

**WHEN ARE FOOT PURSUITS REALLY NECESSARY?:
HOW IMPROVED POLICIES MIGHT REDUCE COMMUNITY
HARM**

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Despite the widely accepted view that foot pursuits are inherently dangerous for both police officers and citizens, a minority of municipal police agencies have adopted policies that have the potential to minimize the risk of harm by limiting the circumstances in which police officers are permitted to pursue a subject on foot. This paper presents data related to foot pursuit incidents and existing foot pursuit policies. The paper documents that most existing foot pursuit policies are limited in their potential to reduce unwarranted deadly encounters because the guidance they provide requires officers to consider and weigh vague concepts in tense, urgent situations. Existing policies also afford officers overly broad discretion in deciding whether to initiate and when to terminate a foot pursuit. The paper also presents an analysis of foot pursuit incidents that culminate in the use of deadly force. The data collected and analyzed illustrate that a substantial proportion of these incidents involve circumstances for which most policies suggest the pursuit should not have been initiated or should have been terminated. The analysis supports the premise that broader adoption of foot pursuit policies as well as streamlining and tightening existing policies could reduce the number of foot pursuits that occur, thereby diminishing potential harm to officers and citizens. Additionally, the analysis identifies a critical gap in existing foot pursuit policy content. The data confirms that a significant proportion of foot pursuits ending in deadly force involve subjects that are either perceived to be armed or are armed in fact. This is a challenging circumstance for officers that is left unaddressed by a majority of existing policies.

INTRODUCTION

Despite the widely accepted view that foot pursuits are inherently dangerous for both police officers and citizens,¹ this paper documents how only a minority of municipal police agencies have adopted policies with the potential to minimize that risk of harm by substantially limiting the circumstances where police officers may engage in foot pursuit. This project builds on prior work examining foot pursuits and the policies that

¹ See, e.g., Robert J. Kaminski, *A Descriptive Analysis of Foot Pursuits in the Los Angeles County Sheriff's Department* (2010) [hereinafter Kaminski, *Descriptive Analysis of Foot Pursuits*]; Robert J. Kaminski et al., *Correlates of Foot Pursuit Injuries in the Los Angeles County Sheriff's Department*, 15(2) *Police Q.* 177 (2012).

guide the conduct of police officers in that context. In the early 2000s, law enforcement agencies became more concerned about foot pursuits, resulting in the publication of several empirical analyses of foot pursuit incidents at individual law enforcement agencies.² In 2012, Robert J. Kaminski, Jeff Rojek, and Mikaela Cooney published a national survey documenting that few police agencies had adopted foot pursuit policies,³ despite the fact that the International Association of Chiefs of Police (IACP) had released a model policy in 2003 which emphasized that “[w]henever possible, foot pursuits should be avoided.”⁴

More recently, in *Blue on Black: An Empirical Assessment of Police Shootings*, Nirej Sekhon analyzed the circumstances of 270 officer-involved shooting (OIS) incidents that occurred in Chicago between 2006 and 2014 and found that nearly half of those encounters were the culmination of a foot pursuit.⁵ By analyzing summary reports of officer-involved shooting incidents in Chicago occurring from the late 2000s to 2021, this project expands on Sekhon’s analysis.

In *Why Arrest?*, Rachel A. Harmon questions why it is always necessary for police to make an arrest to initiate the criminal justice process.⁶ Harmon points out that foot pursuits undertaken to effect an arrest “risk harm to bystanders, as well as suspects.”⁷ This project seeks to build on Harmon’s premise by demonstrating the harm that occurs when officers engage in foot pursuits pursuant to making an arrest.

Our project team developed and mined three data sources as the foundation for this analysis. First, the project team created a proprietary nationwide foot pursuit policy database consisting of existing foot pursuit policies at law enforcement agencies across the country. Second, we produced the Chicago OIS Database: a proprietary database compiled by collecting and analyzing summary reports related to officer-involved shooting incidents involving Chicago Police Department officers. Lastly, the project team supplemented and mined the Mapping Police Violence (MPV) Database—a nationwide database of officer-involved fatal encounters—by analyzing and adding to existing data.

² See, e.g., Troy Graham, *Lawsuit Shines Spotlight on Police Foot Pursuits*, PHILA. INQUIRER (Nov. 16, 2009), https://www.inquirer.com/philly/news/homepage/20091116_Lawsuit_shines_spotlight_on_police_foot_pursuits.html; MERRICK J. BOBB, THE LOS ANGELES COUNTY SHERIFF’S DEPARTMENT 16TH SEMI-ANNUAL REPORT (2003); Kaminski, *DESCRIPTIVE ANALYSIS OF FOOT PURSUITS*, *supra* note 2.

³ Robert J. Kaminski, Jeff Rojek & Mikaela Cooney, *POLICE FOOT PURSUITS: REPORT ON FINDINGS FROM A NATIONAL SURVEY ON POLICIES, PRACTICES AND TRAINING* 20 (2012).

⁴ INT’L ASS’N OF CHIEFS OF POLICE, *CONCEPTS & ISSUES: FOOT PURSUITS* 2 (2019).

⁵ Nirej Sekhon, *Blue on Black: An Empirical Assessment of Police Shootings*, 54 AM. CRIM. L. REV. 189, 205 (2017).

⁶ Rachel A. Harmon, *Why Arrest?*, 115 MICH. L. REV. 307 (2016).

⁷ *Id.* at 317.

All three data sources were analyzed for a specific purpose. There were two objectives behind the creation of the nationwide foot pursuit policy database: first, to assess the current prevalence of foot pursuit policies among municipal law enforcement agencies serving larger jurisdictions nationwide, and second, to identify the most common features among existing foot pursuit policies in terms of structure and content. The Chicago OIS Database was created and analyzed to leverage existing, publicly available information about officer-involved shooting incidents, especially those involving a foot pursuit. At the conclusion of their independent investigations, the Civilian Office of Police Accountability (COPA), the municipal agency responsible for investigating officer-involved shooting incidents involving members of the Chicago Police Department, creates summary reports that detail the circumstances in which each incident arose. While there are some summary reports that by law the agency is precluded from providing to the public, most are made publicly available on the agency's website.⁸ These summary reports provide detailed information about these encounters. Finally, the MPV Database was mined to provide additional empirical evidence regarding the circumstances in which foot pursuits culminate in a fatal encounter. The project team utilized the existing Mapping Police Violence data because it is national in scope and, unlike the Chicago reports, includes officer-involved shooting incidents as well as fatal incidents that did not involve the discharge of a firearm.

A few important caveats: this project was not intended to prove a causal connection between the existence of foot pursuit policies and a reduction in the number of foot chase incidents or the number of fatalities. There are many factors that could impact how many and the nature of the foot pursuits in which law enforcement officers engage. That question could be the focus of future work with this project as a foundation. Nor does this project attempt to estimate the potential impact that the existence of foot pursuit policies might have on public safety. For example, in the motor vehicle context, some commentators hypothesize that policies limiting the circumstances in which law enforcement engages in motor vehicle pursuits work to the detriment of public safety because they embolden offenders to make pursuits so unsafe that pursuing officers are supposed to back off.⁹ This project does not attempt to address that issue in the context of foot pursuits.

⁸ *Case Portal*, CIVILIAN OFF. OF POLICE ACCOUNTABILITY, https://www.chicagocopa.org/data-cases/case-portal/?sort_order=title%20desc (last visited Apr. 20, 2026).

⁹ See RYAN KELLY, RESTRICTIVE PURSUIT POLICIES AND RISING VIOLENT CRIME, 5 (2023) ("Criminals understand that if police cannot stop them, their crimes have no consequences[.]"); see also Austin Jenkins, *See ya! Washington police say drivers aren't stopping for them; cite pursuit restrictions*, OPB (May 30, 2022) (pointing to instances of drivers not stopping for police following passage of a state law that restricted the police's ability to initiate motor vehicle pursuit),

This project was limited in scope. It did not involve any data on foot pursuits that were resolved without the use of deadly force. The data compiled and analyzed only includes foot pursuit encounters resulting in a firearms discharge or subject fatality. It is not possible to draw any conclusions regarding the circumstances of all foot pursuits from these datasets. However, foot pursuits that culminate in deadly force or a fatality are the most serious and concerning and, therefore, the types of encounters that should be avoided when possible. The goal of this project was to gain a better understanding of the most serious foot pursuit incidents and how policy guidance could impact the frequency with which they are initiated and culminate in deadly force.

Despite these limitations, this analysis furthers understanding of the topic by documenting the prevalence and content of existing foot pursuit policies and the nature of the most serious foot pursuit incidents. The premise of this analysis is that, based on the nature and circumstances of the most serious foot pursuit incidents, if more departments had foot pursuit policies in place (and if officers followed those policies) there would be fewer incidents and potentially fewer subject injuries and fatalities. Of course, there is no guarantee that even if more agencies adopted foot pursuit policies, officers would follow them, and agencies would enforce them. Nonetheless, the broader adoption of foot pursuit policies could be beneficial in several respects. For example, the establishment of new operational policies is usually accompanied by training that could lead to less harmful officer behavior in this context. Additionally, to the extent that agencies are diligent in enforcing them, having a foot pursuit policy on the books could also provide a basis to hold officers who engage in foot pursuits inappropriately accountable.

This paper proceeds in five parts: Part I outlines the legal context that defines the legal predication for engaging in a foot pursuit; Part II summarizes the data collection and analysis related to the Nationwide Foot Pursuit Policy Database; Part III summarizes data collection and analysis related to the Chicago OIS Database; Part IV summarizes the data mined from the MPV Database; Part V leverages the data from Parts II-IV to demonstrate how broader implementation of foot pursuit policies and streamlining existing policies could reduce dangerous police-citizen encounters.

I. THE LEGAL CONTEXT GOVERNING FOOT PURSUITS

A. *Evidentiary Standard for Foot Pursuits: “Reasonable Suspicion*

Because the purpose of a foot pursuit is to seize a subject at least temporarily, an officer’s decision to pursue and detain a subject is governed

<https://www.opb.org/article/2022/05/27/washington-police-say-drivers-arent-stopping-for-them-cite-pursuit-restrictions/>.

by the Fourth Amendment, which prohibits law enforcement from engaging in unreasonable seizures.¹⁰ When a law enforcement officer chooses to chase a subject, the officer necessarily has one of two goals in mind: either to conduct an investigatory stop or make a formal arrest. To make an arrest, the officer must have a warrant, or the circumstances must establish probable cause that the subject committed a criminal offense, thereby justifying a warrantless arrest.¹¹ It is also possible that, rather than making a formal arrest, the officer merely seeks to conduct an investigatory stop by temporarily detaining the subject to determine whether crime is afoot.¹² In *Terry v. Ohio*, the Supreme Court established that an officer may briefly detain a subject without probable cause for this purpose.¹³ Recognizing that these brief, limited encounters are an important law enforcement tactic, the Supreme Court held that an investigatory stop must be justified by reasonable articulable suspicion that the subject is engaged in criminal activity.¹⁴ When reviewing the reasonableness of an investigatory stop, courts conduct a fact-specific inquiry based on the totality of the circumstances.¹⁵ The Supreme Court has made clear that “reasonable suspicion” does not require any degree of scientific certainty, but rather is based on common sense judgments about human behavior.¹⁶

While reasonable suspicion is the legal predicate for a temporary seizure under the Fourth Amendment, it is axiomatic that a seizure does not actually occur until the subject is, in fact, seized.¹⁷ Conceivably then, an officer could initiate a pursuit without reasonable suspicion and there would be no Fourth Amendment violation unless or until the subject was detained or otherwise submitted to the officer’s authority.¹⁸ Moreover, it is also important to note that an officer may approach a subject without any predication so long as the subject’s participation in the encounter is voluntary.¹⁹ Thus, it is also possible that an officer could engage in a pursuit that culminates in an encounter that is completely voluntary on the part of the subject. However, discussed *infra* in Part II, given the dangerousness of the endeavor and the likelihood that a pursuit will end in

¹⁰ *Graham v. Connor*, 490 U.S. 386, 394 (1989).

¹¹ *United States v. Watson*, 423 U.S. 411, 416–17 (1976).

¹² *Terry v. Ohio*, 392 U.S. 1 (1968).

¹³ *Id.* at 21–23.

¹⁴ *Id.* at 21.

¹⁵ *United States v. Cortez*, 449 U.S. 411, 417 (1981).

¹⁶ *Illinois v. Wardlow*, 528 U.S. 119, 124–5 (2000).

¹⁷ See *California v. Hodari D.*, 499 U.S. 621, 629 (1991) (noting that a seizure following a “show of authority” does not occur unless and until the subject either submits or is taken by force).

¹⁸ *Id.*

¹⁹ *Commonwealth v. McCoy*, 154 A.3d 813, 816 (Pa. Super. Ct. 2017) (“A ‘mere encounter’ need not be supported by any level of suspicion but carries no official compulsion to stop or respond.”) (citation omitted).

seizure, most existing policies permit officers to engage in foot pursuits only where there is sufficient legal predication.

B. Unprovoked Flight as Predication for Foot Pursuits

While flight alone is insufficient justification for an officer to detain a fleeing person, courts generally recognize that a subject's flight, combined with other suspicious behavior or circumstances, gives rise to "reasonable suspicion" justifying a temporary detention.

The fact that a subject is fleeing—either having escaped from a law enforcement encounter or to avoid a law enforcement encounter—while not sufficient predication in and of itself, is an important factor in assessing whether a seizure that occurs at the conclusion of the pursuit is legally justified.²⁰ In *Illinois v. Wardlow*, the Supreme Court held that reasonable suspicion is found where a subject engages in unprovoked flight while in a high crime area.²¹ However, the *Wardlow* Court rejected a *per se* rule that a subject's unprovoked flight alone justified a temporary detention, finding that there could be innocent explanations for such behavior.²² Indeed, the concept that unprovoked flight, in and of itself, is insufficient to warrant an investigative stop—and thus, a foot pursuit—is reflected in most existing foot pursuit policies discussed *infra* in Part II.

While flight alone may not be enough, courts certainly consider flight as going a long way toward meeting the reasonable suspicion standard when combined with other suspicious circumstances or behavior.²³ The First and Eighth Circuits consider the combination of "nervous, evasive behavior" and unprovoked flight as "highly pertinent" to the reasonable suspicion inquiry.²⁴

Yet, there are disparate views on exactly how much weight courts should afford unprovoked flight in this context. In recent years, some state and federal courts have recognized that there can be compelling reasons behind a subject's unwillingness to interact with law enforcement.²⁵ For example, in a 2022 case, *Washington v. State*, the Supreme Court of Maryland directed courts to consider whether there was an innocent explanation for the subject's unprovoked flight and whether there were other

²⁰ *Wardlow*, 528 U.S. at 124 ("Headlong flight—wherever it occurs—is the consummate act of evasion.").

²¹ *Id.* (noting that "it was not merely [Wardlow's] presence in an area of heavy narcotics trafficking that aroused the officers' suspicion, but his unprovoked flight upon noticing the police.").

²² *Id.* ("[Evasion] is not necessarily indicative of wrongdoing, but it is certainly suggestive of such.").

²³ See, e.g., *United States v. Sierra-Ayala*, 39 F.4th 1, at *14 (1st Cir. 2022); *United States v. Lemons*, 84 F.4th 766, 769 (8th Cir. 2023).

²⁴ See *Sierra-Ayala*, 39 F.4th at *14; *Lemons*, 84 F.4th at 769.

²⁵ See, e.g., *Washington v. State*, 287 A.3d 301, 314 (Md. 2022) (responding to the argument that a subject's unprovoked flight could result from distrust in the police).

circumstances supportive of suspicion.²⁶ Similarly, the Fourth Circuit recently insisted that courts must “consider evidence of flight in the totality of the circumstances,” including “the time of day, the number of people in the area, the character of the neighborhood, whether the officer was in uniform, the way the runner was dressed, the direction and speed of the flight, and whether the person’s behavior was otherwise unusual.”²⁷

Moreover, there is also debate around what unprovoked flight actually looks like. The Fifth Circuit has explicitly noted that the question of how to assess the fact of unprovoked flight is unresolved.²⁸ In *United States v. Tuggle*, the court held that a subject need not run away for his response to an officer to be considered unprovoked flight, a “brisk walk” along with other contextual factors may suffice.²⁹

C. “Suspicious Behavior” as Predication for Foot Pursuits

While unprovoked flight alone is not enough to meet the legal standard, courts find flight combined with other “suspicious behavior” as sufficient predication. Because courts tend to be highly deferential to law enforcement’s interpretation of what looks “suspicious,” the “reasonable suspicion” standard as applied in the foot pursuit context is fairly easily established.³⁰ Imagine this quite common scenario: officers patrolling by car observe an individual on the street acting suspiciously. One of the officers gets out of the car to approach the person but the subject takes off running. The pursuit ends when the subject is apprehended and subsequently charged with a crime.

This scenario was the factual basis of *Commonwealth v. McCoy*, a Pennsylvania case in which McCoy sought to suppress a firearm recovered after a foot pursuit.³¹ When recounting the details of the encounter,

²⁶ *Id.* at 308.

²⁷ *United States v. Frazer*, 98 F.4th 102, 111 (4th Cir. 2024) (citing *Wardlow*, 528 U.S. at 129–30 (Stevens, J., concurring in part and dissenting in part)).

²⁸ *United States v. Darrell*, 945 F.3d 929, 935 (5th Cir. 2019) (“The case law on flight is not clear-cut.”).

²⁹ 284 F.App’x 218, 221–26 (5th Cir. 2008) (per curiam); *see also* *United States v. Lawson*, 233 F.App’x. 367, 370 (5th Cir. 2007) (per curiam) (concluding that a subject that began acting nervously and quickly started walking away when an officer approached reflected behavior that could be characterized as unprovoked flight).

³⁰ *See, e.g., Kansas v. Glover*, 589 U.S. 376, 380–81 (2020) (“[Courts] must permit officers to make ‘commonsense judgments and inferences about human behavior.’” (citing *Wardlow*, 528 U.S. at 125)); *United States v. Cook*, 277 F.3d 82, 85 (1st Cir. 2002) (“[A] court must undertake a contextual analysis using common sense and a degree of deference to the expertise that informs a law enforcement officer’s judgments about suspicious behavior.”); *United States v. Sanchez*, 519 F.3d 1208, 1215 (10th Cir. 2008) (noting that courts “defer to the ability of a trained law enforcement officer to distinguish between innocent and suspicious actions” (citation modified)).

³¹ *McCoy*, 154 A.3d at 815.

the officer who gave chase described how she spotted McCoy as he emerged from a dark alleyway and started walking in the direction of the officers' vehicle.³² According to the officer, when McCoy saw the officers, he abruptly stopped walking and "his eyes got big."³³ In the officer's view, this, combined with the fact that McCoy was walking alone late at night in the "freezing cold," constituted "suspicious behavior."³⁴

McCoy unsuccessfully argued that he was seized without reasonable suspicion.³⁵ The Pennsylvania court found that the seizure was justified, at least in part by McCoy's "suspicious behavior" – becoming wide-eyed upon observing police, and walking alone late at night and in the freezing cold.³⁶

In *Ransom v. State*, a police officer was patrolling by car around a local neighborhood park, where the officer had previously made numerous arrests related to narcotics and firearms, when he noticed a group of men standing around a basketball court.³⁷ The officer pulled over in his car, and as he approached the men, two of them tried to hide behind a large oak tree adjacent to the basketball court.³⁸ When asked what they were doing there, the men responded that they were playing basketball, despite the fact that there was no basketball in sight.³⁹ One of the men took off running when the officer approached him in an attempt to do a pat-down search.⁴⁰

Ransom sought to suppress contraband he possessed when he was ultimately detained by the officer, arguing the officer did not have reasonable suspicion to stop or detain him and that he had a right to run away from the "illegal encounter."⁴¹ In rejecting this view, the court found Ransom's flight combined with his earlier "suspicious behavior" constituted reasonable suspicion. The "suspicious behavior" included hiding behind the tree for no apparent purpose in a location known for drug sales.⁴²

When assessing reasonable suspicion, some courts tend to equate merely evasive behavior with "suspicious behavior." In a 2015 Illinois case, the court cited *Wardlow* for the proposition that "[w]hile refusing to cooperate with officers, without more, does not justify an investigatory stop under *Terry*, evasive behavior is a pertinent factor in determining

³² *Id.* at 817.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.* at 816-17.

³⁶ *Id.* at 819.

³⁷ 521 S.E.2d 430, 431 (Ga. Ct. App. 1999).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* at 432-33.

⁴² *Id.* at 433.

reasonable suspicion.”⁴³ The Illinois court found the subject’s flight, combined with other merely evasive conduct, was sufficient justification for the chase, the *Terry* stop, and the *Terry* frisk that resulted in the recovery of a firearm.⁴⁴

The problem with this approach is that subjects may exhibit behavior that is driven by a real, even if subjective, fear of interacting with law enforcement, but the officer views such behavior as evasive, and therefore “suspicious.” This dilemma is aptly described by retired Magistrate Judge Arlander Keys in a report related to stop and frisk practices by the Chicago Police Department:

Unfortunately, the fears that make individuals with dark skin want to walk or run away when they lock eyes with or spot a police officer is the same fear that creates suspicion in the minds of police officers, and makes these individuals look guilty in the eyes of the police officer. Those fears, as well as actions such as of running away (or avoiding or walking quickly or trying to hide or evade questions, or fumble and act nervous) have the effect of providing a factual, reasonable basis for police officers to suspect criminal wrongdoing.⁴⁵

D. Suspicion of Firearms Possession as Predication for Foot Pursuits

As will be discussed *infra* in Part V, another common scenario within which foot pursuits arise involves situations where an officer has reason to believe a subject is armed. For example, when responding to a “man with a gun” call, an officer notices a subject who, upon seeing the officer, takes off running, and the officer gives chase. These incidents frequently culminate in the officer discharging a firearm at the subject when the officer observes the subject make a “furtive” movement that the officer interprets as threatening.

Yet there is a lack of agreement among the federal circuits as to whether an investigative stop, and thus conceivably a foot pursuit, is sufficiently predicated solely on an officer’s belief that a subject might be armed. The Ninth Circuit has taken the view that an investigatory stop is justified under such circumstances. In *Foster v. City of Indio*, the court considered similar facts: an officer responded to a 911 “man with a gun” call and ended up fatally shooting a subject.⁴⁶ In response to the 911 call, the officer arrived at the designated area and encountered Foster, who met

⁴³ *In re Miguel P.*, No. 1–14–3155, 2015 WL 1198110, at 2 (Ill. App. Ct. Mar. 16, 2015).

⁴⁴ *Id.* at *2–3.

⁴⁵ ARLANDER KEYS, THE THIRD REPORT ASSESSING THE CHICAGO POLICE DEPARTMENT’S COMPLIANCE WITH THE INVESTIGATORY STOP & PROTECTIVE PAT DOWN AGREEMENT 7 (2019).

⁴⁶ 908 F.3d 1204, 1207 (9th Cir. 2018) (per curiam).

the description given by the 911 caller, and who, according to the officer, “appeared nervous.”⁴⁷ The officer approached Foster, identified himself as a police officer, and stated: “Let me see your hands. Keep your hands where I can see them. I just need to talk to you for a minute.”⁴⁸ At that moment, Foster took off running and the officer gave chase.⁴⁹

During the pursuit, the officer never saw Foster holding a gun, but claimed that Foster appeared to be “holding something against his body.”⁵⁰ Ultimately, the officer shot Foster, claiming that he perceived Foster to be turning around with a gun in his hand.⁵¹ Information provided by other witnesses conflicted with the officer’s account as to whether Foster was actually armed.⁵² Foster’s family filed a § 1983 suit alleging excessive force. However, the family also alleged that the officer had conducted an unlawful investigatory stop by seizing Foster without reasonable suspicion.⁵³ The Ninth Circuit granted summary judgment in favor of the officer on the investigatory stop claim, finding that the 911 call had sufficient indicia of reliability.⁵⁴ More specifically, the court found that the 911 tip provided sufficient indication of potential illegal activity to warrant the seizure.⁵⁵ The court stated:

Where state law makes it generally unlawful to carry a concealed weapon without a permit, a tip that a person carrying a concealed firearm raises a reasonable suspicion of potential criminal activity, even if the tip does not state that the person is carrying the firearm illegally or is about to commit a crime.⁵⁶

⁴⁷ *Id.* at 1207-08.

⁴⁸ *Id.*

⁴⁹ *Id.* at 1208.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.* at 1209.

⁵⁴ *Id.* at 1215-17.

⁵⁵ *Id.* at 1215.

⁵⁶ *Id.*

Other federal circuit courts take a similar view.⁵⁷ Yet some courts see a distinction where state law generally permits concealed carry.⁵⁸ Taking the opposite view, the Seventh Circuit has held that “a mere possibility of unlawful use of a gun is not sufficient to establish reasonable suspicion.”⁵⁹ In *United States v. Watson*, an anonymous 14 year-old 911 caller purportedly borrowed a stranger’s phone to report having seen “boys playing with guns” near a certain car in a nearby parking lot.⁶⁰ Responding officers went to the location and found a car matching the caller’s description with a passenger in possession of a firearm.⁶¹

The Seventh Circuit found that “the caller’s report . . . about the presence of guns did not create a reasonable suspicion of an ongoing crime, because carrying a firearm in public is permitted with a license in Indiana.”⁶² In agreement, the Fifth Circuit has recently emphatically rejected the premise that carrying a firearm is “presumptively illegal” under Louisiana law.⁶³ Accordingly, a *Terry* stop may not be predicated solely on the fact that an individual is believed to be carrying a concealed weapon.⁶⁴

While some courts regard a “man with a gun” call as sufficient predication for an investigatory stop, other circumstances giving rise to an officer’s suspicion that a subject is armed may also be sufficient. In *Booker v. State*, a 2025 Maryland case, officers construed a series of observations about the subject’s behavior and appearance as an indication that he was armed.⁶⁵ While on foot patrol, the officers first observed Booker sitting on the front steps of a home next to a convenience store.⁶⁶ The officers noticed Booker touching the side of his jacket, then observed a distinct shape

⁵⁷ See, e.g., *United States v. Woods*, 747 F.3d 552, 556 (8th Cir. 2014) (finding reasonable suspicion where officers respond to a call that an individual was carrying a concealed weapon); *United States v. Lewis*, 674 F.3d 1298, 1304 (11th Cir. 2012) (holding a concealed handgun established reasonable suspicion based on Florida law criminalizing concealed carry without a permit); *United States v. Pontoo*, 666 F.3d 20, 31 (1st Cir. 2011) (finding probable cause based on possession of a concealed handgun based on Maine law generally prohibiting concealed carry); *United States v. Gatlin*, 613 F.3d 374, 378 (3d Cir. 2010) (finding reasonable suspicion on the basis that carrying a concealed handgun is presumptively a crime in Delaware).

⁵⁸ See, e.g., *United States v. Brown*, 925 F.3d 1150, 1153 (9th Cir. 2019) (finding that an anonymous “man with a gun” tip does not provide sufficient indication of unlawful activity in Washington state where gun possession is presumptively lawful).

⁵⁹ *United States v. Watson*, 900 F.3d 892, 896 (7th Cir. 2018) (internal quotation omitted).

⁶⁰ *Id.* at 893.

⁶¹ *Id.*

⁶² *Id.* at 895.

⁶³ *United States v. Wilson*, 143 F.4th 647, 655 (2025).

⁶⁴ *Id.* at 651.

⁶⁵ 345 A.3d 196, 199 (Md. App. Ct. 2025).

⁶⁶ *Id.*

in a pocket of the jacket.⁶⁷ Then the officers observed the pocket swinging as Booker walked in a way that indicated the pocket contained a heavy object.⁶⁸ Based on these observations the officers approached Booker, identified themselves, and performed a pat-down search which required that they physically subdue Booker.⁶⁹ The Appellate Court of Maryland found the officers' observations were sufficient justification for the stop and frisk.⁷⁰

A "shots fired" situation – where an officer either hears shots fired firsthand or responds to a report of shots fired, then encounters a subject in the location of the reported shots – also goes a long way toward meeting the reasonable suspicion standard.⁷¹ Courts tend to consider a "shots fired" situation as one involving significant public safety risk and are more deferential to law enforcement decisions to stop suspicious individuals or vehicles in this context.⁷² While some courts may consider mere presence

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.* at 205.

⁷¹ *See, e.g.,* State v. Hall, 265 N.E.3d 338, 346 (Ohio Ct. App. 2025) (finding reasonable suspicion where officer heard shots fired, responded to the area, and encountered a subject with a "bulge" in his left front pocket); State v. Lane, 701 S.W.3d 693, 700 (Mo. Ct. App. 2024) (finding reasonable suspicion where officers responded to report of shots fired and observed vehicle matching description); United States v. Winborn, 111 F.4th 910, 913 (8th Cir. 2024) (finding reasonable suspicion where subject was found one block away from area of reported shots fired in a car matching description given in 911 call); People v. Anderson, 192 N.Y.S.3d 852, 853 (App. Div. 2023) (finding reasonable suspicion where officer received citizen report of shots fired, heard gunshots, went to the location, and observed defendant upright and fleeing while all others at scene were seeking cover); Commonwealth v. Robinson-Van Rader, 208 N.E.3d 693, 704 (Mass. 2023) (finding reasonable suspicion where officers investigating a shooting encountered subject along path of flight from shooting location exhibiting nervous or evasive behavior); People v. Beltran, 183 N.Y.S.3d 239, 240-41 (App. Div. 2023) (finding reasonable suspicion where officers encountered subject one-half mile away from area of reported shots fired and subject met description of suspect); People v. Sanchez, 180 N.Y.S.3d 71, 72 (App. Div. 2022) (finding reasonable suspicion where officers encountered group of fleeing youths near location of reported shots fired); State v. Nimmer, 975 N.W.2d 598, 608-09, 611-12 (Wis. 2022) (finding reasonable suspicion where officers responded to a Shotspotter alert of 4 shots fired, arrived to the area within one minute, and found subject the only person in the area who reacts to seeing officers by attempting to quickly walk away).

⁷² *See, e.g.,* Commonwealth v. Bannister, 125 N.E.3d 746, 753 (Mass. App. Ct. 2019) ("Where, as here, there may be an imminent threat presented because of shots just fired, . . . there is an edge added to the calculus upon which . . . reasonable suspicion may be determined." (internal quotations and citations omitted)).

in an area near to where gunshots were heard or reported as insufficient,⁷³ in most cases, presence in such a location, combined with other factors such as “suspicious behavior,” are considered sufficient.⁷⁴

II. ANALYSIS OF EXISTING FOOT PURSUITS POLICIES

To assess the prevalence of foot pursuit policies among municipal law enforcement agencies nationwide, the project team conducted an extensive online search for foot pursuit policies among the largest municipal police agencies. In collecting these policies, the goal was to gain an understanding of how existing policies articulate the circumstances that are sufficient predication for engaging in a foot pursuit, as well as how the policies identify the circumstances in which avoidance or termination of foot pursuit is either required or advised.

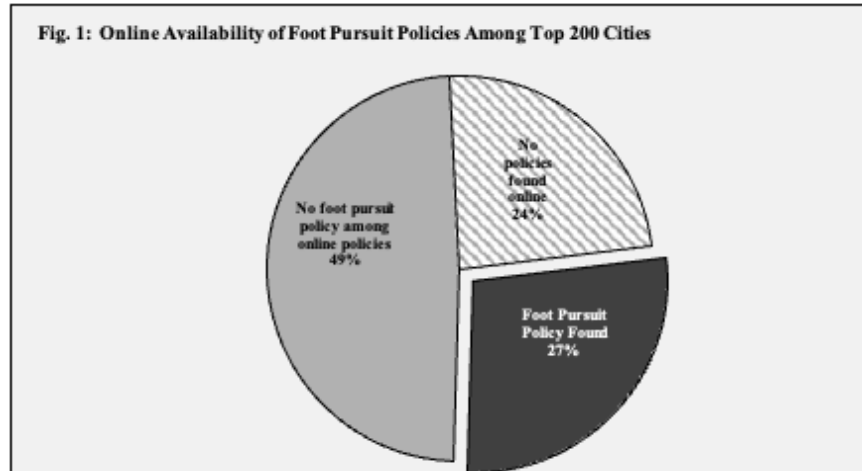
A. Data Collection Methodology

The project team searched for and collected existing foot pursuit policies associated with municipal police agencies operating in the top 200 most populous U.S. cities based on the U.S. Census Estimated Population 2022 data. The search was directed at municipal police agencies because, in the author’s experience, a majority of municipal police agencies make their operating policies publicly available online. Where the police agency had no policies posted online, or where there was no foot pursuit policy

⁷³ See, e.g., *People v. Fitts*, 135 N.Y.S.3d 731, 733 (App. Div. 2020) (finding lack of reasonable suspicion to stop vehicle where vehicle was simply in the general vicinity of where shots were heard); *In re D.L.*, 147 N.E.3d 114, 121 (Ill. App. Ct. 2017) (finding lack of reasonable suspicion where officer observed juvenile merely walking quickly away from the area of a shots fire call); *Commonwealth v. Evelyn*, 152 N.E.3d 108, 123 (Mass. 2020) (“[A]lthough the defendant’s proximity to a recent shooting was not sufficient alone to establish reasonable suspicion, it provided significant support.”); *But cf. People v. Jones*, 50 N.Y.S.3d 647, 648 (App. Div. 2017) (finding reasonable suspicion to stop a subject found in area near where officers heard gunshots); *United States v. Rickmon*, 952 F.3d 876, 884 (7th Cir. 2020) (finding reasonable suspicion to stop a vehicle driving away from the location of reported shots fired).

⁷⁴ See, e.g., *United States v. Jones*, 1 F.4th 50, 54 (D.C. Cir. 2021) (“When presence where a crime is reported to have occurred is coupled with evasive behavior, we have found reasonable suspicion even when more time has elapsed.”); *Balentine v. State*, 71 S.W.3d 763, 769 (Tex. Crim. App. 2002) (finding reasonable suspicion where officers responded to a shots fired call and observed the subject walking briskly nearby the complainant’s residence); *Commonwealth v. Johnson*, 42 N.E.3d 639, 644 (Mass. App. Ct. 2015) (finding reasonable suspicion where officers observed subject near where shots were fired three and one-half minutes earlier wearing a hoodie tied tightly pulled around his face suggesting a desire to conceal himself.); *United States v. Thornton*, 621 F. App’x. 324, 328-30 (6th Cir. 2015) (finding reasonable suspicion where the subject was the only person in the area after a “shots fired” call in a high-crime area, and the officers observed hurried behavior).

found among the policies the agency did publish online, the project team attempted to contact the agency by phone to confirm that the agency had no foot pursuit policy in place. The data collection and follow-up phone contacts were conducted from June 2023 to December 2023. The project team also collected foot pursuit policies found online for municipal police agencies in several smaller jurisdictions.



The content of the foot pursuit policies that were found were then coded based on a set of variables defining the core components of these policies, including how the policies define the circumstances in which a foot pursuit is permitted, discouraged, or prohibited, and the circumstances in which officers are either encouraged to or required to terminate a foot pursuit. The list of variables used for coding the foot pursuit policies is attached as Appendix A.

B. Descriptive Findings

1. Prevalence of Foot Pursuit Findings

As discussed *supra* in Part II(A), the project team collected foot pursuit policies among the largest municipal police departments. Among the top 200 municipalities (based on population), three were served by sheriff's offices with county-wide law enforcement responsibilities, so they were excluded from the analysis. As depicted in Figure 1, among the remaining 197 cities served by municipal police agencies, only approximately 27% (54 agencies) had foot pursuit policies that were available online. Just under half (49%) did have at least some of their department policies available online, but no foot pursuit policy was found among them, and just under a quarter (24%) of the agencies did not have any policies available online. As such, among the agencies with any policies available online, just over one-third (35.5%) had an existing foot pursuit policy.

An additional 31 foot pursuit policies were found among smaller cities with municipal police departments (i.e. cities that did not fall within the Top 200 population rankings). Thus, a total of 85 foot pursuit policies were found through the online search methodology.

As shown in Figure 2, out of the 85 policies available online, 39% were custom, meaning the content was specific to that particular agency. The remaining 61% of the policies were developed from the same “model policy.”⁷⁵ The content of these policies has been traced to policy guidance provided by Lexipol, a company that provides policy guidance, training and other consulting tools and services to public safety organizations (e.g. law enforcement, fire, EMS, and corrections).⁷⁶

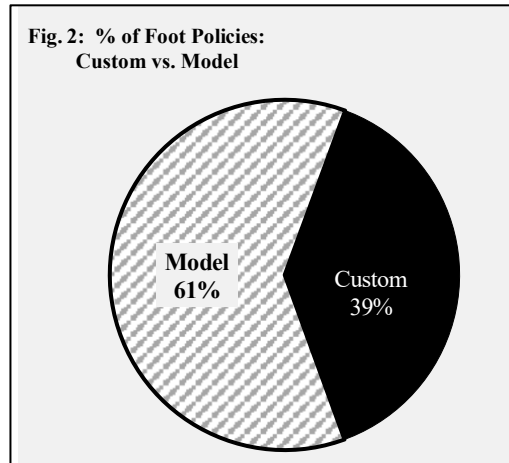
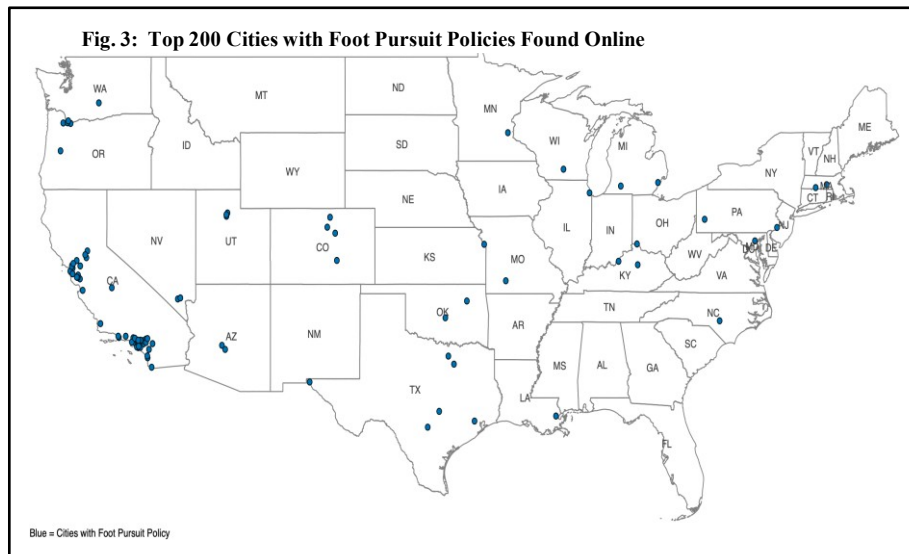


Figure 3 represents the locations of municipal police agencies serving the top 200 most populous U.S. cities for which a foot pursuit policy was found online. There is a large cluster of agencies with policies in California. This geographical skew is attributed to the fact that many California law enforcement agencies employ policy guidance from Lexipol, whose business is heavily skewed to California, the business having been founded in that state.⁷⁷

⁷⁵ The project team hypothesizes that this model policy was originally promulgated by Lexipol, a company that offers policy and training among other services to law enforcement. An inquiry was sent to the company to confirm that they originated this model policy, but a response has yet to be provided.

⁷⁶ LEXIPOL, <https://www.lexipol.com/platform/> [<https://perma.cc/XV2Q-3K3K>].

⁷⁷ The company promotes itself as having 95% of California law enforcement agencies as subscribers. See, e.g., Dan Merkle, Chairman and CEO, Lexipol LLC, Smart Bus. (July 1, 2012), <http://www.sbnonline.com/category/industry-topics/legal-industry-topics/page/2/> [<https://perma.cc/27R9-G5GQ>] (“Ninety-five percent of the police agencies in California now use Lexipol’s online Knowledge Management System, which includes law enforcement standardization and training programs, and the company has exceeded 30 percent growth for each of the last five years, all without infusions of outside capital.”); Report of Bruce D. Praet at 1, *Mitz v. City of Grand Rapids*, No. 1:09-cv-365, 2009 WL 6849914 (W.D. Mich. Oct. 21, 2009) (“LEXIPOL

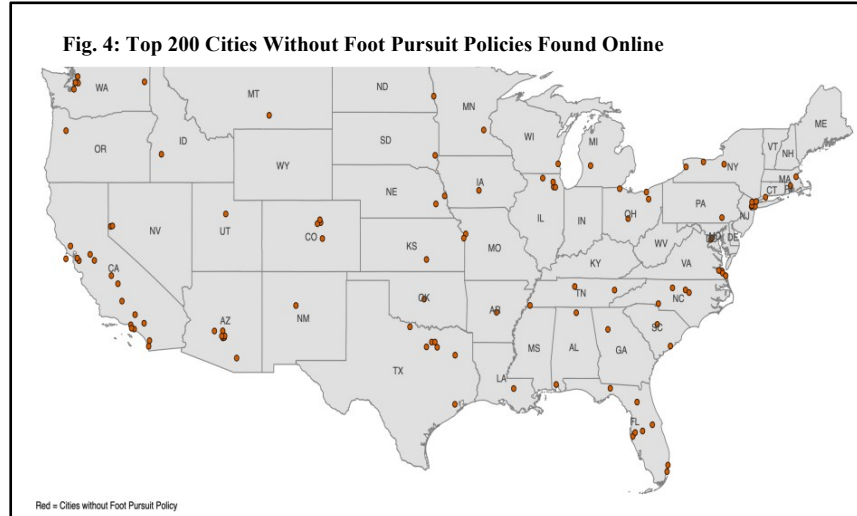


Recognizing that these states have fewer cities ranking in the top 200 by population, there were no foot pursuit policies found for agencies serving municipalities in the several mountain states (Montana, Wyoming, North Dakota, South Dakota, and Nebraska) and several southeastern states (Tennessee, Mississippi, Alabama, Georgia, South Carolina, and Florida). There was only one foot pursuit policy found among the North Carolina agencies (in Fayetteville).⁷⁸ There were also few municipalities with existing foot pursuit policies in midwestern states (e.g. Illinois and Ohio), despite those states having several municipalities in the top 200 ranking.

currently has 94% of all California law enforcement agencies subscribing to our policy and training systems.”).

⁷⁸ Fayetteville was the only North Carolina jurisdiction for which a foot pursuit policy was found online.

Figure 4 illustrates the cities within the top 200 jurisdictions presumed to operate without foot pursuit policies.⁷⁹ Although there is a large cluster of agencies *with* foot pursuit policies serving California jurisdictions, there are also many agencies in that state without a foot pursuit policy. As noted above, there are numerous Florida jurisdictions that have not yet promulgated foot pursuit policies.



To get a better understanding of the characteristics of the law enforcement agencies that have existing foot pursuit policies, the project team compiled and analyzed data related to each agency's profile. The list of agency variables explored included: agency size (total number of employees and number of sworn officers), population of the city served, the violent crime rate for the city served, and the number of arrests made in the city served.

The project team conducted a multivariate regression analysis to identify whether any of the agency profile characteristics were associated with the agency presently having a foot pursuit policy. An ingoing hypothesis was that foot pursuit policies would more likely be found among agencies serving more populous jurisdictions because those agencies would be likely to have officers more frequently engaged in foot pursuits. That hypothesis was born out by the data.⁸⁰ Another ingoing hypothesis was that foot pursuit policies would more likely be found among agencies serving jurisdictions with higher rates of violent crime because their officers would be engaged in foot pursuits more frequently in the context of enforcement activity addressing violent crime. This hypothesis was not born

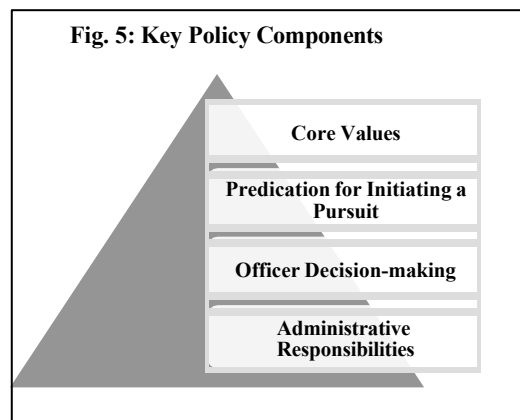
⁷⁹ The presumption is that the agencies serving these cities have not promulgated foot pursuit policies because their publicly available policies did not include a foot pursuit policy.

⁸⁰ See *infra* App. C (identifying a correlation coefficient of 0.01247 with a confidence level of 99% (p value <0.01)).

out by the data; the analysis showed a slight negative correlation between an agency presently having a foot pursuit policy and the violent crime rate (excluding gun crimes). A third ingoing hypothesis was that agencies responsible for higher numbers of arrests would be more likely to have foot pursuit policies because those agencies are likely to engage in a higher number of foot pursuits that arise in the arrest context. This hypothesis was supported by the data.⁸¹

2. Key Policy Components

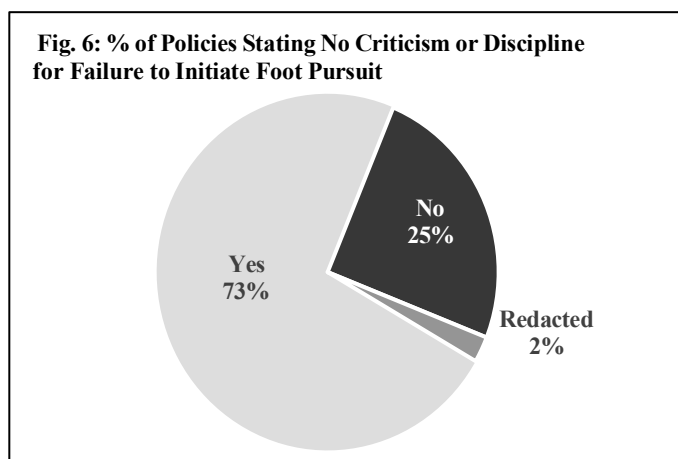
As depicted in Figure 5, analysis of the existing foot pursuit policies identified a common structure, as most policies incorporated the following four policy components: an expression of the core values that guide the policy; the circumstances for which foot pursuits are appropriately predicated; the circumstances that impact an officer's decision to initiate a foot pursuit or terminate a foot pursuit once it has begun; and a description of the responsibilities of the involved officers and other administrative personnel involved in managing the foot pursuit. As discussed below, the policies compiled tend to provide broad thematic guidance intended to inform an officer's decision to engage in a foot pursuit rather than bright-line rules that explicitly constrain officer conduct.



3. Core Values

Most of the policies reviewed contained statements that articulated three core values: (1) a statement conveying that the purpose of the policy was to promote officer safety while also respecting the sanctity of life of community members; (2) an admonishment to officers about the inherent risk in engaging in foot pursuits; and (3) an advisement to officers that they would receive no criticism or disciplinary action for deciding to forgo or terminate a foot pursuit.

⁸¹ See *infra* App. C (identifying a correlation coefficient of 11.10921 with a confidence level of 99% (p value <0.01)).



As shown in Figure 6, almost three quarters of the foot pursuit policies reviewed incorporated a statement that an officer would not be criticized or receive any disciplinary action for a decision to forgo engaging in a foot pursuit, or for terminating a pursuit once it has begun. The fact that this policy component is so common could reflect a recognition that some officers may engage in a foot pursuit unnecessarily out of fear of reprisal for failure to do so.

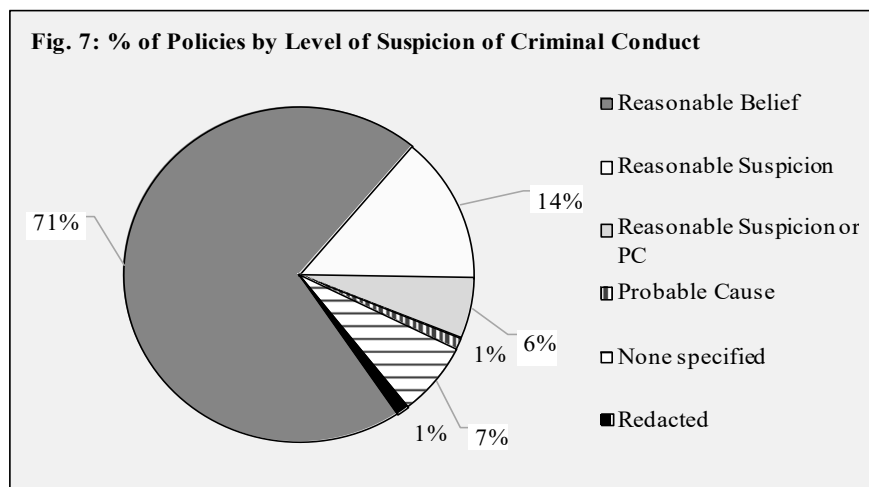
4. Predication for Initiating a Foot Pursuit

The Balancing Analysis. One of the core components observed among the majority of the policies (75 out of 85, or 88%) was the requirement that a foot pursuit must be predicated on a law enforcement interest that outweighs the safety risk. This requires officers to weigh the law enforcement need to detain the subject against the risk of harm to the subject, the officer, and the community inherent in engaging in the pursuit. The balancing analysis articulated in the majority of the foot pursuit policies analyzed is similar to the core guidance behind motor vehicle pursuit policies, the majority of which also require officers to weigh the risks of pursuit against the law enforcement need.⁸²

Level of Suspicion. Consistent with the constitutional standard, most policies require predication for a foot pursuit based on facts and circumstances leading the officer to believe that the subject is involved in some form of criminal activity. The policies vary in terms of the threshold of belief.

⁸² See, e.g., Scott M. Mourtgos et al., *Risk and Public Judgments on Police Pursuits: A Nationally Representative Conjoint Experiment*, 0(0) POLICE Q. 1, 5 (2026) (“The foundation of police vehicular pursuit policies lies in the balancing framework outlined by the courts.”).

As depicted in Figure 7, a majority of the policies (60 out of 85, or 71%) require that the officer must have a “reasonable belief” that the subject is involved in or is about to engage in criminal activity. A minority of the policies (11 out of 85, or 13%) require, at a minimum, the *Terry* standard of “reasonable articulable suspicion.” It is not clear from the policy language whether there is any meaningful distinction between the “reasonable belief” and “reasonable articulable suspicion” standards. Only one of the policies requires “probable cause” for an officer to engage in a foot pursuit. A minority of the policies (6 out of 85, or 7%) did not specify any evidentiary standard related to the likelihood of the subject being engaged in criminal activity. Consistent with the constitutional standard established by *Wardlow*, a majority of the policies (67 out of 85, or 79%) explicitly prohibit foot pursuits that are predicated on flight alone.



Nature and Seriousness of the Suspected Criminal Offense. Among the 85 policies found, a very small minority of the agencies provide specific guidance related to the nature or seriousness of the suspected offense involved. The Chicago Police Department only permits foot pursuits for felonies or serious misdemeanor offenses such as aggravated assault, battery, unlawful use of a weapon, theft, and retail theft.⁸³ Foot pursuits are prohibited for less serious misdemeanor offense such as simple assault, criminal trespass to land, and drinking on the public way.⁸⁴ The Chicago Police Department policy also prohibits foot pursuits for all non-arrestable offenses, unless the subject poses an obvious threat to any person.⁸⁵ Similarly, the policies enacted by the Springfield, Massachusetts and

⁸³ Chicago Police Dep’t, General Order G03-07 § IV-V (2021).

⁸⁴ *Id.*

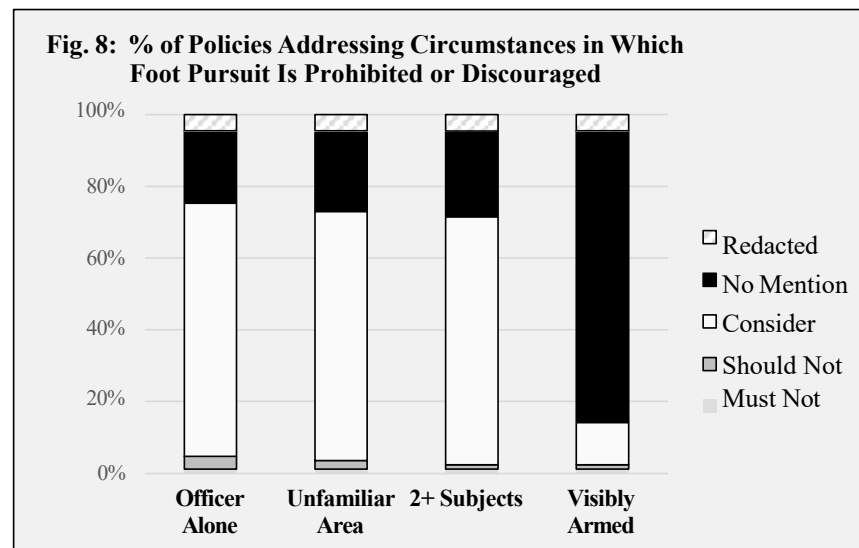
⁸⁵ *Id.*

Baltimore police departments prohibit foot pursuits for minor offenses such as curfew violations, non-arrestable offenses, and citation-only offenses.⁸⁶

5. Circumstances in Which Initiating a Foot Pursuit is Prohibited or Discouraged

One of the core components of a foot pursuit policy is the definition of the specific circumstances in which an officer is either discouraged from or outright prohibited from initiating a foot pursuit. As discussed above, one of those circumstances is that a pursuit may not be founded on flight alone. Rather than establishing bright line rules, most of the policies outline circumstances in which an officer is discouraged from initiating a pursuit or directed to consider whether a foot pursuit is appropriate under those circumstances.

As shown in Figure 8, the two circumstances most frequently cited for when an officer should consider whether a pursuit is really necessary or appropriate are: where the officer is alone (60 out of 85 policies, or 71%); and where the officer is unfamiliar with the area (59 out of 85 policies, or 69%). A majority of policies (58 out of 85 policies, or 68%) also discourage officers from engaging in a foot pursuit when there is more than one subject involved. One of the policies strongly discourages such foot pursuits, while two policies explicitly prohibit such foot pursuits.



One particular circumstance that increases the safety risk for the officer, the subject, and the community is when the subject is armed. While this is an important circumstance that is directly relevant to the balancing

⁸⁶ Springfield Police Dep't, General Order UOF-6 (2025); Baltimore Police Dep't, Pol'y 1505 (2026).

analysis, a minority of agencies provide explicit guidance to officers in this circumstance. While most of the policies (69 out of 85, or 81%) are silent on this issue, 10 of the policies, or 12%, suggest that an officer consider whether a pursuit is appropriate when the subject is visibly armed. The Chicago Police Department discourages pursuits under these circumstances. The Portland (Oregon) Police Department policy prohibits foot pursuits involving an armed subject “unless, in extreme circumstances, no other alternative strategy is feasible and a delay in the apprehension of the suspect would present a threat of death or serious physical injury to others.”⁸⁷

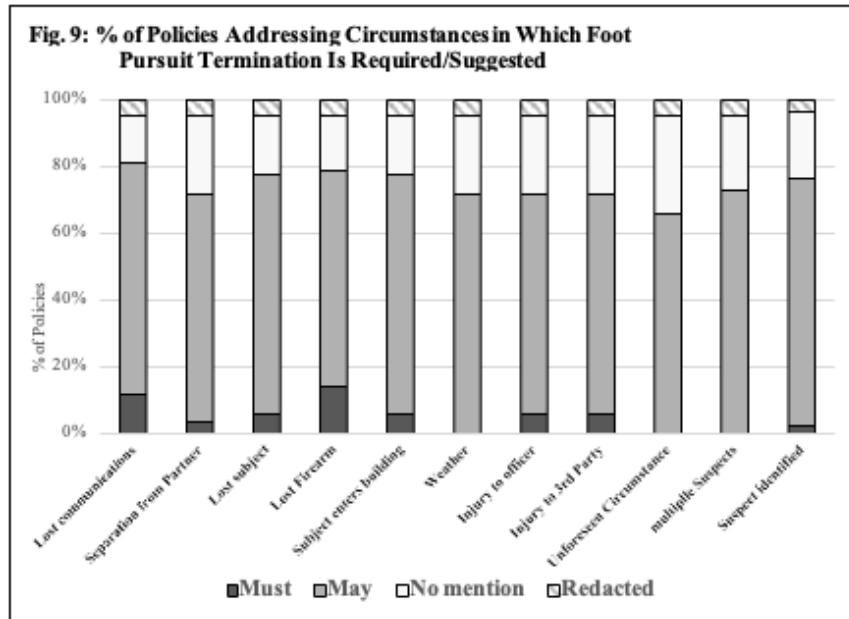
6. Circumstances in Which Termination of a Pursuit is Encouraged or Required

Most of the policies outline a set of circumstances in which the officer is either encouraged or required to terminate a foot pursuit. The language used to express whether an officer was required or encouraged to terminate a pursuit varied across the policies. The project team attempted to distinguish between language that expresses a bright line rule requiring termination and language that merely suggests termination under those circumstances. The project team coded policies with definitive language as saying the officer “*must*” terminate a pursuit under those circumstances and the policies with less definitive language as saying that the officer “*may*” terminate the pursuit under those circumstances. Based on this interpretation of the policy language, Figure 9 outlines the percentage of policies that either encourage or require termination under the circumstances listed.⁸⁸

As Figure 9 depicts, despite the fact that the presence of these circumstances significantly increases the risk of harm to the officer and/or the subject, most departments still leave the decision to continue a pursuit under these circumstances to the officer’s discretion, merely encouraging the officer to consider termination rather than requiring it.

⁸⁷ Portland Police Bureau, Directive 0630.15 (2022).

⁸⁸ The language used to express whether an officer was required to or encouraged to terminate a pursuit varied across the policies. The project team attempted to distinguish between language expressing a clear rule of requiring termination under these circumstances (characterized in Figure 9 as “Must”) vs. language that was more suggestive that the officer terminate the pursuit under these circumstances (characterized in Figure 9 as “May”).



There are two circumstances for which a significant minority of the agencies with policies require termination: (1) where the officer has lost communication with their agency, for which 10 out of the 85 policies (11%) require termination; and (2) where the officer lost their firearm, for which 12 out of the 85 policies (14%) require termination.

One of the circumstances commonly noted in these policies is whether the subject has been identified. Once a subject has been identified, the law enforcement interest in pursuing the subject *in that moment* is diminished because law enforcement may be able to detain the subject by other means at another time and under safer circumstances. Nonetheless, while a substantial portion of the policies *suggest* an officer consider terminating a pursuit once a subject has been identified, only the Springfield (MA) policy requires termination “[i]f the suspect’s identity is established or other information exists that allows for the suspect’s probable apprehension later and there is no immediate threat to the public or police officers.”⁸⁹

III. ANALYSIS OF CHICAGO OFFICER-INVOLVED SHOOTING INCIDENTS

As illustrated in Sekhon’s *Blue on Black: An Empirical Assessment of Police Shootings*, the city of Chicago publishes summary reports of all officer-involved shooting incidents involving a Chicago Police Department officer.⁹⁰ These reports are helpful in understanding OIS incidents in

⁸⁹ Springfield Police Dep’t General Order UOF-6 (Feb. 1, 2023).

⁹⁰ Sekhon, *supra* note 5, at 190. During the time-period explored by Sekhon’s analysis, the Independent Police Review Authority, was the agency responsible for publishing the reports. *Id.* . As discussed by Sekhon, there was substantial

general, and foot pursuits in particular, because they include detailed information about the encounters, including the circumstances in which the foot pursuit arose. In addition, the city publishes summary reports for all incidents regardless of whether they resulted in a fatality. This data source was mined to gain a better understanding of the circumstances leading to a foot pursuit that ends in a use of deadly force, namely a firearms discharge. In addition, this data source provided information from which to assess whether OIS incidents arising from foot pursuits exhibit different characteristics from other OIS encounters.

A. Data Collection Methodology

Chicago's Civilian Office of Police Accountability (COPA) investigates officer-involved shooting incidents involving Chicago Police Department members. Pursuant to its investigatory jurisdiction, and as required by city ordinance, COPA publishes Final Summary Reports for most officer-involved shooting incidents.⁹¹ These summary reports are published at the conclusion of the adjudication of the matter, meaning after a disposition of the disciplinary matter associated with the incident has been finalized.

The project team collected and reviewed reports for incidents that took place between 2008 and 2021. The reports were coded to identify which incidents involved foot chases and which did not, and also recorded data related to the circumstances of the incident based on the set of variables outlined in Appendix B. The project team was able to identify complete information, meaning data related to each of the variables being coded, for 415 of the 570 summary reports reviewed. These efforts culminated in the Chicago OIS Database.

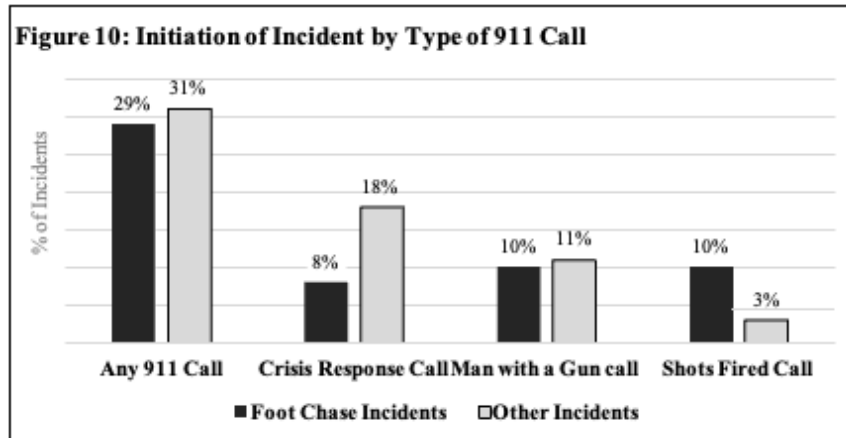
skepticism regarding the quality and thoroughness of that agency's reporting. *Id.* at 190-91. In fact, after that agency's work was criticized substantially by the Department of Justice and a Police Accountability Task Force empaneled by Chicago's mayor, the agency was replaced in 2017 by a new investigative oversight agency, the Chicago Office of Police Accountability (COPA). Chi. Mun. Code chs. 2-78-105, 2-78-110. COPA has continued IPRA's practice of publishing summary reports of OIS incidents involving the Chicago Police Department.

⁹¹ COPA publishes reports for all investigations that result in findings, regardless of the outcome or whether discipline was recommended. CIVILIAN OFF. OF POLICE ACCOUNTABILITY, <https://www.chicagocopa.org/data-cases/case-portal/> [<https://perma.cc/PDE3-KDSG>]. There are some cases for which COPA is legally prohibited from publishing a Final Summary Report. Because the reports are only published after findings have been made, there are no reports available for incidents that are currently under investigation.

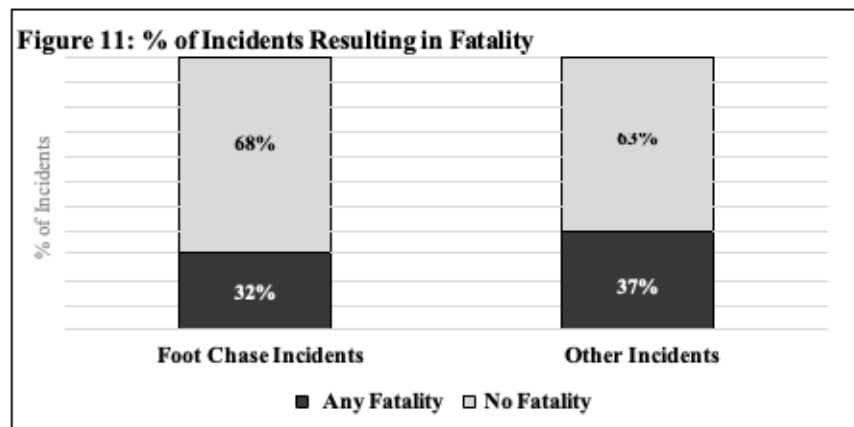
B. Descriptive Findings

Consistent with previous literature,⁹² approximately 41% of the officer-involved shooting incidents occurred at the culmination of a foot chase.

As shown in Figure 10, just under one-third of OIS incidents were initiated based on a 911 call. However, officer-involved shooting incidents that occurred in the context of foot pursuits were more likely to result from a “shots fired” 911 call and less likely to arise from a “crisis response” 911 call.



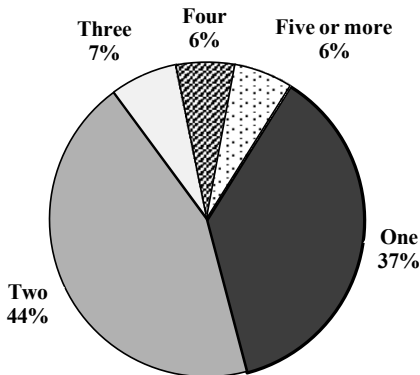
Based on this data, foot pursuits do not appear more fatal relative to other kinds of OIS incidents. As shown in Figure 11, just over one-third of the incidents resulted in a fatality to any subject. One hypothesis for this finding is that officers are less likely to “hit” a fleeing subject than when engaged in a static encounter with a subject.



⁹² See Sekhon, *supra* note 6, at 207.

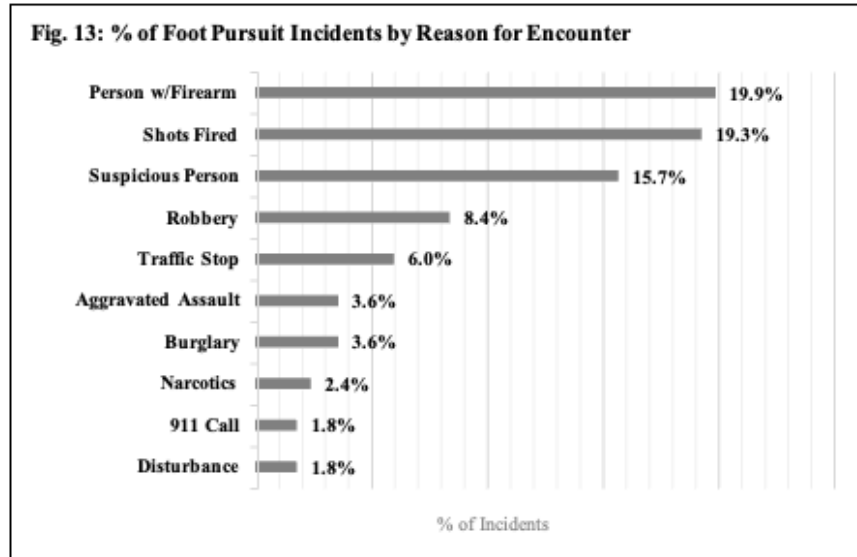
As shown in Figure 12, among the incidents involving a foot chase, over one-third (37%) involved only one officer, a circumstance for which engaging in a foot pursuit is generally discouraged, as outlined *supra* in Part II(B)(2).

Figure 12: % of Foot Pursuits By Number of Involved Officers



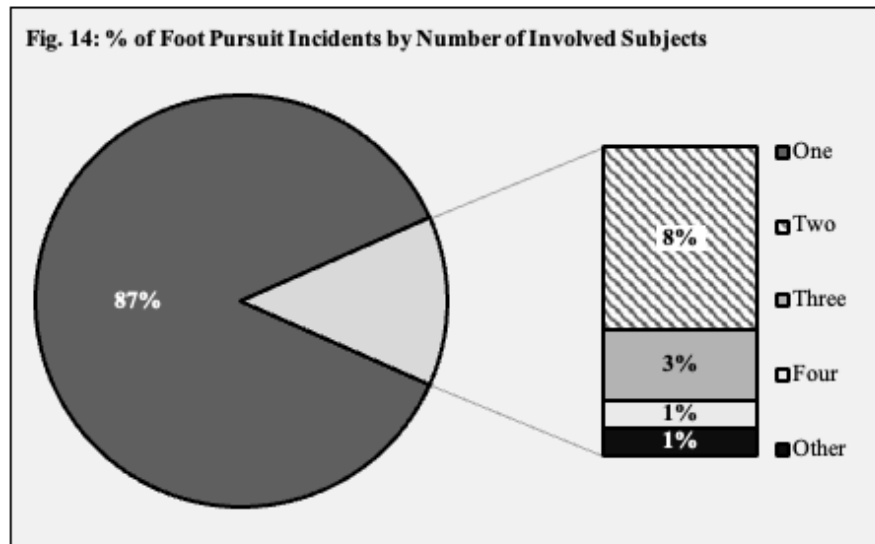
For each of the OIS foot pursuit incidents, the project team identified the circumstance from which the police-citizen encounter arose. This information was included in the Chicago OIS Database as the “reason for encounter.” This circumstance is an important consideration in assessing the predication for engaging in the pursuit because it is relevant to the balancing analysis as well as to a determination of the level of suspicion. For example, an officer is likely to consider an encounter resulting from a report of “shots fired” as representing a greater immediate public safety risk necessitating the immediate seizure of the subject as compared to an encounter arising from domestic disturbance, where the subject may be no threat at all to the general public.

Based on the Chicago OIS data, a substantial number of foot pursuit incidents arose from encounters involving firearms. When looking at the circumstance giving rise to the police-citizen encounter, as shown in Figure 13, almost 20% of the OIS foot pursuit incidents arose from a situation in which the subject had or was reported to have a firearm. Similarly, almost 20% of the incidents arose from a report that shots had been fired.

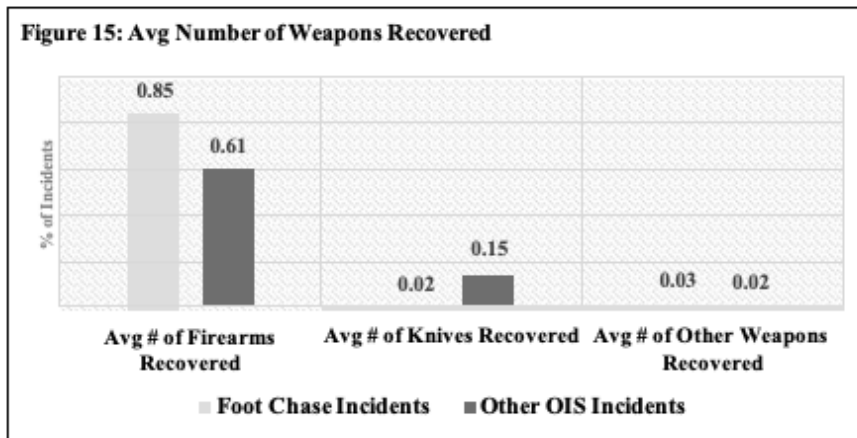


This observation is important in light of the dispute among law enforcement policy makers regarding whether or not foot pursuits are advisable where the subject is visibly armed.

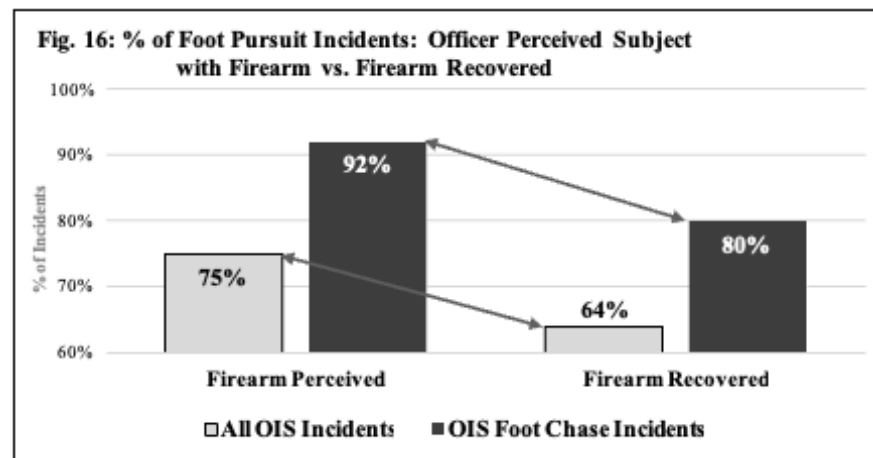
As shown in Figure 14, approximately 13% of the OIS foot pursuit incidents involved more than one subject, a circumstance for which foot pursuits are discouraged as outlined *supra* in Part II(B)(2).



As shown in Figure 15, the average number of firearms recovered during a foot pursuit was higher relative to other kinds of OIS incidents. Fewer knives were recovered in OIS foot pursuit incidents relative to other OIS incidents.

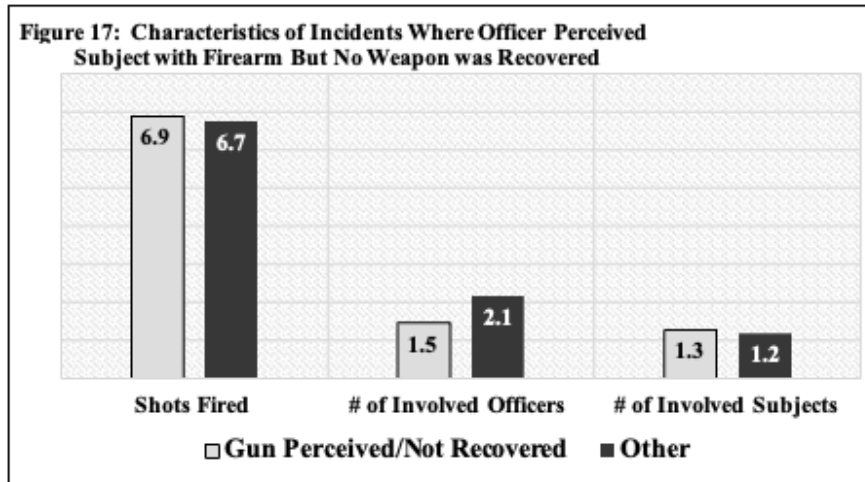


As shown in Figure 16, among all Chicago OIS incidents, the officer perceived the subject to have a firearm in 75% of incidents, but a firearm was recovered in only 64% of incidents. Thus, in approximately 11% of incidents, the officer was most likely incorrect in their perception that the subject was armed.⁹³ The involved officer perceived the subject to have a firearm in approximately 92% of the OIS foot pursuit incidents, whereas a firearm was recovered in only 80% of incidents, a similar difference of approximately 12%. Based on this data, it does not appear that the nature and circumstances of foot pursuits result in an officer being more or less likely to mistakenly perceive a firearm.

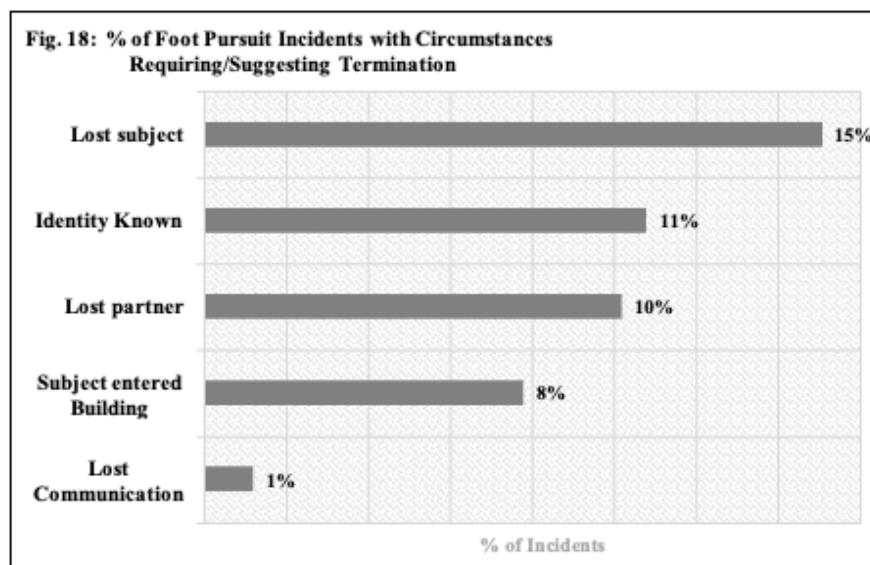


⁹³ It is possible, but perhaps unlikely, that the subject was armed but the law enforcement agency failed to recover the firearm.

However, looking specifically at the incidents in which an officer perceived a subject to be carrying a firearm where a firearm was not recovered, there is one variable that distinguishes those incidents from the other incidents – the number of involved officers. As shown in Figure 17, the number of officers involved was significantly lower for incidents in which the officers perceived the subject to possess a weapon but where no weapon was actually recovered. Intuitively, this seems to make sense. The more officers that are involved, the more likely that collectively they are able to accurately determine whether the subject was armed. This is perhaps additional justification for why a single officer engaging in a foot pursuit carries more inherent risk.



As outlined in Figure 18, the data suggest that the circumstances in which many policies either require or encourage termination of a foot pursuit occur with some frequency in the context of OIS foot pursuit incidents. For example, in approximately 15% of the Chicago OIS incidents, the officer was reported to have at least temporarily lost the subject, a circumstance for which termination of a pursuit is either required or encouraged. Similarly, an involved officer was reported to have lost their partner in approximately 10% of the incidents, and the subject was reported to have entered into a building in approximately 8% of the incidents. Most foot pursuit policies require or encourage termination under these circumstances.



IV. ANALYSIS OF MAPPING POLICE VIOLENCE DATABASE

A. Data Collection Methodology

The existing Mapping Police Violence data is a compilation of officer-involved fatal incidents from 2013 through the present.⁹⁴ For each incident, the database captures information about the civilian, the officer, the law enforcement agency involved, and numerous variables related to the encounter, including whether the encounter resulted from a pursuit.⁹⁵ More specifically, the dataset includes “any incident where a law enforcement officer (off-duty or on-duty) applies, on a civilian, lethal force resulting in the civilian being killed whether it is considered ‘justified’ or ‘unjustified’ by the U.S. Criminal Legal System.”⁹⁶ The data is compiled from a variety of sources including local and state government records and publicly available sources such as news accounts.⁹⁷ This information can be used to better understand the circumstances that lead to foot pursuits that result in a fatal use of force and may also be used to distinguish the circumstances of killings arising from foot pursuits from killings arising from other types of police-citizen encounters.

The project team uploaded the Mapping Police Violence data for the time period of 2013 through June 2023. The original Mapping Police Violence data included a variable to distinguish fatal interactions that involved a subject who was fleeing on foot, by car, or by bike from those that did not involve a fleeing subject. Because the data for this particular variable was missing for several entries in the database, the project team

⁹⁴ MAPPING POLICE VIOLENCE, <https://mappingpoliceviolence.org/>.

⁹⁵ *Id.*

⁹⁶ MAPPING POLICE VIOLENCE: DATA & METHODOLOGY, at 6, <https://mappingpoliceviolence.org/methodology> (documenting the methodology as of May 13, 2024).

⁹⁷ *Id.* at 9.

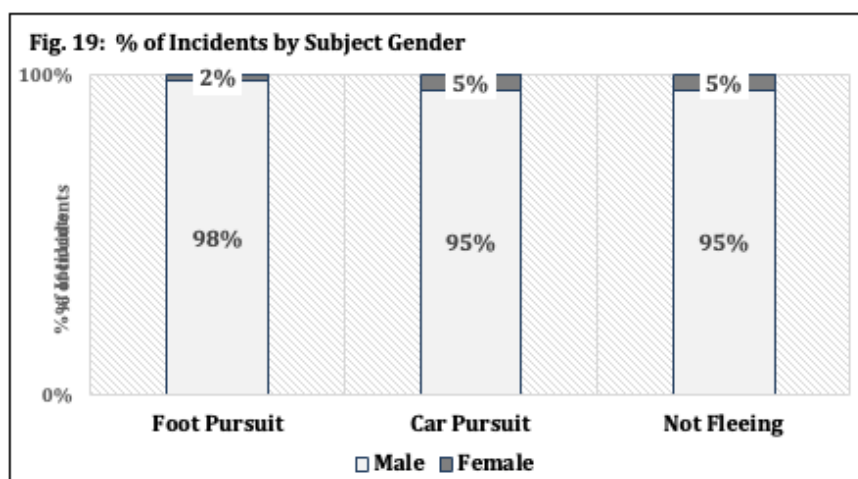
supplemented the original Mapping Police Violence data by reviewing the incidents based on publicly available information and coding entries for this particular variable based on that review. These efforts culminated in the MPV Database.

One of the key variables of interest was the “initial reason” for the fatal encounter which is described in the Mapping Police Violence database methodology as the “initial reported reason(s) for police to be on the scene prior to using deadly force.”⁹⁸ The data entry for this variable was “open ended” rather than chosen from a menu of possible entries.⁹⁹ As such, the entries in this data field were not always entered with consistent language. To enhance the utility of this data, the project team consolidated like entries into the following list of categories:

- Domestic Disturbance
- Assault
- Shots Fired
- Traffic Stop
- Weapon
- Person With Weapon
- Arrest Warrant
- Mental Health Crisis
- Robbery
- Person With Firearm
- Homicide
- Erratic Behavior
- Welfare Check
- Disturbance
- Vehicle Theft

B. Descriptive Findings

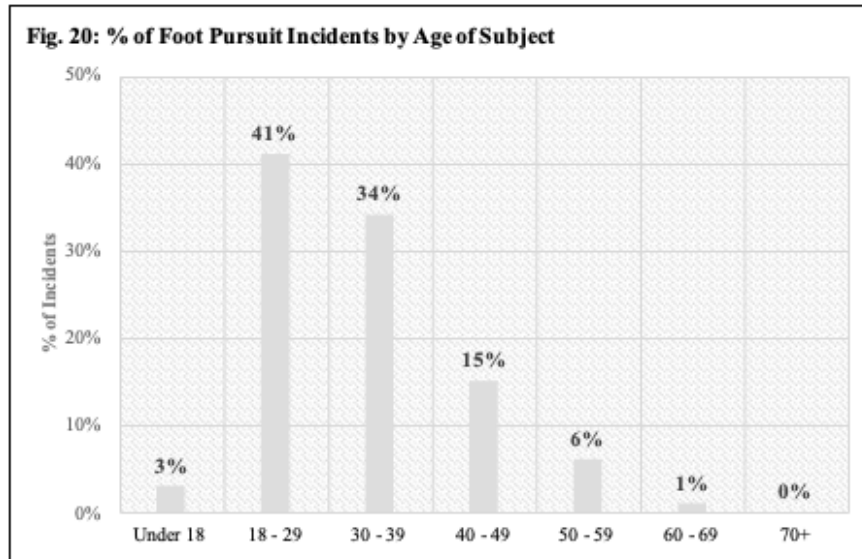
Based on the original data, as shown in Figure 19, police-involved killings almost always involve a male subject. Incidents arising from a foot pursuit were even more likely to involve a male subject.



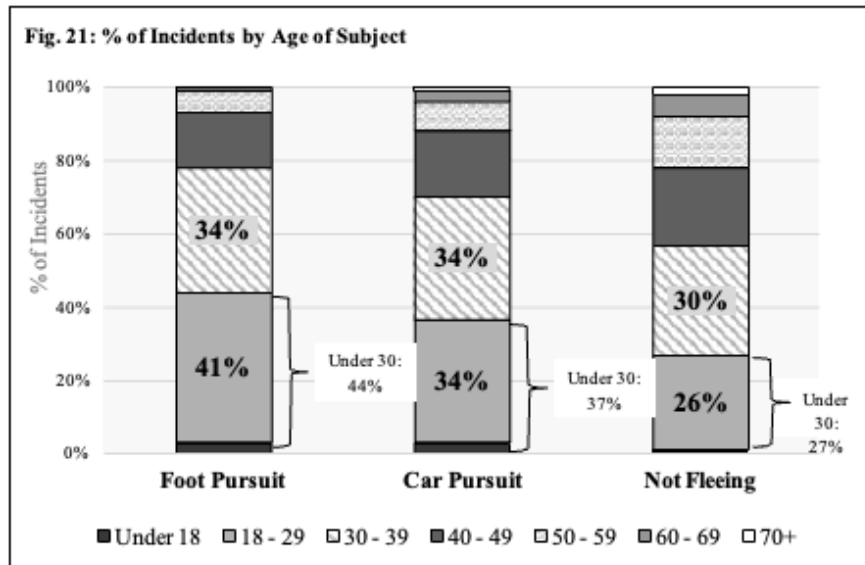
⁹⁸ *Id.* at 16.

⁹⁹ *Id.*

As shown in Figure 20, approximately three-fourths of police killings arose from a foot pursuit involving subjects between the ages of 18 and 39.



However, as shown in Figure 21, police killings arising from a foot pursuit generally involved younger subjects relative to incidents resulting from a car pursuit or incidents involving a non-fleeing subject.



Why foot pursuit subjects, on average, skew younger has been alluded to by commentators.¹⁰⁰ While we have not found any research directly on point, it is likely that general distrust of the police by young people,¹⁰¹ community-specific distrust,¹⁰² and a lack of brain maturity¹⁰³ are all relevant factors influencing this phenomenon.

Regarding the circumstance of whether a subject was armed, the original database included a variable that identified whether: (1) the subject was perceived to possess a weapon; (2) the subject was perceived to be using a vehicle as a weapon; or (3) the subject was perceived to be unarmed. Unlike the Chicago OIS data, the MPV Database lacks information regarding whether a weapon was actually recovered.

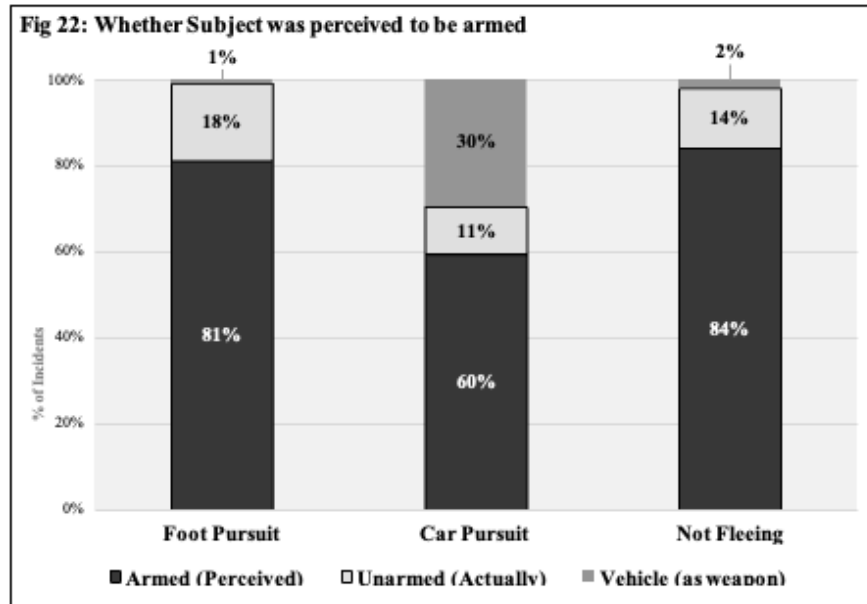
As depicted in Figure 22, approximately 81% of the fatal incidents arising from a foot chase involved a subject the officer perceived to be armed. This is comparable to the 84% of incidents involving a non-fleeing subject. As would be expected, for incidents involving a car chase the subject was more likely to be perceived as using a vehicle as a weapon. However, in a fairly substantial 18% of the incidents involving a foot pursuit, the person was not perceived to be armed.

¹⁰⁰ See Tracey Maclin, “Black and Blue Encounters” *Some Preliminary Thoughts About Fourth Amendment Seizures: Should Race Matter?*, 26 VAL. U. L. REV. 243, 257 (1991) (noting that when an atmosphere of police distrust permeates a community, some people’s initial response to a police encounter “may be flight”).

¹⁰¹ Delvon T. Mattingly & Nancy L. Fleischer, *Trends in Youth Opinions About Police Agencies in the United States, 2017-2021*, 10 SOC. SCIS. & HUMANITIES OPEN 100972, 3 (2024) (concluding that from 2017 to 2021 there was an increase in police distrust among youths with stronger associations along certain racial and ethnic groups).

¹⁰² John Eligon, *Running From Police Is the Norm, Some in Baltimore Say*, N.Y. TIMES (May 10, 2015), <https://www.nytimes.com/2015/05/11/us/running-from-police-is-the-norm-some-in-baltimore-say.html>.

¹⁰³ RICHARD MENDEL, WHY YOUTH INCARCERATION FAILS: AN UPDATED REVIEW OF THE EVIDENCE 20 (2022) (describing how the lack of full brain maturity until age 25 “makes lawbreaking and other risky behaviors more common during adolescence”).



As shown in Figure 23, a majority (64%) of fatal foot pursuit encounters involved a subject who was perceived to be armed with a firearm. Significantly fewer of these incidents involved subjects who were perceived to possess a knife or other bladed weapon. Note that a small but not insignificant percentage (3%) of fatal foot pursuit incidents involved a subject with a toy weapon.

FIG. 23: % OF INCIDENTS BY TYPE OF WEAPON OFFICER PERCEIVED SUBJECT TO POSSESS

	Foot Pursuit	Car Pursuit	Not Fleeing
GUN	64%	53%	56%
KNIFE/BLADED WEAPON	13%	4%	22%
VEHICLE	1%	28%	2%
TOY WEAPON	3%	2%	4%
OTHER WEAPON	5%	5%	7%

Officer-involved killings arising from a foot pursuit were significantly more likely to involve an unarmed subject than killings involving a non-fleeing subject.¹⁰⁴ Similarly, officer-involved killings arising from a foot

¹⁰⁴ See Appendix D. z-test: where the % of foot pursuit incidents involving an unarmed subject = 15.01% compared to the % of non-fleeing incidents involving unarmed subject = 12.26%; $\Delta = +2.75$ pp; 95% CI 0.73–4.78; $p = 0.0049$.

pursuit were significantly more likely to involve an unarmed subject than killings involving a subject fleeing by car.¹⁰⁵

In terms of the type of weapon involved, fatal incidents involving a foot chase were more likely to involve a subject with a firearm (64%) than incidents involving a non-fleeing subject (56%).

V. THE POTENTIAL IMPACT OF FOOT PURSUIT POLICIES ON LETHAL POLICE-CITIZEN ENCOUNTERS

A. The Data Suggest Broader Policy Implementation Could Result in Fewer Pursuits

1. Legal Predication

Based on the Chicago OIS data, the “reason for the encounter” in approximately 15% of the foot chase incidents was a “suspicious person,” where it is unclear whether the “suspicious” circumstances meet the “reasonable suspicion” standard.¹⁰⁶ This suggests there could be a substantial number of foot pursuits that are initiated without sufficient legal predication. For example, officers could have engaged in a foot pursuit based on behavior that was merely erratic or odd, not necessarily indicative of criminal conduct.¹⁰⁷ Broader adoption of foot pursuit policies could ensure that more officers fully understand the legal predication for foot pursuit. Additionally, existing policies could be clarified to convey that behavior that is merely odd or aberrant is not sufficient predication for a pursuit. The behavior must be indicative of criminal activity.

Moreover, existing policies could also be clarified to avoid interpreting merely “evasive” behavior as “suspicious” behavior. As the Supreme Court concluded in *Wardlow*, a subject’s unwillingness to engage with law enforcement, without more, is not sufficient justification to pursue and detain them.

Because it is often easy for officers to justify a pursuit after the fact by articulating some suspicious fact or circumstance, agencies should

¹⁰⁵ See Appendix D. z- test: where the % of foot pursuit incidents involving an unarmed subject = 15.01 compared to the % of fleeing by car incidents involving an unarmed subject = 9.45%; $\Delta = -2.81$ pp; 95% CI -4.38 to -1.24; $p = 0.0010$.

¹⁰⁶ See, e.g., *State v. Morales*, 107 P.3d 513, 519 (N.M. Ct. App. 2004) (finding officers lacked reasonable suspicion to stop subject whose behavior was described as “suspicious” by a tipster); *People v. White*, No. C089037, 2021 WL 6141837, at *14 (Cal. Ct. App. 2021) (“[A] security guard’s report of ‘suspicious behavior’ by individuals at the apartment complex, without more, would lack sufficient detail to support a reasonable suspicion that the individuals were involved in criminal activity.”); *Commonwealth v. DePeiza*, 868 N.E.2d 90, 96 (Mass. 2007) (noting that nervous or furtive movements alone do not supply details to find reasonable suspicion).

¹⁰⁷ *Cortez*, 449 U.S. at 417 (“An investigatory stop must be justified by some objective manifestation that the person stopped is, or is about to be, engaged in criminal activity.”).

follow the IACP policy guidance by training and requiring officers to articulate the reason for the pursuit to communications personnel upon initiation of the pursuit.

2. Circumstances in Which Foot Pursuits Should NOT be Initiated

The Chicago OIS data revealed a significant percentage of foot pursuit incidents that culminated in an officer-involved shooting involved circumstances for which foot pursuits are discouraged or prohibited. As outlined *supra* in Part III(B), over one-third (approximately 37%) of the Chicago OIS foot pursuit incidents involved only one pursuing officer. A smaller, but still significant, percentage (13%) involved more than one subject, another circumstance for which pursuits are discouraged.

3. Circumstances in Which Foot Pursuits Should be Terminated

As shown above in Figure 18, a significant number of the Chicago foot pursuits that culminated in an officer-involved shooting involved circumstances for which most policies advise termination of the pursuit. Among the Chicago OIS foot pursuit incidents: 15% involved an officer losing the subject, 11% involved a subject of known identity, 10% involved an officer losing their partner, and 8% involved a subject entering a building. Given that most existing policies merely suggest termination under these circumstances, it is arguable whether increased adoption of existing policies would result in more pursuits being terminated based on these circumstances. However, firmer policy guidance requiring termination could result in more pursuits being terminated before they result in the use of deadly force. Certainly, stricter guidance for situations where the subject has been identified could result in less harm to subjects with minimal impact on public safety because the subject could likely be found through other means under safer circumstances.

B. Streamlining and Strengthening Existing Foot Pursuit Policies Could Improve Officer Decision-Making and Thereby Reduce Dangerous Encounters

As discussed above, the vast majority of existing foot pursuit policies afford officers overly broad discretion in deciding whether to initiate a pursuit, when to terminate a pursuit, and the tactics used during a pursuit. Further, most existing policies fail to incorporate important best practices in policy guidance offered by policing experts. Refinement of existing foot pursuit policies could improve tactics on the ground by simplifying and clarifying the decision-making officers must undertake during tense, swiftly evolving circumstances.

1. Replace the Balancing Analysis with an Assessment of Whether the Subject Presents an Imminent Threat

As outlined *supra* in Part II(B)(4), the vast majority of foot pursuit policies require an officer to weigh the benefits and risks of a pursuit throughout the encounter. For example, the Austin (TX) policy, which is based on the Lexipol policy guidance adopted by dozens of agencies nationwide, requires officers to “continuously balance the objective of apprehending the subject with the risk and potential for injury to department personnel, the public, or the subject.”¹⁰⁸ This balancing analysis is similar to a key component of most motor vehicle pursuit policies.¹⁰⁹ For example, the IACP motor vehicle pursuit policy only permits vehicle pursuits where “an officer’s determination that the danger to any uninvolved individuals in the vehicle, the public, the officer(s), and the suspect created by the pursuit is less than the potential danger to the public should the suspect remain at large.”¹¹⁰

This kind of balancing analysis has significantly more salience within the context of motor vehicle pursuits relative to foot pursuits. By their nature, motor vehicle pursuits almost always represent a substantial public safety risk because they involve two vehicles travelling on public thoroughfares populated by pedestrians and other motorists, typically, at significantly elevated speeds, in a course and manner determined by an individual intent on fleeing law enforcement. The safety risk inherent in motor vehicle pursuits is exemplified by data showing that a substantial portion of fatalities caused by motor vehicle pursuits are occupants of vehicles that were uninvolved in the pursuit.¹¹¹ In that context, the safety factors at issue are readily discernable to the involved officer. The officer can directly observe risk factors such as the speed of travel, the density of people and cars within the area traversed, the dangerousness of the subject’s driving behavior, and whether the weather conditions exacerbate the danger.

In the foot pursuit context, the safety risk to officers and subjects is fairly well understood.¹¹² However, the risk to the community is not

¹⁰⁸ Austin Police Dep’t, General Order 215 (March 25, 2026).

¹⁰⁹ Mourtgos et al., *supra* note 82, at 5.

¹¹⁰ International Association of Chiefs of Police, Vehicular Pursuit Policy Guidance, July 2025, available at: www.theiacp.org/system/files/2025-08/VehicularPursuits_2025.07.pdf.

¹¹¹ F.P. Rivara & C.D. Mack, *Motor vehicle crash deaths related to police pursuits in the United States*, 2004 INJURY PREVENTION 93 (2004) (reporting that 30.1% of the 3,146 fatalities occurring nationwide between 1994 and 2002 were occupants of uninvolved vehicles).

¹¹² See, e.g., Matthew J. Hickman et al., *Police Use of Force and Injury: Multilevel Predictors of Physical Harm to Subjects and Officers*, 24(3) POLICE Q. 267, 280 (2020) (reporting that among use of force encounters arising from foot pursuits 59% resulted in injury to the subject and 17% resulted in injury to the officer); Robert J. Kaminski & Jeff Rojek, *Police Foot-Pursuit Policies, Practices and*

always as clear. Presumably there will be factors related to the reason for the encounter from which an officer can assess the level of threat the subject represents to the community. For example, a law enforcement response to reports of an active shooter will always carry more inherent public safety risk than a response to a call complaining about a neighborhood prowler. However, the circumstances may not always provide a clear indication of the level of public threat a foot pursuit subject represents, making the balancing assessment less applicable.

As many of the existing policies explicitly state: “the immediate apprehension of a subject is rarely more important than the safety of the public and Department personnel.”¹¹³ Thus, rather than asking officers to engage in a balancing analysis that in many cases would be highly speculative, policy guidance should be clarified to simply require officers to continually assess whether the subject presents an imminent threat to the officers or the community if not immediately apprehended.¹¹⁴ Officers should be directed to make this determination based on the totality of the circumstances while considering important factors such as: the seriousness of the offense involved¹¹⁵; the circumstances or behavior demonstrating the subject’s ability, opportunity and intent to cause harm¹¹⁶; and the availability of alternative containment strategies.¹¹⁷

Replacing the balancing analysis with the more straightforward question of whether the subject presents an imminent threat would bring foot pursuit policies in line with the recent trend in use of force policies and state statutes that limit use of deadly force against a fleeing subject to only situations where the subject represents an imminent threat to the officer or

Training: Findings From a National Survey (2015) (unpublished manuscript) (surveying research on the safety risk of foot pursuits to officers and subjects).

¹¹³ See, e.g., AUSTIN POLICE DEP’T, GENERAL ORDER 215, *supra* note 108, § 215.1.1. (one of the “Model” policies based on Lexipol policy guidance).

¹¹⁴ This is consistent with IACP policy guidance which suggests that, when deciding whether to pursue, officers consider whether there is “reasonable belief that the suspect poses an immediate threat to the safety of the public or other law enforcement officers.” INT’L ASS’N OF CHIEFS OF POLICE, CONSIDERATIONS: FOOT PURSUITS 2 (2019).

¹¹⁵ INT’L ASS’N OF CHIEFS OF POLICE, CONCEPTS & ISSUES: FOOT PURSUITS, *supra* note 4, at 1 (noting that officers should consider “whether the known offense justifies the pursuit”).

¹¹⁶ See generally SETH W. STOUGHTON, JEFFERY J. NOBLE & GEOFFERY P. ALPERT, EVALUATING POLICE USES OF FORCE (2020) (describing a framework for assessing subject threat in the context of use of force encounters to include: the subject’s ability to inflict harm, the subject’s opportunity to act, and the subject’s intent to cause harm).

¹¹⁷ INT’L ASS’N OF CHIEFS OF POLICE, CONCEPTS & ISSUES: FOOT PURSUITS, *supra* note 4, at 2 (“Officers should consider whether reasonable alternatives to foot pursuit exist, given the location, surroundings, seriousness, and urgency of the situation.”).

a member of the public.¹¹⁸ Directing officers to focus on the degree and imminence of the threat the subject represents rather than attempting to hypothesize about potential community harm is consistent with best practices in law enforcement policy-making because it simplifies what officers must do under tense, quickly evolving circumstances.¹¹⁹

2. Limit Predication for Pursuits to Circumstances Indicative of Serious Criminal Conduct

As described above, most existing policies require that foot pursuits are predicated on an officer's reasonable belief that the subject is, has been, or is about to engage in some form of criminal activity – most employing language similar to the evidentiary standard required for engaging in a *Terry* stop. While flight alone is insufficient legal predication, flight in combination with other factors such as “suspicious behavior” is. In the *Terry* stop context, courts are very deferential to law enforcement when assessing what constitutes “suspicious” behavior.¹²⁰ Moreover, a *Terry* stop can be based on any criminal conduct, regardless of the seriousness of the suspected offense. Given the increased safety risk inherent in foot pursuits, prudence suggests that policy guidance and officer training clarify and specify that predication for a pursuit must be based on “suspicious” behavior that implicates *serious* criminal behavior. As discussed above, only a small minority of agencies have promulgated policies that limit foot pursuits based on the seriousness of the suspected criminal offense.¹²¹

3. Provide Clear Guidance on Circumstances Involving Armed Subjects

The complex question of whether and how to engage with visibly armed subjects remains unresolved. As described above, the majority of foot pursuits documented in both the Chicago OIS data and the national MPV data involved a subject who was perceived to be armed or was actually in fact armed. Because these situations are inherently dangerous for

¹¹⁸ For example, the Chicago Police Department Use of Force policy explicitly prohibits the use of deadly force on a fleeing person “unless the subject poses an imminent threat.” CHICAGO POLICE DEP’T GENERAL ORDER G03-02 § IV(D)(1) (June 26, 2022). Similarly, Washington state revised its statute governing the use of force by law enforcement to authorize the use of deadly force only “to protect against an immediate threat of serious physical injury or death to the officer or another person.” WASH. REV. CODE § 10.120.020(2) (2022).

¹¹⁹ See, e.g., Int’l Ass’n of Chiefs of Police, National Consensus Policy and Discussion Paper on Use of Force, Revised July 2020, at 6 (noting the law enforcement agencies “must provide officers with clear and concise policies” that avoid complicating “the ability of officers to make decisions in critical situations when quick action and discretion are imperative to successful resolutions”).

¹²⁰ See cases cited *supra* note 30.

¹²¹ As mentioned in Part II(B)(4) above, this research uncovered only three municipal police agencies (Chicago, Springfield, Massachusetts, and Baltimore) with foot pursuit policies that prohibit or limit foot pursuits for minor offenses.

the officer, the subject, and perhaps the community, more agencies should consider developing policy guidance specific to this circumstance. To be sure, what that guidance should be is subject to debate.

On one side of the argument, the Chicago Police Department's policy provides that foot pursuits involving visibly armed subjects should be avoided unless the subject clearly presents an imminent threat.¹²² Although it may sound counterintuitive – law enforcement declining to take action to contain an armed person – there is logic behind this approach. In the heat of a pursuit, it is possible for officers to overestimate the level of threat a subject represents, such as by perceiving a firearm where there is none – a phenomenon we have seen in this data.

Even where a subject is clearly visibly armed, it is easy for officers to misinterpret a subject's evasive behavior as threatening. For example, when an officer is chasing an armed subject and the subject turns to look back at the officer to see whether they are gaining or losing ground on the officer, the officer may interpret that gesture as a "furtive" movement indicative of an intent to discharge the firearm at the officer, thereby prompting the officer to fire at the subject in response. There is a grave downside to this "false positive" scenario in that the subject could be seriously or fatally wounded. There is also, of course, the risk that the subject *will* engage in violence against the officer to succeed in their escape. This presents a real safety risk to the officer and is perhaps why policing expert guidance directs officers to consider reasonable alternatives to pursuing an armed subject such as requesting aerial support, using containment strategies, use of canine units, and saturating the area.¹²³

On the other side of the argument is the *potential* harm an armed individual could cause, which is likely of great concern to jurisdictions experiencing high levels of gun violence. Law enforcement agencies may be unwilling to discourage officers from taking action that could result in armed and dangerous individuals being taken off the streets. Proponents of this view tend to embrace the type of criticism often lodged against motor vehicle pursuit policies. Some law enforcement leaders and law enforcement critics take the view that policies that discourage pursuit actually undermine public safety for two reasons.¹²⁴ First, such policies unnecessarily restrict officers from stopping crime in its tracks. Second, such policies alert criminal actors to what kinds of behavior will cause officers to avoid or terminate a pursuit. For example, in August 2023, the Chicago Police Department came under fire for its motor vehicle pursuit policy when officers terminated pursuits of armed robbery suspects in compliance with department policy, only to see the perpetrators continue their

¹²² See Chicago Police Dep't General Order G03-07, *supra* note 83, at § IV(B).

¹²³ INT'L ASS'N OF CHIEFS OF POLICE, CONSIDERATIONS: FOOT PURSUITS, *supra* note 114, at 2.

¹²⁴ See Justin Thompson, Police Pursuits: Are No-Pursuit Policies The Answer? (2005).

armed robbery spree unabated.¹²⁵ This kind of criticism is arguably relevant in the foot pursuit context.

While it is important and appropriate that agencies and the communities they serve engage in this debate, it is also important to consider the core value at the heart of contemporary policing as expressed in most of the existing policies: the importance of the sanctity of life. The danger foot pursuits represent to subjects has been studied with increasing concern.¹²⁶ As noted above, based on the Chicago OIS data, just shy of one-third of officer-involved shooting incidents involving a foot chase resulted in a fatality to at least one subject. The Chicago OIS data is in line with that observed in other large urban jurisdictions.¹²⁷ The question policy makers must address is: Does the opportunity to detain an individual who may or may not be committing an illegal act by possessing a firearm and who may or may not presently represent a threat to public safety merely because they possess a firearm justify the significant risk of death or bodily injury to that individual and the officer?

Future policy guidance should address the circumstances of a potentially armed subject. For instance, foot pursuit policies should clarify that a pursuit may not be warranted where the only suspected criminal conduct is the illegal possession of a firearm. Because of the inherent danger to the officer and the subject, improved foot pursuit policies should prohibit or strongly discourage pursuits of armed subjects unless the subject represents an imminent public safety threat and no alternative containment strategy is available or reasonable under the circumstances. When assessing whether the subject represents an imminent threat, officers should consider whether there are circumstances indicating the subject has an intent to cause harm and the opportunity to cause harm. Intent to cause harm can be inferred from facts related to the nature of the encounter. For example, a “shots fired” situation carries some indication that the subject is willing to discharge the firearm. Opportunity to cause harm may be

¹²⁵ Fran Spielman, *CPD urged to relax restrictions on vehicle chases*, Chi. Sun-Times, Dec. 4, 2023 (noting how members of the city’s oversight commission and union were pressuring the department to relax the vehicle pursuit restrictions in the wake of a series of armed robberies); see also Liz Nagy, *CPD criticized for calling off chase of armed robbery suspects during crime spree*, ABC 7 Chi., Aug. 17, 2023 (Chicago alderman criticizing the police department, arguing that criminals are well aware of the policy and, as a result, are “much more willing to flee from police officers than they’ve been before because they know there will be no consequence.”).

¹²⁶ Kaminski & Rojek, *supra* note 112, at 3 (noting increased research attention to the dangers of foot pursuits).

¹²⁷ *Id.* at 3 (noting that 22% to 27% of OIS incidents involving the Los Angeles Sheriff’s Department involved a foot pursuit; 30% of Austin (TX) OIS incidents involved a foot pursuit; 48% of Philadelphia OIS incidents involved a foot pursuit).

inferred from environmental factors such as the presence of third parties in the area in which the pursuit would take place.

4. Explicitly Outline Strategies or Tactics as an Alternative to Initiating or Continuing a Pursuit

Some, but not all, existing policies describe strategies and tactics an officer can employ in lieu of initiating and continuing a pursuit. For example, the IACP policy guidance lists alternatives including:

- 1) Aerial support
- 2) Containment of the area
- 3) Canine search
- 4) Saturation of the area with patrol personnel, and/or
- 5) Apprehension at another time and place when the officer knows the identity of the subject or has other information that would likely allow for later apprehension.¹²⁸

Including an explicit description of alternative strategies and tactics directly in the policy would have both expressive value and educational value. Incorporating this content in the policy itself expresses to officers the importance agencies place on the need to consider alternatives and that they will expect officers to make a conscious choice among the alternatives. In addition, inclusion of specific alternative strategies and tactics in the policy language is informative in that officers will be more likely to internalize and incorporate the alternatives into their decision-making. Lastly, policy content drives training content, so incorporation of the alternatives into the policy itself makes it more likely that officers will be trained how to assess the alternatives.

Explicitly outlining alternatives to pursuit in a foot pursuit policy is analogous to the incorporation of the concept of de-escalation into policies governing the use of force. Contemporary law enforcement use of force policy and training founded on best practices explicitly incorporate the concept of de-escalation. Many, if not most, law enforcement agencies include the concept of de-escalation to emphasize the importance of avoiding the need to use force where possible. The same principle applies here.

5. Develop Policy Guidance Based on a Transparent, Community-Involved, and Evidence-Based Process

As outlined above, a majority of the policies analyzed herein were directly based on a model policy developed by Lexipol, whose policy

¹²⁸ INT'L ASS'N OF CHIEFS OF POLICE, CONSIDERATIONS: FOOT PURSUITS, *supra* note 114, at 2.

guidance has been criticized for numerous reasons.¹²⁹ Founded in 2003, Lexipol provides policy guidance and training services to over 3,000 public safety agencies across the United States.¹³⁰ Lexipol's critics argue that that the company's policy guidance maximizes officer discretion as a means of minimizing legal liability.¹³¹ This complaint is most certainly relevant in this context where Lexipol's model policy provides minimal constraints on officer conduct. The company is also criticized for the lack of transparency and community involvement in its policymaking.¹³²

Law enforcements agencies should consider promulgating their own policies through a transparent process that is evidence-based and includes community input. In particular, agencies that do not have the bandwidth to promulgate a custom policy should consider leveraging the IACP model policy as a foundation rather than the Lexipol model policy.

CONCLUSION

Despite the danger that foot pursuits represent, a minority of the larger municipal police agencies have foot pursuit policies in place. The prevalence of such policies among smaller agencies is mostly likely even lower because smaller agencies generally have fewer specialized policies relative to larger agencies for a variety of reasons.¹³³ The existing foot pursuit policies analyzed herein are limited in their potential to reduce unwarranted deadly encounters because the guidance they provide requires officers to consider and weigh vague concepts in tense, urgent situations, while also leaving most of the decision-making to the discretion of individual officers. The balancing analysis, while appropriate in the motor vehicle context, lacks the same salience in the foot pursuit context. A more direct approach would be to ask officers to focus on the reasons to believe the subject presents an imminent public safety risk unless detained right away.

Moreover, existing policies lack sufficient guidance on foot pursuits involving an armed subject, a circumstance that this data shows arises with great frequency. While there remains great debate regarding the extent to which pursuits of armed subjects should be discouraged or prohibited, because of the frequency with which these circumstances occur and the serious consequences of an officer's decision-making in this context, more specific policy guidance regarding this circumstance is warranted.

¹²⁹ See Ingrid V. Eagly & Joanna C. Schwartz, *Lexipol: The Privatization of Police Policymaking*, 96 TEX. L. REV. 891 (2018); Ingrid V. Eagly & Joanna C. Schwartz, *Lexipol's Fight Against Police Reform*, 97 IND. L.J. 1 (2022).

¹³⁰ Eagly & Schwartz (2018), *supra* note 129, at 891.

¹³¹ *Id.* at 896-97.

¹³² *Id.* at 892-93.

¹³³ Bureau of Justice Statistic Report: Local Police Departments: Policies and Procedures 2016, at 4 (Table depicting that agencies serving smaller jurisdictions have fewer written policies relative to larger agencies), available at: <https://bjs.ojp.gov/content/pub/pdf/lpdpp16.pdf>.

This project was limited to foot pursuit incidents that culminated in a firearms discharge or fatality. Thus, any conclusions drawn here must reflect that limited scope. Yet, there is value in understanding these, the most serious kinds of foot pursuit incidents, because they are precisely the kinds of incidents that policymaking is intended to prevent when possible. While this analysis admittedly provides no causal evidence to prove that improved policymaking has the potential to reduce harm, the data suggest that many of these pursuits were initiated or perpetuated under circumstances where the risk of harm was heightened. Thus, policy guidance directing or requiring officers to forgo or terminate pursuits under these circumstances is certainly appropriate, if not necessary, to moderate officer conduct.
