

Stop the chase, lawyers urge area police

By Jackie Klein
staff writer

"I advocate the propriety of doing nothing — no high-speed police chase, no injury, no death, no lawsuit. Nobody gets hurt. No one comes back to haunt you."
That's the advice of Art Weiss, attorney for Michigan Association of Police,

who delivered an emotion-packed speech at the MAP seminar in Southfield Wednesday.
Weiss represented Oakland County Deputy Roger Gelsler, who was charged with negligent homicide in a hot pursuit incident.
Gelsler's case went before the district court, circuit court, court of appeals, Supreme Court and back to

the district court.
The courts repeatedly refused to issue a warrant, maintaining that Gelsler was simply doing his job and had exercised due care and caution.
"You can travel from county to county and get 83 different interpretations of negligent homicide statutes," Weiss said. "Criminal laws should be uniform."
"It's nice for prosecutors to talk and

think like lawyers. But cops aren't lawyers. Prosecutors sit in their offices while police officers are making split-second decisions. Legislation is fine. But what do we live with today?"
Police department policies on high speed chases are purposely vague because departments and cities are "scared stiff" of civil and criminal liability, Weiss said.

"IF YOU SCREW up, you've violated the policy. If you do nothing, there's something in the policy that says you should have. You're damned if you do and damned if you don't."
Weiss advocates a countywide chase policy with prosecutors helping to write it instead of "sitting in their ivory towers in Pontiac and making decisions."
Prosecutors take as long as they want to decide if police officers are right or wrong while officers are putting their lives on the line, Weiss said.
"I'm for the propriety of doing nothing. The laws are vague and officers don't have a crystal ball in their cars telling them when to chase and they don't carry computers to figure out what is high or moderate speed."
"In lawsuits, fingers are pointed at the cops while cities and police forces get off the hook and officers are left dangling in the wind, slowly twisting."
"Prosecutors want cops to articulate what they know and juries are expected to decide what constitutes genuine emergencies. All the talk about maximum penalties for fleeing felons and

citizens who disregard sirens and lights is a smoke-screen. Cops are under the microscope."
"If cops don't chase, criminals will know pedal to metal that they can get away. That's like giving felons another gun. But that's the alternative to the choice of chasing an elusive, fleeing suspect."
What Weiss was apparently saying was if police officers refuse to engage in high-speed chases, police administrators and state legislators might be forced to enact specific, blanket policies.
Dan Hoekenga, MAP labor attorney, said motorists tend to ignore blue lights and sirens while they weave in and out of traffic.
The public should be educated to pull over for emergency vehicles and penalties for failure to do so should be increased.
"Police officers are in the horns of a dilemma," Hoekenga said. "They have to exercise their discretion carefully but if they decide not to chase, they could be accused of negligence of duty."

Prosecutors differ on penalty

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"We're not here to punish mistakes but to deal with guilty criminal minds," he said. "Imposing criminal sanctions in hot pursuit cases is going a step too far."
"Cops are aware of the dangers to their own lives and the instinct for self-preservation is a deterrent. And human beings care for the lives of others. Fear of a civil suit adds another layer."
"The effect of criminal prosecution is slight compared to the downstream results of putting restrictions on high-speed chases, written or not. That would cause an increase in high-speed getaways."

pull over during a high-speed police chase should be a misdemeanor punishable by a maximum \$500 fine and/or up to six months in jail, Malenga suggested. And fleeing from a police officer should be a four-year felony, he added.
Elliot Hall, chief assistant prosecutor of Wayne County, said his office issues some 50,000 warrants a year but there's a difference between the role of a cop in pursuit of his duty and a law

breaker.
"We can't tolerate wanton and willful disregard for the safety of citizens," Hall said. "But we have no written standards for hot pursuit chases. We deal with them on a case-by-case basis and we assume that officers perform their duties in good faith."
There is no double standard, Thompson interjected. If there were, law enforcement officers would have to stop

charging citizen lawbreakers.
SUMMING UP, Malenga said inter-departmental guidelines on high-speed chases shouldn't be admissible in court because they may boomerang.
"It won't do for Oakland County police officers to walk away with the idea that the panacea is due care and actions that a reasonable, prudent person would take," Malenga said. "We still need specific guidelines."

THE ACCUSED will flee if it's public knowledge that police officers have restrictive guidelines, Malenga said. That could result in more deaths, he said.
Malenga said when he takes office in Macomb after Jan. 1, there will be no criminal prosecutions of police officers in pursuit unless they're intoxicated, drugged or chasing someone for a personal vendetta.
"Police officers have to make split-second decisions," he said. "They don't have the luxury of two or three days on a jury. Cops have to remember 40 checkpoints when they're chasing a felon three miles away."
Penalties for failure of motorists to

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