

District 12

Quick Tip No. 9

Hot Pursuit

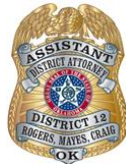
Hot pursuit is a phrase we hear quite often, but, *how hot is “hot?”* Under the 4th Amendment, hot pursuit is not necessarily immediate, but it has limitations. Be especially cautious if employing hot pursuit in misdemeanors.

Legal Supplement

Hot Pursuit in General: “[T]he suspect had entered [a certain house] less than five minutes before [the police] reached it. . . The Fourth Amendment does not require police officers to delay in the course of an investigation if to do so would gravely endanger their lives or the lives of others.” *Warden v. Hayden*, 387 U.S. 294 (1967), “[H]ot pursuit means some sort of chase, but it need not be an extended hue and cry in and about [the] public street. . . [A] suspect may not defeat an arrest which has been sent in motion in a public place by the expedient of escaping to a private place.” *U.S. v. Santana*, 427 U.S. 38, 43 (1976).

Time Considerations for Hot Pursuit: *State v. Elderts*, 617 P.2d 90 (1980)(Finding warrantless entry to arrest proper where 10-15 minutes after burglary), *Mason v. Godinez*, 47 F.3d 852 (7th Cir. 1995)(Finding hot pursuit where witness pursued robber to rear yard of house and returned to store robbed and so advised the police, who immediately went to and entered the house), *U.S. v. Bass*, 315 F.3d 561(6th Cir. 2002)(Where witness “informed police that she had seen a person . . . fire gunshots at two other people, and that the suspect had fled into a particular apartment . . . only minutes before their arrival), *People v. Baca*, 600 P.2d 770 (Colo. 1979)(*Hayden* governs as robbery occurred shortly before the neighbors saw robbers enter with money and gun), *People v. Joyner*, 287 N.W. 2d 286(Minn. 1996)(*Hayden* applies, as entry “took place within minutes of the murder” and the defendant was tracked there by dog), but see *U.S. v. Johnson*, 256 F.3d 895 (9th Cir. 2001)(“Hot pursuit” exception not apply as the pursuit **was not continuous and 30 minute interval**), *U.S. v. Morgan*, 743 F.2d 1158 (6th Cir. 1984)(**No hot pursuit as officers assembled at coffee shop, assessed the situation, and waited for the sheriff to arrive** before proceeding to the defendant’s house). See also the *Uniform Act on Fresh Pursuit*.

Hot Pursuit of Misdemeanors: See *Mascorro v. Billings*, 656 F.3d 1198 (10th Cir. 2011)(The Court, relying on *Welsh v. Wisconsin*, basically **denied qualified immunity for an officer who entered the home in hot pursuit of a juvenile known to the officer for “a nonviolent misdemeanor** raising no articulated concerns about possible destruction of evidence.”)



Law Enforcement Quick Tips provided by

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