5.2 Implement and enforce CBP's ED-VP policies and procedures within their AOR.

7.5.3 Within 30 days of this directive's signature date, ROs (or their designees) will delineate and communicate Restricted Areas within their AORs (b) (7)(E)

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7.5.4 Provide Restricted Area information and maps designating those areas to Authorized Officers/Agents, supervisors, and CBP Communications Center personnel.

7.5.5 Ensure that all relevant personnel are sufficiently advised of any updates to Restricted Areas within their AOR (b) (7)(E)

(b) (7)(E)

(b) (7)(E)

## 7.6 All CBP Officers/Agents.

7.6.1 Understand, acknowledge, and comply with all provisions of this directive and refrain from engaging in ED-VPs that are not consistent with this directive.

7.6.2 Provide written explanation and justification following any Vehicular Pursuit incident consistent with Subsection 9.1.

## 8. **PROCEDURES.**

### Non-Emergency Operation/Normal Vehicle Operations

8.1 CBP personnel will comply with the state laws governing the operation of law enforcement/Emergency Vehicles in performance of their official duties during Non-Emergency Operation/Normal Vehicle Operations.

### Vehicle Stops

8.2 Authorized Officers/Agents may only conduct vehicle stops when there is reasonable suspicion to believe a violation of law has occurred that the Authorized Officer/Agent has the authority to enforce.

8.2.1 Authorized Officers/Agents may conduct vehicle stops in the interest of public safety if state law grants those Authorized Officers/Agents the authority to conduct such stops.

8.2.1.1 Authorized Officers/Agents should be aware of their status under state law – as a peace officer, private citizen, or otherwise – and any state authority conferred, under the jurisdiction(s) within which they operate.

8.2.1.2 When necessary, Authorized Officers/Agents should confer with their local Port and/or Sector and local Chief Counsel Office regarding state law in their jurisdiction and any state authority conferred.

8.3 When initiating a vehicle stop, Authorized Officers/Agents will use their red and blue emergency lights, at a minimum, as a signal to the driver of the Subject Vehicle to pull off the roadway and stop their vehicle.

8.4 Authorized Officers/Agents engaging in vehicle stops will notify the CBP Communications Center that maintains primary radio coverage in that area.

8.4.1 If communications with a CBP Communications Center are not possible, (b) (7)(E)  
(b) (7)(E)

8.5 Prior to initiating a vehicle stop, Authorized Officers/Agents will broadcast, at a minimum, the following information, if available or applicable:

- (1) Whether the unit has one or two Authorized Officers/Agents and the unit's location.
- (2) A description of the Subject Vehicle, license plate number/state (if known), the Subject Vehicle's location and direction of travel, and the number of visible occupants.
- (3) The suspected criminal violation related to the vehicle stop and any relevant information.

8.6 The CBP Communications Center will record the Authorized Officer/Agent's notification of a vehicle stop and any other broadcasted information.

8.7 If the Subject Vehicle Fails to Yield and the Authorized Officers/Agents decide not to engage in a Vehicular Pursuit, the officers/agents will notify the CBP Communications Center of the fleeing vehicle and the officers/agents' actions.

8.7.1 The CBP Communications Center shall record these incidents as a "Failure to Yield Incident with No Pursuit Action."

8.8 Authorized personnel should record enforcement encounters at the start of the event or as soon as safely possible thereafter (refer to Section 6.4 of CBP Directive No. 4320-030B, *Incident-Driven Video Recording System*, dated August 6, 2021 or its superseding policy for a definition of enforcement encounter). If the authorized personnel fail to activate his or her camera, the authorized personnel may be required to provide a statement indicating the reason why they failed to activate their camera.

## Emergency Driving

8.9 Upon Activation of Emergency Equipment for the purposes of Emergency Driving, Authorized Officers/Agents will notify a CBP Communications Center.

8.9.1 If communications with a CBP Communications Center are unavailable, (b) (7)(E)  
(b) (7)(E)

8.10 There may be instances in the performance of their duties in which Authorized Officer/Agents may need to Except certain Traffic Laws. When the immediate need to respond to an incident outweighs the Foreseeable Risk of Emergency Driving, an Authorized Officer/Agent may initiate Emergency Driving.

8.11 Undertaking Emergency Driving does not relieve Authorized Officers/Agents of their responsibility to exercise reasonable care or due regard for public safety when taking Exception to Traffic Laws.

8.11.1 Authorized Officers/Agents must consider a number of factors when taking Exception to Traffic Laws, including the seriousness of the reason for response, weather conditions, character of the neighborhood (e.g., residential, business, or rural), traffic volume, road and vehicle conditions, and any other known hazards.

8.12 When engaged in Emergency Driving, Authorized Officers/Agents are responsible for the safe operation of their vehicle while communicating (via radio) the facts and circumstances present that caused them to undertake the Emergency Driving.

8.13 Authorized Officers/Agents engaged in Emergency Driving shall notify a supervisor as soon as feasible when exceeding the speed limit (b) (7)(E)  
(b) (7)(E)

8.14 Authorized Officers/Agents engaged in Emergency Driving shall reduce their speed to ensure an intersection is clear, but may proceed cautiously through traffic control signs/signals once they determine it is safe to do so.

8.15 When initiating Emergency Driving, Authorized Officers/Agents will broadcast, at a minimum, the following information, if available or applicable:

8.15.1 Whether the unit has one or two Authorized Officers/Agents as well as their location, speed, and direction of travel.

8.15.2 The reason for the Emergency Driving response, all assessed risk factors, and any other relevant information.

8.16 After the need for Emergency Driving has ended, the initial responding Authorized Officer/Agent will notify the CBP Communications Center that the Emergency Driving actions have ceased.

8.17 The CBP Communications Center will record notification of an Emergency Driving response and any other broadcasted information.

8.18 Authorized personnel should record enforcement encounters at the start of the event or as soon as safely possible thereafter (refer to Section 6.4 of CBP Directive No. 4320-030B, *Incident-Driven Video Recording System*, dated August 6, 2021 or its superseding policy for a definition of enforcement encounter). If the authorized personnel fail to activate his or her camera, the authorized personnel may be required to provide a statement indicating the reason why they failed to activate their camera.

#### Vehicular Pursuits – Vehicle Operations During a Pursuit

8.19 Only Emergency Vehicles with Activated Emergency Equipment which must include red and blue emergency lights and audible siren, will engage in a Vehicular Pursuit. Activation of Emergency Equipment is required at all times during a Pursuit.

8.20 Authorized personnel should record enforcement encounters at the start of the event or as soon as safely possible thereafter (refer to Section 6.4 of CBP Directive No. 4320-030B, *Incident-Driven Video Recording System*, dated August 6, 2021 or its superseding policy for a definition of enforcement encounter). If the authorized personnel fail to activate his or her camera, the authorized personnel may be required to provide a statement indicating the reason why they failed to activate their camera.

8.21 Unmarked Emergency Vehicles may become involved in a Vehicular Pursuit, but they must transition to a Secondary or Support Unit role as soon as a Marked Emergency Vehicle joins the Pursuit, and it is prudent to do so.

8.22 Non-Emergency Vehicles not equipped with Emergency Equipment, to include front and rear mounted red and blue emergency lights that are visible in all directions when activated and audible sirens, may not become involved in a Vehicular Pursuit.

#### Vehicular Pursuits – Decision to Pursue

8.23 Authorized Officers/Agents are responsible for their decisions and actions related to Vehicular Pursuits at all times and in under all circumstances when engaged in a Pursuit.

8.24 Authorized Officers/Agents may engage in Vehicular Pursuits only if there is reasonable suspicion to believe a vehicle committed **ANY** of the following:

- (1) Failed to stop at a Checkpoint or POE.
- (2) Committed a Vehicle Incursion into the United States at or between a POE(s).
- (3) Failed to Yield when an Authorized Officer/Agent attempted to stop the vehicle for a violation of law that they have the authority to enforce.

#### **AND**

- (4) The Authorized Officer/Agent has determined that a Vehicular Pursuit is Necessary and Objectively Reasonable.

8.25 A Vehicular Pursuit is considered Necessary when an Authorized Officer/Agent concludes there is an immediate need to apprehend a subject as part of their enforcement duties based on the totality of the known facts and circumstances.

8.26 A Vehicular Pursuit is considered Objectively Reasonable when the Governmental Interest (see Subsection 6.16) in apprehending the subject(s) at that specific time clearly outweighs the Foreseeability of Risk to the public, officers/agents, other law enforcement, and vehicle occupants.

8.27 Governmental Interest and Foreseeability of Risk must be evaluated at the time the Authorized Officer/Agent chooses to undertake, continue, or Terminate the Vehicular Pursuit. This means considering the severity of crime at issue (not including the mere act of fleeing as the crime at issue) and whether the subject poses an Imminent Threat to the safety of the officers/agents or others.

8.28 The Authorized Officer/Agent serving as the Primary Unit shall continuously assess Pursuit Risk Factors and communicate this information to the Pursuit Supervisor.

8.29 Both Authorized Officers/Agents and the Pursuit Supervisor shall consider the Pursuit Risk Factors-to determine Foreseeability of Risk:

- (1) if the speed or the erratic, dangerous, or unlawful driving nature of the Subject Vehicle and/or other nearby moving vehicles contributes to unsafe operation, loss of control, or an increased likelihood of injuries resulting from a collision;
- (2) if the Subject Vehicle is traveling towards areas with dense traffic or intersections that would increase the chance of collision with bystanders, other vehicles, or other objects;
- (3) if the nature of the area is likely to create unnecessary elevated risks to the public at large (residential, commercial, presence of pedestrian traffic);
- (4) if weather conditions or lighting might impair visibility or increase the risk that vehicles may lose traction/control;
- (5) if road conditions (curves, lanes, bridges, unpaved roads, asphalt condition, etc.) increase the risk that vehicles may lose control and/or impact bystanders, other vehicles, or other objects;
- (6) if the Subject Vehicle appears to be an Overloaded Vehicle, creating unsafe handling characteristics;
- (7) (b) (7)(E)
- (8) if the distance between the pursuing Authorized Officer/Agent and the fleeing vehicle is so great that further efforts would be futile or require the Vehicular Pursuit to continue for an unreasonable time and/or distance.

8.30 Authorized Officers/Agents and Supervisors shall also assess the following factors in determining when/if a Vehicular Pursuit should be engaged in or continued:

- (1) The overall conditions that make a successful apprehension unlikely.
- (2) Whether the identity of the subject is known to the Authorized Officer/Agent and whether an arrest could be made more safely at another time or location.

8.31 It is the constant responsibility of all involved in a Vehicular Pursuit to continue weighing these factors to determine if a Pursuit meets these requirements as it evolves.

#### Vehicular Pursuits – Extreme Circumstances

8.32 To initiate or continue a Vehicular Pursuit under any of the following extreme circumstances or conditions, the Authorized Officer/Agent must establish probable cause and a reasonable belief that the need to apprehend outweighs the risk. Such extreme conditions include:



- (1) Vehicular Pursuits exceeding the speed limit when the Authorized Officer/Agent has reason to believe the Subject Vehicle is Overloaded.
- (2) Vehicular Pursuits within Restricted Areas.
- (3) Vehicular Pursuits requiring travel through or in the immediate vicinity of School Zones when it is reasonable to believe that there may be a school function.

8.33 Under such circumstances, there must exist probable cause to believe a felony involving the use, or threatened use, of physical force or violence that poses an Imminent Threat has been, or is about to be committed, and a reasonable belief that the immediate need to apprehend a subject clearly outweighs the risks to the occupants of the Subject Vehicle, persons in Restricted Areas, and persons in the immediate vicinity of school zones, particularly if any Pursuit Risk Factors are present.

#### Vehicular Pursuits – Pursuit Supervisor Communications

8.34 Authorized Officers/Agents must notify a Pursuit Supervisor as soon as feasible during a Vehicular Pursuit.

8.34.1 The Authorized Officer/Agent will communicate the basis for the Vehicular Pursuit and an assessment of Pursuit Risk Factors as soon as practical to a supervisor.

8.35 Upon receipt of communication, a supervisor shall acknowledge communication and assume the role of Pursuit Supervisor.

8.36 The initial Pursuit Supervisor may relinquish command of the Vehicular Pursuit to another Pursuit Supervisor when appropriate due to location, experience, and/or assigned duties.

8.37 When supervisory notification cannot be immediately completed, it is the responsibility of the engaging Officer/Agent to ensure the Vehicular Pursuit complies with this directive and law, and to Terminate in cases where a Pursuit has been ongoing for an extended duration without supervisory notification.

8.38 If a Pursuit Supervisor has not affirmatively authorized the continuation of the Vehicular Pursuit after being notified and given an opportunity to assess the situation, the engaging Officer/Agent shall Terminate the pursuit.

8.39 Other units in the area of a Vehicular Pursuit shall notify the Pursuit Supervisor when joining a Pursuit.

#### Vehicular Pursuits – Terminations

8.40 Authorized Officers/Agents engaged in a Vehicular Pursuit shall continually assess the Pursuit Risk Factors and other considerations.

8.41 Authorized Officers/Agents shall Terminate a Vehicular Pursuit when the danger to the public, the officer/agent, other law enforcement, or vehicle occupants outweighs the immediate need to apprehend the subject, including in the following situations:

8.41.1 When conditions indicate that the immediate apprehension of a subject is no longer Necessary or the Pursuit is no longer Objectively Reasonable (considering the risk to the public, the officer/agent, other law enforcement, or vehicle occupants).

8.41.2 [REDACTED] (b) (7)(E)

8.41.3 [REDACTED] (b) (7)(E)

8.41.4 If there is a clear and unreasonable danger to the Officer/Agent or the public. [REDACTED] (b) (7)(E)  
[REDACTED] (b) (7)(E)  
[REDACTED] (b) (7)(E)

8.41.5 If advised of any unanticipated condition, event, or circumstance that substantially increases the risk to public safety inherent to the Pursuit.

8.42 Supervisors shall Terminate a Vehicular Pursuit when conditions communicated indicate that the immediate apprehension of the subject is no longer Necessary or the Pursuit is no longer Objectively Reasonable or to prevent the occurrence of prohibited Pursuit practices as noted in 8.47, considering all the factors provided in this directive, as well as any other relevant information.

8.43 Authorized Officers/Agents engaged in a Vehicular Pursuit may Terminate the Pursuit at any time, for any reason, without supervisory approval.

8.44 Authorized Officers/Agents will immediately Terminate a Vehicular Pursuit when directed by a supervisor.

8.45 Once a Vehicular Pursuit is declared Terminated, Authorized Officers/Agents will immediately:

(1) Notify a CBP Communications Center of their decision to Terminate.

(2) Resume Non-Emergency/Normal Vehicle Operations.

(3) Pull off the roadway and stop briefly in order to effectively signal (to the public and to the Subject Vehicle) that the Authorized Officer/Agent is no longer pursuing.

8.45.1 After stopping briefly, Authorized Officers/Agents shall notify a CBP Communications Center and the Pursuit Supervisor of their plan for continued travel and proceed under Non-Emergency/Normal Vehicle Operations in the Subject Vehicle's last known direction of travel for a reasonable distance to check for crashes, potential flight on foot, to determine if the Subject Vehicle was abandoned, or for any other incident.

8.45.2 Once a Vehicular Pursuit is Terminated, all ground units are prohibited from continuing to pursue the Subject Vehicle or engage in Emergency Driving.

8.46 If subsequent visual contact is made with the Subject Vehicle of a Terminated Vehicular Pursuit, supervisory approval is required before Re-Engagement in any action involving the previous Subject Vehicle, including Following, unless the facts at the time of the subsequent visual contact meet the requirements for a new Pursuit.

8.46.1 Re-Engagement is considered a new Vehicular Pursuit and must be treated accordingly by immediately making the proper notifications.

### Vehicular Pursuits – Pursuit Prohibitions

8.47 Authorized Officers/Agents are prohibited from the following:

8.47.1 Pursuing a Subject Vehicle into Canada or Mexico (any Vehicular Pursuit that is expected to cross an international boundary shall be communicated to the appropriate foreign agencies through established local standard operating procedures).

8.47.2 Engaging in a Vehicular Pursuit when the only articulable suspected violation of law is Failing to Yield for a vehicle stop.

8.47.3 Engaging in Vehicular Pursuits without the use of Activated Emergency Equipment.

8.47.4 Engaging in Vehicular Pursuits, including Pursuits involving other jurisdictions, where there is already a Primary, Secondary, and Support unit assigned to the Pursuit (to include Caravanning and/or Shadowing).

8.47.5 Engaging in Vehicular Pursuits when there is an occupant in the Government vehicle who is not an officer/agent, including detainees, witnesses, suspects, and/or other non-law enforcement personnel.

8.47.6 Engaging in Vehicular Pursuits when operating a Non-Emergency Vehicle.

8.47.7 Paralleling or Shadowing as part of an authorized Vehicular Pursuit. Driving on an adjacent roadway with Activated Emergency Equipment for as short a time as possible to join a Pursuit as an authorized unit, or tracking a Subject Vehicle through the use of aircraft, or alternate means of observation, are not considered Paralleling or Shadowing for the purposes of this prohibition.

8.47.8 Using a spotlight to blind the driver of a Subject Vehicle.

8.47.9 [REDACTED] (b) (7)(E)

[REDACTED] (b) (7)(E)

8.47.10 Engaging in and/or continuing Vehicular Pursuits led by, or transitioned to, other law enforcement agency unless approved by a supervisor after confirming that the Pursuit would be proper under this directive.

### Vehicular Pursuit Roles

8.48 All Authorized Officers/Agents and their supervisors have a responsibility to continuously assess all Pursuit Risk Factors.

8.49 As any decisional factor(s) materially change during the Vehicular Pursuit, it is the responsibility of any involved Authorized Officer/Agent to:

(1) Consider whether continuance of the Pursuit is Necessary and Objectively Reasonable.

(2) Immediately relay changes to the Pursuit Supervisor.

(3) Terminate the Pursuit when appropriate, including if and when the Pursuit no longer complies with this directive.

8.50 **Primary Unit** - The Authorized Officer/Agent serving as the Primary Unit in a Vehicular Pursuit ensures the Pursuit is conducted in accordance with this directive.

8.51 **Secondary Unit** - The Authorized Officer/Agent serving as the Secondary Unit in a Vehicular Pursuit shall Notify a CBP Communications Center of their involvement as the Secondary Unit and assume the principal responsibility for radio communications during the Pursuit.

8.51.1 Ensure that the Pursuit is conducted in accordance with this directive.

8.51.2 Notify a CBP Communications Center of their involvement as the Secondary Unit.

8.51.3 Assume the principal responsibility for radio communications during a Pursuit (this shall not preclude, at any time, the Primary Unit's ability to communicate directly with a CBP Communications Center and the Pursuit Supervisor).

8.51.4 Provide updates and recommendations to the Primary Unit and Pursuit Supervisor based on their observation of conditions and risks.

8.51.5 Terminate the Pursuit if, at any time, circumstances change such that the Pursuit is no longer Necessary and Objectively Reasonable or continuation of the Pursuit would violate other requirements set forth in this directive, or when ordered by a supervisor.

8.52 **Support Unit** - An Authorized Officer/Agent serving as a Support Unit shall:

8.52.1 Ensure the Pursuit is conducted in accordance with this directive.

8.52.2 Provide backup for apprehension purposes/additional coverage during High-Risk Stops.

8.52.3 Provide updates and recommendations to the Primary Unit and Pursuit Supervisor based on their observation of conditions and risks.

8.52.4 Terminate the Pursuit if, at any time, the circumstances change such that the Pursuit is no longer Necessary or Objectively Reasonable or that continuation of the Pursuit would violate other requirements set forth in this directive, or when ordered by a supervisor.

8.53 **Pursuit Supervisor** – The appropriately trained, supervisory Authorized Officer/Agent serving as the main oversight official during a Vehicular Pursuit shall:

8.53.1 Ensure the Pursuit is conducted in accordance with this directive.

8.53.2 Acknowledge radio communications and assume responsibility for all Pursuits conducted on their watch, including actions taken to initiate Pursuits by subordinates prior to supervisory notification.

8.53.3 Ensure any officers/agents engaged in a Pursuit are Authorized Officers/Agents who have completed all required Pursuit-related training.

8.53.4 Not engage in a Pursuit itself (if the Pursuit Supervisor joins the Pursuit, another supervisor shall assume the duty of Pursuit Supervisor).

8.53.5 Consider whether Pursuit prevention or intervention tactics, including the availability of aerial surveillance, might allow for Pursuit avoidance or Termination.

8.53.6 Consider if another law enforcement agency should take primary control of the Pursuit based on the suspected crime, agency capabilities, jurisdictional boundaries, and familiarity with the area.

8.53.7 Order a Pursuit Terminated when the Pursuit is no longer determined to be Necessary or Objectively Reasonable or when the actions of CBP or other law enforcement agencies involved in the Pursuit are inconsistent with this directive.

8.53.8 Ensure a Pursuit is Terminated upon receiving a Termination decision from any of the involved Authorized Officers/Agents or a superior.

8.53.9 Respond to the endpoint location of the Pursuit and conduct an after-action debriefing with involved officers/agents when feasible.

8.54 **CBP Communications Center** - A CBP Communications Center (or any entity acting as a communications relay) shall oversee the communications functions, assist in supervisory notification, ensure approval requests are answered in a timely manner (b) (7)(E)

(b) (7)(E)

#### Vehicular Pursuits – Communication

8.55 As soon as feasible, Authorized Officers/Agents shall transmit the following information:

8.55.1 Whether the unit has one or two Authorized Officers/Agents as well as the unit's location, speed, and direction of travel.

8.55.2 A description of the Subject Vehicle, license plate number/state (if known), and the number of visible occupants.

8.55.3 The suspected criminal violation that justifies the Vehicular Pursuit, other than fleeing.

8.55.4 The road and weather conditions, including traffic volume.

8.55.5 The estimated speed of the Subject Vehicle.

8.55.6 The manner of driving of the Subject Vehicle (erratic, controlled, etc.).

8.56 Upon notification/recognition that a Vehicular Pursuit is in progress, the CBP Communications Center (or if not available, any officer/agent that can relay the information) shall immediately:

8.56.1 (b) (7)(E)

(b) (7)(E)

8.56.2 Ensure a supervisor is notified of the Pursuit and advised of essential information regarding the Pursuit (if a supervisor is not immediately available, attempts should be made to contact a supervisor from an adjoining Station, Sector, Port, Field Office, Office, or Branch).

8.56.3 Notify the local Air and Marine Operations (AMO) Air Branch or, if unavailable, other air assets to request support where appropriate.

8.56.4 Monitor/record all incoming information about the Pursuit, solicit the pursuing Authorized Officers/Agents for missing information as required, and periodically broadcast updates during the Pursuit.

8.56.5 Execute relevant records checks on the Subject Vehicle and advise the pursuing units of the results, as appropriate.

8.56.6 Ensure the appropriate agencies are advised when a Pursuit is occurring within or adjacent to their respective AORs, and when Pursuits are approaching jurisdictional boundaries.

8.56.7 Broadcast Termination of the Pursuit along with the Termination location.

8.57 The CBP Communications Center will update all previously notified agencies, other Authorized Officers/Agents, and local law enforcement, if applicable, that the Vehicular Pursuit has ended and reason (e.g., Termination, bailout, apprehension).

#### Vehicular Pursuit Prevention or Intervention Tactics

8.58 The use of alternative, less intrusive or dangerous tactics, such as aerial support, Remote Vehicle Tracking technologies, and/or other prevention techniques is preferred, when feasible, because these techniques are generally safer than engaging in a Vehicular Pursuit.

8.59 When considering whether to utilize Vehicular Pursuit Prevention or Intervention Tactics, Authorized Officers/Agents should take into account:

8.59.1 The circumstances and conditions apparent at the time, as well as the potential risk of injury to the public, officers/agents, other law enforcement, and vehicle occupants.

8.59.2 The potential consequences of such tactics against the need to immediately stop the Subject Vehicle.

8.60 Any use of objects or techniques not covered in this directive or CBP's Use of Force Policy that are meant to restrict or obstruct the movement of a Subject Vehicle are prohibited.

#### Vehicular Pursuit Prevention or Intervention Tactics – Aerial Support

8.61 Aerial surveillance and assistance shall be utilized to the maximum extent possible.

8.61.1 When participating in Vehicular Pursuits, aircraft should operate in a covert posture to the maximum extent possible.

8.61.2 When safe to do so, the aircrew should activate the aircraft's video systems equipment, if equipped with an operable system.

8.61.3 Air units involved in a Vehicular Pursuit should support the pursuing ground units by helping to relay information pertaining to the Pursuit's location, direction of travel, any traffic and/or road hazards, and any conditions that may hinder the ability to conduct the Pursuit while minimizing risk.

8.61.3.1 Such information should be used to consider other options, such as Terminating the Pursuit or using less intrusive or dangerous tactics on a case-by-case basis.

8.61.4 [REDACTED] (b) (7)(E)

[REDACTED] (b) (7)(E)

[REDACTED] (b) (7)(E)

8.61.5 Air units involved in the Vehicular Pursuit should utilize their enhanced vantage point to provide ground units with advanced notice of new/evolving Pursuit Risk Factors along the anticipated path (and proximate areas) of the Pursuit.

8.61.5.1 Air units should alert the Authorized Officers/Agents conducting the Pursuit if operational circumstances and/or approaching Pursuit Risk Factors change such that continuing the Pursuit would be unsafe.

#### Vehicular Pursuit Prevention or Intervention Tactics – Vehicle Tracking

8.62 Remote Vehicle Tracking technologies that are consistent with law and CBP guidance may be utilized to the maximum extent possible to avoid engaging in a Vehicular Pursuit.

8.63 When Remote Vehicle Tracking technologies are deployed, Authorized Officers/Agents may be granted supervisory approval to follow the Subject Vehicle, [REDACTED] (b) (7)(E)

[REDACTED] (b) (7)(E)

[REDACTED] (b) (7)(E)

#### Vehicular Pursuit Prevention or Intervention Tactics – Vehicle Immobilization Devices (VIDs)

8.64 A properly placed VID may be used to reduce the likelihood of engaging in a Vehicular Pursuit.

8.65 Additional guidance on VIDs is provided in CBP's Use of Force Policy.

#### Vehicular Pursuit Prevention or Intervention Tactics – Boxing-In

8.66 Boxing-In of moving vehicles is prohibited.

8.67 Attempting to obstruct a Subject Vehicle's pathway in a manner that is not consistent with CBP training and CBP's Use of Force Policy is prohibited.

#### Vehicular Pursuit Prevention or Intervention Tactics – Offensive Driving Techniques (ODTs)

8.68 Pursuit Immobilization Techniques maneuvers are specifically prohibited.

8.69 Other ODTs may only be employed in accordance with CBP's Use of Force Policy.

### Vehicular Pursuit Prevention or Intervention Tactics – Other Vehicle Contact Actions

8.70 Any other Vehicle Contact Actions, not explicitly defined or covered in this directive or CBP's Use of Force Policy, may only be used on stationary vehicles and as actions to stop a driverless vehicle, unless being utilized in instances where the occupant(s) of the vehicle pose an Imminent Threat of serious bodily injury or death, in accordance with CBP's Use of Force Policy.

### Vehicular Pursuit Prevention or Intervention Tactics – Stationary Vehicle Blocking

8.71 Restricting or obstructing the immediate escape of a stationary vehicle may be utilized to prevent a potential Vehicular Pursuit.

### Vehicular Pursuits – Pursuits Involving Other Agencies

8.72 In the event that a state or local law enforcement unit joins a CBP Vehicular Pursuit and requests to assume the Primary Unit position:

8.72.1 The Pursuit Supervisor will determine if it is appropriate to relinquish the Primary Unit position to the state or local police officer and/or law enforcement official.

8.72.2 If determined to be appropriate, the Pursuit Supervisor will notify the Primary Unit.

8.72.3 Once notified of the intent to relinquish the primary position, the Primary Unit will determine the most appropriate time to accomplish the transition. The Primary Unit shall notify the Pursuit Supervisor of any delays and when the transition has been completed.

8.73 Authorized Officers/Agents shall not engage in or continue Vehicular Pursuits led by, or transitioned to, other law enforcement agency unless approved by a supervisor after determining the Pursuit would be consistent with CBP policy.

8.74 The Pursuit Supervisor is responsible for informing the other involved agency that the Vehicular Pursuit is not authorized under CBP policy and of CBP's decision to Terminate.

### Vehicular Pursuits – Task Force or Other Agency Assignment Pursuits

8.75 Authorized Officers/Agents assigned to task force operations will comply with this directive and CBP policy.

8.76 Authorized Officers/Agents assigned to task force operations that are engaged in Emergency Driving shall not engage in or continue Vehicular Pursuits led by, or transitioned to, other agencies unless approved by a supervisor after determining the Pursuit would be consistent with this directive.

8.77 Authorized Officers/Agents participating in a Vehicular Pursuit as part of their task force duties will immediately notify their home supervisor of their involvement in a Pursuit (as part of their task force assignment), along with all known outcomes (including injuries, property damage, etc.).

8.78 All Authorized Officers/Agents involved in a Vehicular Pursuit as part of their task force duties will follow the reporting requirements found in Section 9.



## **9. REPORTING.**

### Vehicular Pursuits Reporting – Incident Reporting Requirements

9.1 An Authorized Officer/Agent will provide written justification explaining the circumstances of the Vehicular Pursuit, their decision-making process, and actions consistent with Agency policy and this directive in post-incident reporting of any Pursuit.

9.2 Failure to Yield Incidents with no Vehicular Pursuit actions must be reported in CBP's Enforcement Action Statistical Analysis and Reporting System (E-STAR) by CBP Communications Center personnel, if such personnel are not available, then a CBP law enforcement supervisor will complete this task. At a minimum, Failure to Yield reports must contain time, date, name(s) of officer(s)/agent(s) involved, location, and vehicle identification/description information.

9.3 When a CBP Communications Center manages communications during a Vehicular Pursuit, involved Authorized Officers/Agents will receive a copy of the Intelligent Computer Assisted Detection ticket, or equivalent, prior to submitting a report.

9.4 All Authorized Officers/Agents involved in a Vehicular Pursuit must document and report the Pursuit and the associated usage of all devices and/or techniques covered in this directive in E-STAR. A single Incident Report will be produced for each Pursuit recording the participation of all involved CBP personnel, components, and external agencies.

9.4.1 The Pursuit Supervisor will ensure each involved Authorized Officer/Agent is added as an involved employee in the E-STAR Incident Report such that they are able to complete their portion of the report.

9.4.2 The Pursuit Supervisor, Primary, Secondary, and Support Units, along with each involved Authorized Officer/Agent shall create and include individual narratives and/or memoranda into a single E-STAR Incident Report.

9.4.3 Reports shall be entered into the system within 24 hours of the time the incident occurs and completed within 72 hours.

9.4.4 Authorized Officers/Agents may be assisted in the preparation of the reporting requirements by a supervisor(s) and/or other employees involved in the Pursuit.

9.5 All Vehicular Pursuit reports shall contain the information outlined in Appendix A.

### Vehicular Pursuits Reporting – Report Review Procedures

9.6 Reports submitted in E-STAR must include written justification of participating Authorized Officer/Agent and Pursuit Supervisor decisions based on Pursuit Risk Factors and other circumstances.

9.7 A CBP supervisor who was not involved in the Vehicular Pursuit shall review the E-STAR Incident Report for completeness and submit/approve the report in the system within 72 hours.

9.8 Vehicular Pursuit Incident Reports will be reviewed for compliance with this directive as follows:

9.8.1 For Pursuits not involving a reportable use of force, vehicle accident, property damage, or injury to subjects, bystanders, or officers/agents, a CBP supervisor shall indicate if they

believe the Pursuit to have been in compliance/non-compliance with this directive. In the event of suspected non-compliance, the supervisor shall include a cover memorandum of the incident in E-STAR, which includes the supervisor's initial assessment of the reasons for the suspected non-compliance, which shall be forwarded to the Joint Intake Center or the Office of Professional Responsibility (OPR) consistent with the CBP Standards of Conduct.

9.8.2 For Pursuits not involving a reportable use of force, but result in a vehicle accident, property damage, or injury or death to subjects, bystanders, or officers/agents, CBP supervisors shall refer the incident to the Vehicular Pursuits Review Committee for review and compliance assessment.

9.8.3 For Pursuits involving a reportable use of less-lethal force, CBP supervisors shall refer the incident to the Local Use of Force Review Board (LUFRRB) for review and compliance assessment.

9.8.4 For Pursuits involving a reportable use of deadly force, or any use of force, that results in serious bodily injury or death, CBP supervisors will refer the incident to the National Use of Force Review Board (NUFRB) for review and compliance assessment.

9.8.5 If any potential misconduct or policy violations are identified by the CBP supervisor, the Incident Report will be referred to OPR.

9.8.6 The Law Enforcement Safety and Compliance Directorate (LESC) will conduct regular reviews of E-STAR Pursuit Incident Reports for proper documentation and statistical information and to identify Pursuit best practices and recommendations. LESC shall refer any potential misconduct or policy violations not previously identified by the field supervisor to OPR.

9.8.7 The Vehicular Pursuits Review Committee will review Pursuit incident reports not involving a reportable use of force to:

9.8.7.1 Determine if the Pursuit complied with CBP policy.

9.8.7.2 Identify any potential misconduct.

9.8.7.3 Assess any training, tactical, equipment, or policy issues.

9.9 Incident Reports containing audio/video recordings of Vehicular Pursuits shall be maintained in accordance with CBP directives and applicable retention schedules.

9.10 An electronic copy of all Vehicular Pursuit Incident Reports shall be accessible at CBP Headquarters and the relevant Sector, Field Office, or Branch.

9.11 Consistent with Subsection 7.4.2, a memorandum must be submitted by the involved officer/agent's field leadership (i.e., USBP Sector Chief Patrol Agents, AMO/OFO/OPR Directors) within 14 calendar days of the Vehicular Pursuit to headquarters leadership and to OPR's Office of Investigative Operations.

9.11.1 Submit a memorandum to the recipients outlined in Subsection 7.4.4 providing an analysis of decision-making related to the Pursuit. This analysis should include:

9.11.1.1 An initial assessment of the supervisor's determination regarding the Pursuit's compliance or non-compliance with this directive based on the information available at the time of the determination.

9.11.1.2 Whether the law enforcement or public safety benefit justified the potential risk.

9.11.1.3 Strengths and weaknesses of pursuit-related decisions.

9.11.1.4 Whether the supervisor conducted an after-action debriefing related to the Pursuit, including any feedback provided in such briefing.

9.12 A copy of each memorandum required in Subsection 7.4.2 shall be provided to LESC to be analyzed as part of the annual Vehicle Pursuits report.

#### Vehicle Pursuits Reporting – CBP Management Review of Pursuits

9.13 CBP will establish committees to review CBP Vehicular Pursuits that occur on a monthly basis.

9.14 The review committee will provide senior component leadership and LESC with a written and objective assessment that articulates whether each Vehicular Pursuit was consistent or inconsistent with applicable laws, Agency policy and document any observations or proposals pertaining to relevant operational and/or administrative issues, tactics, and training.

#### Vehicle Pursuits Reporting – Annual Reporting Requirements

9.15 LESC shall submit an annual Vehicular Pursuit report(s) documenting and analyzing Pursuits from the previous fiscal year to the CBP Commissioner, the USBP Chief and relevant Executive Assistant Commissioners, the Assistant Commissioner of OPR, USBP Sector Chiefs and Chief Patrol Agents, and AMO/OFO/OPR Directors.

9.16 The Vehicular Pursuit report shall contain yearly totals of the following:

9.16.1 Pursuits engaged in by AMO, OFO, and USBP, including by sector.

9.16.2 Pursuit incidents involving a fatality, injury, or damage to Government or private property, as a result of the Pursuit.

9.16.3 Assessment of policy compliance for such Pursuits.

9.16.4 An assessment of supervisor management of Pursuits.

9.16.5 An assessment of any systemic issues in the conduct of Pursuits.

9.16.6 Pursuits that were Terminated pursuant to supervisory direction and the reason(s) for the Termination.

9.16.7 Pursuits that were Terminated by an Authorized Officer/Agent without supervisory direction, and the reason(s) for the Termination.

9.16.8 Vehicles that escaped apprehension after a Pursuit.

9.16.9 Pursuits that resulted in the initiation of prosecution.

9.16.10 Pursuits that resulted in the initiation of a CBP administrative action.

9.16.11 Arrests and asset seizures that occurred as a result of the Pursuit.

**10. TRAINING.**

10.1 Immediately following this directive's final approval/signature date, LESC will work with USBP, OFO, AMO to initiate a phased, implementation plan.

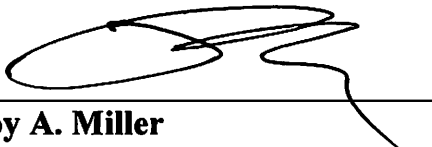
10.1.1 This phased implementation plan will include the distribution of communications materials and conducting Agency-wide plain-language instructional courses designed to ensure that all authorized CBP officers/agents, instructors, and leaders are sufficiently trained and provided with a comprehensive understanding of CBP's revised Emergency Driving and Vehicular Pursuits directive. This directive will become effective following this roll-out on May 1, 2023.

10.2 Only Authorized Officers/Agents who have successfully completed an initial CBP-approved Driver Training Program, annual policy/legal training, and other required training, as prescribed by LESC, are authorized to engage in Emergency Driving and Vehicular Pursuits.

10.3 Only those supervisors who have successfully completed an initial CBP-approved Driver Training Program, annual policy/legal training, and other required supervisory training, as prescribed by LESC, are authorized to serve as Pursuit Supervisors.

**11. POINT OF CONTACT.** Any questions can be directed to PD Taskings.

**12. NO PRIVATE RIGHTS CREATED.** This document is an internal policy statement of CBP and does not create or confer any rights, privileges, or benefits for any person or party.



**Troy A. Miller**  
**Acting Commissioner**  
**U.S. Customs and Border Protection**

1/10/23  
**Date**