

## **Fleeing driver policy**

Information Released Pursuant to the Official Information Act 1982

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## Policy statement and principles

### What

For various reasons some drivers make the decision to not stop when signalled to do so by Police. They often flee at high speeds and/or undertake high risk driving behaviours to avoid apprehension, which increases the risks to all involved, including the public.

### Why

Fleeing drivers can be volatile and unpredictable. Incidents are often high risk and staff/public safety is the paramount consideration when initiating and resolving any fleeing driver pursuit. Police employees must be flexible in their response to what will often be a rapidly changing situation.

### How

Police will ensure that:

- the decision to commence, continue, or abandon a fleeing driver pursuit must be continually assessed and reassessed in accordance with the TENR-Operational threat assessment (TENR) risk assessment tool, to ensure the pursuit is resolved as safely and as quickly as possible whilst using the least amount of force
- all staff are suitably trained and are fully aware of their roles and responsibilities if engaged in a fleeing driver pursuit
- all foreseeable and/or identified risks within the quickly changing environment of a fleeing driver pursuit are considered and managed as efficiently and safely as possible
- any decision to commence and continue a fleeing driver pursuit will be able to be justified
- an inquiry phase is preferred over a fleeing driver pursuit wherever possible
- decisions to abandon fleeing driver incidents will be supported
- safety is prioritised and risks minimised.

### Overall principles

The overarching principle is that public and Police employee safety takes precedence over the immediate apprehension of a fleeing driver. Additional principles are:

- fleeing driver incidents must be managed in the safest possible manner
- an inquiry phase is preferred over a fleeing driver pursuit wherever possible and when circumstances allow
- fleeing driver incidents will only be commenced and/or continued when the seriousness of the offence and the necessity of immediate apprehension outweigh the risk of pursuing
- the fact that a driver is fleeing does not in itself justify a fleeing driver pursuit;
- decisions to abandon fleeing driver incidents will be supported
- Police employees will use risk-based assessments (e.g. TENR) and apply a flexible response to changing circumstances, and
- fleeing drivers will be held to account.

### Purpose

The purpose of this chapter is to guide staff decision making around whether to pursue fleeing drivers, and if so, how to pursue in a manner that prioritises safety and minimises risk.

A 'fleeing driver' is a driver who has been signalled to stop by an officer but fails to do so.

Fleeing driver incidents can be volatile, unpredictable and high risk. Safety is the paramount consideration in any decision to pursue a fleeing driver. Resolving the fleeing driver pursuit as safely and as quickly as possible, using the least amount of force, is the key objective.

The decision to commence, continue, or abandon a fleeing driver pursuit must be continually assessed and reassessed in accordance with the TENR (Threat-Exposure-Necessity-Response) risk assessment tool, to ensure:

- the actual or perceived risks are fully understood on a continuing basis; and
- the tactical options available are understood and deployed appropriately.
- How Police conduct and manage fleeing driver incidents must balance:
  - public and Police employee safety
  - the risks involved, and
  - the public interest in apprehending those who fail to stop.

The lead or secondary vehicle drivers or their passengers, the field supervisor, and the pursuit controller must monitor the risks and take responsibility to make decisions about the safe management and apprehension of the fleeing driver. Any of these individuals can order the fleeing driver incident to be abandoned if they believe that the risk to the public, Police employees and/or the fleeing driver outweighs the seriousness of the offence and the necessity of immediate apprehension. Police employees should be flexible in their response to what will often be a rapidly changing situation.

All fleeing driver incidents are subject to close scrutiny during and after a pursuit. Officers involved in the fleeing driver pursuit are neither relieved nor protected from the consequences of reckless disregard for the lives and safety of others. Fleeing driver incidents are subject to Police review, which includes consideration of the reasons that existed for the pursuit. The fleeing driver pursuit may also be subject to scrutiny in civil or criminal proceedings.

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## Definitions

This table outlines the meaning of terms used in this policy.

Term	Definition
<b>Abandon</b>	Permanently abandon the fleeing driver pursuit. No further attempt to signal the vehicle to stop will be made unless the Pursuit Controller gives prior approval.
<b>District reviewer</b>	Nominated by the District Commander to review pursuits in their district.
<b>Field supervisor</b>	The field supervisor overseeing the incident – this may be different to the pursuing officer's line supervisor.
<b>Fleeing driver</b>	A driver who has been signalled to stop by a constable but fails to do so.
<b>Police constabulary passenger</b>	A constable who is a passenger in the lead or secondary vehicle.
<b>Lead vehicle</b>	The first Police vehicle pursuing the fleeing driver.
<b>Lead vehicle driver</b>	The driver of the lead Police vehicle pursuing the fleeing driver. This will usually be the driver of the Police vehicle that has initiated the fleeing driver pursuit, or the driver of a vehicle that has replaced the initial pursuit vehicle at the direction of the Pursuit Controller.
<b>Pursuit Controller</b>	<p>The shift commander at Police Communications (field supervisor or person to whom <a href="#">command is transferred</a> from Police Communications) who manages the fleeing driver pursuit. If a Police Communications shift commander is unavailable, a constabulary team leader may take the role of pursuit controller. In exceptional circumstances, this may be a Police employee who is not a constable.</p> <p>In cases where the Pursuit Controller is not a Police Communications constabulary member or <a href="#">command is passed to a Field supervisor</a>, this must be identified in the weekly Comms report and assessed to identify whether there were any operational risks and issues that may require further action.</p> <p><b>Note:</b> Police Communications retain overall operational oversight and organisational risk management even though command may have been passed to a field supervisor. Police Communications may retake <a href="#">command</a>.</p>
<b>Secondary vehicle</b>	The second Police vehicle in the fleeing driver pursuit that follows the lead vehicle.
<b>Signalling a driver to stop</b>	Police vehicle drives up behind the vehicle/driver concerned and signals the driver to stop using flashing red and blue lights and a siren. An officer in uniform may also signal a vehicle to stop.
<b>Tactical vehicles/s</b>	Any Police vehicle or officer not actively pursuing the fleeing driver but seeking authorisation from the pursuit controller to conduct approved tactical options.
<b>TENR</b>	Threat, Exposure, Necessity, Response ( <a href="#">TENR</a> ) - The Police threat assessment methodology (TENR) is a decision making process that supports the timely and accurate assessment of information directly relevant to the safety of Police and others.
<b>Urgent duty driving</b>	<a href="#">Urgent Duty Driving (UDD)</a> .

Other applicable policies are:

- [Police vehicle management \(PVM\)](#)
- [Professional Police Driver Programme \(PPDP\)](#)
- [Tyre deflation devices \(TDD\)](#)
- [Use of force.](#)

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## Decision to pursue

Given how quickly a fleeing driver pursuit can develop and circumstances change, assessing the risks must be a continuous process until the pursuit is resolved or abandoned by all staff involved.

**TENR (Threat-Exposure-Necessity-Response)** is a decision-making process that supports the timely and accurate assessment of information directly relevant to the safety of Police and others. The response to any given situation must be considered, timely, proportionate and appropriate.

The overriding principle when applying **TENR** is that of 'safety is success'. Public and employee safety are paramount, and every effort must be made to minimise harm and maximise safety.

The decision on whether to commence or continue a fleeing driver pursuit is one which requires careful initial and ongoing consideration of all of the known circumstances that exist at that time, as part of the **TENR** risk assessment.

The **TENR** risk assessment must balance the ongoing exposure to harm that the fleeing driver incident poses, or is creating, with the current threat that the fleeing driver poses and the necessity to respond. This will determine your response.

As part of a flexible response model all suitable tactical options should be considered or requested to safely apprehend the fleeing driver. This could include not pursuing or abandonment.

If the driver is known and does not pose an imminent threat, as determined by the **TENR** risk assessment, the preferred approach is for the offender to be apprehended through subsequent lines of inquiry.

### Motorcyclists

Motorcyclists often flee at high speeds, undertaking high risk driving behaviours, which place increased risks on all involved. Any decision to pursue a motorcyclist must balance the severity of the offending against the current risks in accordance with **TENR**.

### Police Presence

If a fleeing driver was not driving in a dangerous or reckless manner prior to being signalled to stop, but now is, the Officer must determine as part of their risk assessment if they should continue to pursue the fleeing driver due to the potential impact of their presence.

## Responsibilities and responsibilities during a fleeing driver pursuit

Once a fleeing driver pursuit is commenced, officer actions should be flexible and appropriate to what are often rapidly changing situations, with all appropriate [tactical options](#) and resources available applied.

The lead or secondary vehicle drivers or their passengers, the field supervisor, and the pursuit controller all have a responsibility to make decisions about the safe management and apprehension of the fleeing driver. Any of these individuals can order the fleeing driver pursuit to be [abandoned](#).

### Responsibilities for those actively pursuing

This table outlines responsibilities during a fleeing driver pursuit.

Role	During a pursuit
<b>Lead vehicle driver</b>	<p>Has primary responsibility for deciding whether to pursue a fleeing driver. The lead vehicle driver must:</p> <ul style="list-style-type: none"> <li>continuously assess the risks (TENR)</li> <li>ensure warning lights and siren are activated throughout the fleeing driver pursuit</li> <li>where there is a Police constabulary passenger direct that officer to undertake communications</li> <li>notify Police Communications as soon as practicable and when it is safe to do so that a vehicle has failed to stop, location, direction, fleeing vehicle description, and reason that it is being pursued (failure to stop is not a reason)</li> <li>acknowledge the pursuit warning given by the dispatcher</li> <li>maintain regular communication with Police Communications when it is safe to do so</li> <li>comply with all directions from the Pursuit Controller.</li> </ul> <p><b>Note:</b> notwithstanding the above provisions, no driver can be directed to commence or continue a fleeing driver pursuit against their judgement. A driver's decision not to commence a fleeing driver pursuit, or to abandon a pursuit, cannot be overridden.</p>
<b>Police constabulary passenger</b>	<ul style="list-style-type: none"> <li>Must undertake radio communications if in the lead vehicle.</li> <li>Advises the lead vehicle driver of possible risks or any other considerations.</li> <li>May direct the lead vehicle driver to abandon the fleeing driver pursuit. The Pursuit Controller must be notified when safe to do so including the reason for abandonment.</li> </ul>
<b>Secondary vehicle</b>	<ul style="list-style-type: none"> <li>Follows behind the lead vehicle at a safe distance, to provide support and tactical options as required.</li> <li>Takes over the pursuit commentary, if the lead vehicle is single-crewed.</li> <li>May direct the fleeing driver pursuit to be abandoned by notifying the Pursuit Controller, when safe to do so, including the reason for abandonment.</li> </ul>
<b>Other Police vehicles in vicinity or responding as a requested tactical option</b>	<ul style="list-style-type: none"> <li>Must not actively participate in the fleeing driver pursuit or respond, unless they are preparing tactical options, undertaking a temporary road closure, collecting intelligence or are responding to a Pursuit Controller direction that could assist in safely stopping the fleeing driver.</li> <li>Notify the Pursuit Controller of your location, tactical option and seek permission as appropriate, when safe to do so, if self-initiating a tactical option.</li> <li>Must cease all non-essential radio communication.</li> <li>Must not follow behind the fleeing driver pursuit unless directed or approved to do so by the Pursuit Controller.</li> <li>Must comply with the '<a href="#">Urgent Duty Driving</a>' chapter and any direction from the Pursuit Controller.</li> </ul>

### Pursuit Controller responsibilities during a pursuit



The Pursuit Controller must actively monitor and manage the fleeing driver pursuit and where appropriate order abandonment.

Step	Action
1	Ensure the pursuit warning is given by the dispatcher and acknowledged by the lead vehicle (and secondary vehicle if present).
2	If the officer and vehicle classification allow, appoint the Police vehicle that initiated the pursuit as the lead vehicle. Replace unmarked vehicles ( <a href="#">category B</a> ) in a fleeing driver pursuit with marked vehicles ( <a href="#">category A</a> ) at the earliest opportunity. Ensure a secondary vehicle takes over the pursuit commentary if the lead vehicle is single-crewed.
3	Arrange <a href="#">aerial surveillance</a> where available and if tactically appropriate.
4	<ul style="list-style-type: none"> <li>• Maintain regular communications in accordance with the Police Communications procedure. Given the speed at which fleeing driver incidents initiate and change, there may not be time for this procedure to be completed in its entirety.</li> <li>• Monitor the situation reports (sit-reps) to ensure sufficient and relevant information is provided to enable informed decision making.</li> <li>• Where there is a continued failure by the lead vehicle (or secondary vehicle if appropriate) to provide sufficient relevant information in a timely manner, consider instructing abandonment of the fleeing driver pursuit.</li> </ul>
5	Regularly assess the risk to determine whether the need to immediately apprehend the driver is outweighed by the risks posed by the continuation of the fleeing driver pursuit.  If sufficient doubt about the safe continuation of the fleeing driver pursuit exists, direct abandonment.
6	Direct abandonment of the fleeing driver pursuit if the identity of the fleeing driver becomes known, the fleeing driver does not pose an immediate threat to public or police employee safety, and they can be apprehended later.
7	Limit the number of Police vehicles following to no more than two, unless tactically appropriate.
8	Coordinate tactical vehicles and options, where appropriate, to support the lead and secondary vehicles, and control traffic at critical points to maximise safety.

### Responsibilities after a pursuit

This table outlines staff responsibilities following a pursuit.

Role	Following a Pursuit
Pursuit Controller	<ul style="list-style-type: none"> <li>• Ensure that the 'Comms Details' section of the pursuit notification form is completed as soon as practicable following the conclusion of the fleeing driver event, but no later than <b>end of shift</b>.</li> <li>• Debrief the dispatcher if required.</li> </ul>
Lead Vehicle	<ul style="list-style-type: none"> <li>• The unit that initiated the pursuit must ensure that the 'Pursuit Details' section of the pursuit notification form is completed by the <b>end of the shift</b>.</li> </ul>
Field / shift Supervisor (the officer overseeing the incident (or primary staff at the time of the event))	<ul style="list-style-type: none"> <li>• Has supervisory duties following a pursuit.</li> <li>• Should take appropriate action to ensure compliance with this chapter. Any incidents of non-compliance must be reported immediately to their supervisor/manager.</li> <li>• Ensure that the Pursuit Notification form is completed by all relevant staff before the end of shift. If any staff member is injured and unable to complete the form, the supervisor should complete.</li> <li>• Review and approve the pursuit notification form <b>within 3 days*</b>.</li> <li>• Ensure an inquiry phase, where appropriate, is conducted as a priority prevention activity.</li> </ul>
TDD deploying officer	<ul style="list-style-type: none"> <li>• Ensure that the 'TDD Details' section of the pursuit notification form is completed by the <b>end of the shift*</b>.</li> </ul>
District Reviewer	<ul style="list-style-type: none"> <li>• Review their district pursuit notification forms to ensure compliance with this chapter, <b>within 3 days*</b> of the review request.</li> <li>• Monitor pursuit activity in order to identify and manage any health and safety risks, training issues or lessons learnt. See <a href="#">Appendix B</a> in the Debriefs chapter, and report lessons learnt via the <a href="#">Debrief / Observations form</a>.</li> </ul>

\* Where reporting timeframes cannot be met due to exceptional circumstances, ensure all known information is populated within the required timeframes, and the form completed as soon as possible.

## Communications

The Police staff responsible for the fleeing driver communications should provide the Pursuit Controller with timely and uniform sit-reps (when safe to do so). Where additional information is required or yet to be transmitted the dispatcher or Pursuit Controller should prompt for the required details.

### Communication information for fleeing driver incidents

The following information should be transmitted by the officer responsible for communications or requested by the dispatcher in accordance with standard communications alerting and transmission of information protocols.

### Notification of driver failing to stop

For example:

Step	Action
1a	<p>Police vehicle must advise Police Communications of the pursuit, when safe to do so, including the justification eg,:</p> <p><b>"Comms Centre, {vehicle call sign}, in pursuit."</b></p> <ul style="list-style-type: none"> <li>• Location</li> <li>• Direction of travel</li> <li>• Fleeing vehicle description</li> <li>• Reason for pursuit</li> </ul> <p>The lead vehicle must repeat the sit-rep until Police Communications transmits acknowledgment.</p>
1b	<p>Police Communications transmits pursuit warning to all vehicles involved:</p> <p><b>"{Call sign} if there is any unjustified risk to any person you must abandon pursuit immediately. Acknowledge"</b></p> <p>Vehicle/s acknowledges the pursuit warning with the words:</p> <p>"{Call sign} Affirm"</p>
1c	<p>Police Communications transmits:</p> <p><b>"{Call sign} confirm lights and siren are activated"</b></p> <p>Vehicle/s acknowledges the pursuit warning with the words:</p> <p>"{Call sign} Affirm"</p>

### Sit Rep

Police officers and Communications Centre staff are responsible for transmitting and requesting relevant information, at regular intervals, that will assist the Pursuit Controller with incident management.

Commentary should be maintained with breaks, at 5 second intervals, or when it is safe to do so.

The following examples, **although not exhaustive**, show what type of information should be transmitted (or requested) as part of a sit-rep.

2a	<p>Police unit transmits or Police Communications request:</p> <ul style="list-style-type: none"> <li>• call sign</li> <li>• speed over posted limit</li> <li>• manner of driving by fleeing driver.</li> </ul>
2b	<p>Police unit transmits or Police Communications request:</p> <ul style="list-style-type: none"> <li>• call sign</li> <li>• road rule breach</li> <li>• location</li> <li>• speed over posted limit</li> <li>• road and traffic conditions.</li> </ul>
2c	<p>Police Communications transmits:</p> <p><b>"{Call sign} report driver identity"</b></p> <p>Officer responds with requested information.</p> <p>Direct abandonment of the fleeing driver pursuit if the identity of the fleeing driver becomes known, the fleeing driver does not pose an immediate threat to public or police employee safety, and they can be apprehended later.</p>
2d	<p>The Pursuit Controller prompts for additional information and sit-reps and coordinates a tactical response as appropriate.</p>

### Additional information

Officers should only pursue a fleeing driver in accordance with Police policy and legislation.

PPDP driver classification and vehicle class may be requested (or transmitted) by Police Communications.

For example:

3	<p>Police Communications transmits:</p> <p><b>"{Call sign} report driver and vehicle class"</b></p> <p>Vehicle reports the requested information, i.e.:</p> <ul style="list-style-type: none"> <li>• call sign</li> <li>• PPDP driver class</li> <li>• vehicle class.</li> </ul> <p><b>Note:</b> PPDP Silver drivers with a Gold supervisor in the vehicle can report as Gold while under supervision.</p>
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### Direction to abandon

When the lead or secondary vehicle drivers or their passengers, the field supervisor, or the Pursuit Controller direct the fleeing driver pursuit to be abandoned, the Pursuit Controller **must** advise all vehicles involved that the pursuit is abandoned. This does not negate the Pursuit Controller considering other tactical options, or initiating an inquiry phase to apprehend the fleeing driver.

The standard Pursuit Controller direction to abandon a pursuit is:

**"{Call sign} All vehicles, abandon pursuit now."**

Field staff should notify Police Communications of the abandonment, the reason and current location, for example:

"{Call sign} pursuit abandoned because {reason for abandonment, location xxx}."

Once the direction to abandon is given, all vehicles must abandon the fleeing driver pursuit. **All vehicles** must therefore comply with the road user rule. Where aerial surveillance is involved, this direction must specify whether the aircraft must abandon observations or assist with an inquiry phase.

All Police vehicles must immediately carry out these steps following a direction or decision to abandon a pursuit.

Step	Action
1	Acknowledge any direction to abandon the fleeing driver pursuit, or advise the Pursuit Controller that the pursuit has been abandoned.
2	Immediately reduce speed to increase the distance between the fleeing vehicle and their own.
3	Deactivate warning devices once below the posted speed limit.
4	Stop as soon as it is safe to do so. If stopping in an area such as a motorway, safety may necessitate that the warning lights remain activated until the vehicle is mobile again.
5	Confirm to the Pursuit Controller they are stationary and state their specific location.
6	Undertake inquiry phase as directed by the field supervisor.

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## Inquiry phase

If the fleeing driver is not apprehended at the time of the fleeing driver pursuit, all viable lines of inquiry to identify and hold the fleeing driver accountable should be exhausted. The inquiry phase should be dealt with as a priority prevention activity.

An inquiry phase does not qualify for urgent duty driving.

An inquiry phase may consist of, but not limited to, the following actions:

- Aircraft monitors the fleeing driver to allow inquiry phase to be initiated
- observations on known addresses
- registered vehicle address inquiry
- speed camera photographs
- unlawfully taken vehicle inquiries
- reported petrol drive-offs
- CCTV footage area inquiries
- section [118](#) Land Transport Act 1998 letter to registered owner
- 28 day impoundment under section [96](#) (1AB) Land Transport Act 1998.

## Charging considerations

All drivers apprehended for failing to stop should be considered for prosecution action pursuant the Solicitor General's prosecution guidelines and the provisions of section [114](#) of the Land Transport Act 1998. If defendants have previous convictions for breaches of section [114](#) then the enhanced penalties pursuant to section [52](#)(3), [52](#)(4), or [52](#)(5) LTA may apply. These added to the charging document and the penalty provision of any summary of facts.

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## Commencing a fleeing driver incident after abandonment

### Abandoned events

Permission must be sought from the Pursuit Controller to engage a fleeing driver after abandonment.

Permission will only be granted to re-engage a vehicle previously involved in an abandoned fleeing driver incident, if the pursuit controller is satisfied that any subsequent risks are mitigated or the situation has changed.

This subsequent engagement and any failing to stop, post any previous abandonment, would become a new pursuit and notification.

### Radio protocol

Officers **must** only signal a driver to stop, who was involved in a recently abandoned fleeing driver event, once approval has been given by the Pursuit Controller.

As an example:

Step	Action
1	Vehicle calls Pursuit Controller (Police Communications or field) using a pre-alert technique: <ul style="list-style-type: none"> <li>• call sign</li> <li>• request permission to signal the driver to stop</li> <li>• vehicle description or registration</li> <li>• location and direction of travel</li> <li>• manner of driving</li> <li>• reason for signalling the driver to stop.</li> </ul>
2	Only the Pursuit Controller determines whether the fleeing driver will again be signalled to stop and advises the requesting officer of their decision.

### More information

Refer '[Radio and Communication Centre Protocols](#)' chapter.

## Tactical options

### What tactical options are available

This table provides an overview of the standard tactical options available.

Tactical option	Initiated by...	Conditions
Abandon pursuit	Lead or secondary vehicle drivers or their passengers, the field supervisor, or the Pursuit Controller	Must be abandoned if directed by any of these people and <a href="#">abandonment procedure</a> must be followed.
<a href="#">Aerial surveillance</a>	Pursuit Controller	Must be used when available to take over responsibility of providing commentary to the Pursuit Controller.
Dog Unit	Pursuit Controller or Dog Unit	Must notify the Pursuit Controller if joining an event, when safe to do so. Where tactically desirable the dog unit may be in addition to the lead and secondary vehicle.
Inquiry Phase	Lead driver, Police passenger, Pursuit Controller, field supervisor	An <a href="#">inquiry</a> should be dealt with as a priority.
<a href="#">Non-compliant vehicle stop (moving block)</a>  (AOS or STG)	AOS or STG commander	In response to a mobile and armed fleeing driver.  Can only be conducted by AOS or STG members who are trained in the tactic.
Tyre deflation devices (below)	<ul style="list-style-type: none"> <li>Pursuit controller</li> <li>Trained Police employees in exceptional circumstances</li> <li>Police Communications shift commander for deployments on heavy vehicles</li> </ul>	Refer to the <a href="#">Tyre deflation devices</a> chapter.
Temporary road closure	Pursuit controller	Refer to the <a href="#">Perimeter control</a> chapter.

### Tyre deflation devices

When a Police vehicle is positioned at a cordon point and the fleeing vehicle is heading through that cordon, a tyre deflation device may be deployed to stop the fleeing vehicle and apprehend the fleeing driver, so long as the deployment meets the requirements of the [Tyre deflation devices](#) chapter.

### Aerial surveillance

Where available and tactically appropriate, an aircraft must take over primary responsibility for providing commentary to Police Communications, in order to reduce pressure on the lead or secondary vehicle providing the sit-reps. This commentary must be provided by an officer familiar with this chapter and the [Urgent duty driving](#) chapter.

Once aerial surveillance is established, the pursuit controller must consider instructing the lead vehicle (and secondary if present) to drop back and consider the appropriate role of all vehicles involved, including whether they should remain in pursuit, or whether other tactical options should be employed.

Aircraft can request permission from the pursuit controller to direct Police vehicles and officers as part of the Police tactical response.

If any aircrew consider their aircraft has been identified by a fleeing driver, they must inform the Pursuit Controller. While the presence of aerial surveillance can encourage fleeing drivers to stop their attempt to evade Police, there are also



situations in which fleeing drivers drive in a dangerous manner to evade aerial surveillance (similar to ground pursuit).

The instruction to abandon a fleeing driver pursuit, by the Pursuit Controller, will not apply to an aircraft unless specifically directed to do so. Where an aircraft is directed to cease observations, the aircrew will leave the area as safely and quickly as possible.

The Pursuit Controller must continually assess the risk involved in ongoing aerial surveillance, and abandon aerial observations if necessary.

Aircraft will assist the Pursuit Controller in the control and coordination of the pursuit by:

- providing sit-reps
- advising the Pursuit Controller of any breaches of Police policy by pursuing or tactical vehicles, including the use of any unauthorised vehicles involved in the pursuit
- continually undertake a risk assessment (**TENR**) and advising any change in justification to pursue
- recommending abandonment by Police vehicles, in accordance with the abandonment section, to the Pursuit Controller
- ceasing aerial surveillance and advising the Pursuit Controller, if it is believed that aerial surveillance is contributing to the fleeing driver incident risk;
- where suitable equipment is available, recording the fleeing driver pursuit and notifying the Pursuit Controller if video recording equipment is in operation
- monitoring and relaying information via Police Communications after the fleeing driver pursuit has been abandoned or the fleeing driver has decamped on foot. The pursuit controller may use this information to authorise commencement of a previously abandoned fleeing driver incident or to detect and arrest the fleeing driver and passenger/s (if present).

See also: '[Police air operations](#)'.

### **AOS/STG non-compliant vehicle stop**

In situations involving a mobile armed fleeing driver, AOS or STG commanders are approved to authorise a non-compliant vehicle stop. This can only be done where there is no other timely practical method of containing the fleeing driver or neutralising the threat they present, and the fleeing vehicle driver does not comply with signals or requests to stop. Only AOS or STG personnel can undertake the tactic when:

- they are responding to a mobile armed fleeing driver; and
- they are trained in its use; and
- it is undertaken in accordance with AOS or STG Standard Operating Procedures; and
- it is authorised by an AOS or STG commander; and
- it is undertaken in the capacity of an AOS or STG operation.

AOS or STG personnel must otherwise comply with policies and legislation outlined in this chapter.

## Appendix A - Powers in respect of pursuing fleeing drivers

Police drivers must comply with all relevant legislation. There is no blanket legal protection for Police involved in a fleeing driver pursuit. Any actions taken may later need to be justified in any subsequent investigation or employment or legal proceedings.

This table provides an overview of the legislation relevant to a fleeing driver pursuit.

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Legislation	Authority
<b>Section 114 - Land Transport Act 1998</b>	<p>Empowers:</p> <ol style="list-style-type: none"> <li>1. A constable in uniform (or wearing a distinctive cap, hat or helmet with a badge of authority affixed to it) to signal or request a driver to stop the vehicle as soon as practicable.</li> <li>2. A constable in a vehicle following another vehicle, by displaying flashing blue and red lights or sounding a siren, to require the driver of the other vehicle to stop.</li> </ol> <p>The stop is for the traffic enforcement purposes specified in section <a href="#">114</a>.</p>
<b>Section 9 - Search &amp; Surveillance Act 2012 (S &amp; S Act)</b>	<p>Empowers a constable to stop a vehicle without a warrant to arrest a person if they have reasonable grounds:</p> <ol style="list-style-type: none"> <li>a. to suspect that a person: <ol style="list-style-type: none"> <li>i. is unlawfully at large; or</li> <li>ii. has committed an offence punishable by imprisonment; and</li> </ol> </li> <li>b. to believe that the person is in or on the vehicle.</li> </ol> <p>Refer to the '<a href="#">Road blocks and stopping vehicles for search purposes</a>' section of the 'Search' chapter for further information.</p>
<b>Section 121 - Search &amp; Surveillance Act 2012</b>	<p>Empowers a constable to stop a vehicle to conduct a search under a power of search:</p> <ul style="list-style-type: none"> <li>• without a warrant (conferred under the S &amp; S Act or another enactment specified in column 2 of the S &amp; S Act schedule) if satisfied there are grounds to search the vehicle;</li> <li>• with a warrant (issued under the S &amp; S Act or another enactment specified in column 2 of the S &amp; S Act schedule) if satisfied the warrant has been issued and is in force.</li> </ul> <p>Refer to the '<a href="#">Road blocks and stopping vehicles for search purposes</a>' section of the 'Search' chapter for further information.</p>
<b>Section 39 - Crimes Act 1961</b>	<p>Where any person is justified or protected from criminal responsibility in:</p> <ul style="list-style-type: none"> <li>• executing or assisting to execute any warrant; or</li> <li>• making or assisting to make any arrest</li> </ul> <p>that justification or protection extends and applies to the use of force as may be necessary to overcome any force used in resisting such execution or arrest, unless the warrant can be executed or the arrest made by reasonable means in a less violent manner.</p>
<b>Land Transport (Road User) Rule 2004</b>	<p>Rule <a href="#">5.1(3)</a> provides a defence to the requirement to drive within the applicable speed limit upon proof that at the time the vehicle was being driven:</p> <ul style="list-style-type: none"> <li>• the vehicle was being used by a constable engaged on urgent duty and compliance with the speed limit would be likely to prevent execution of the officer's duty; or</li> <li>• the vehicle was an emergency vehicle being used in an emergency and was operating a red beacon or a siren or both.</li> </ul> <p>There are also specific exemptions under Rules <a href="#">11.18</a> and <a href="#">11.19</a> that apply to constables proceeding against a red light or stop or give way signs. The constable must be driving an emergency vehicle that is displaying red and blue beacons or sounding a siren The driving constable must reduce driving speed to not more than 20 km/h and take due care to avoid a collision with pedestrians and other traffic.</p> <p><b>Note:</b> This Rule does not permit careless, dangerous or reckless driving, or driving at a dangerous speed.</p>

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## **Urgent Duty Driving**

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## Policy statement and principles

### What

Operating a Police vehicle, especially when engaged in urgent duty driving, including when driving above the speed limit or above the speed of the natural flow of traffic and at intersections, can increase the exposure to risk of injury to Police employees and the public.

Urgent duty driving must be able to be justified in response to the threat, and wherever possible, lights and sirens are continually used unless a tactical response is undertaken.

Ensuring a continuous threat assessment (**TENR** – Threat – Exposure - Necessity - Response) while operating a Police vehicle, will assist in minimising risks to all.

### Why

Prioritising safety by driving with a high standard of care to minimise exposure to risk is critical to reducing road trauma, and ensuring trust and confidence in Police vehicle operation.

### How

Police ensure this by:

- prioritising Police and public safety when driving;
- enforcement officers prioritising safety by driving with a high standard of care;
- recognising that no duty is so urgent that it requires the public or Police to be placed at unjustified risk;
- enforcement officers being aware that they are individually legally responsible for their actions;
- using the Police threat assessment tool **TENR**, when deciding whether to commence and continue urgent duty driving; and
- continuously using lights and sirens, where fitted, unless a tactical approach is justified.

## Overview

### Introduction

Urgent duty driving increases risks to public and Police safety and is often subject to considerable scrutiny. Enforcement officers must prioritise safety by driving with a high standard of care, with appropriate use of warning devices, in a manner appropriate to the situation, and in accordance with the [Land Transport \(Road User\) Rule 2004](#) and the [Land Transport Act 1998](#).

Enforcement officers must be able to justify their manner of driving taking into account all of the circumstances that existed at the time.

### Overriding principles

The overarching principle is that public and police employee safety takes precedence over the necessity to undertake urgent duty driving.

Additional principles are:

- public and police employee safety must be prioritised;
- urgent duty driving must be conducted in the safest possible manner;
- enforcement officers must drive at a speed and manner appropriate to the circumstances;
- enforcement officers are individually legally responsible for their actions;
- enforcement officers will use the threat assessment tool ([TENR](#)); and
- [category A vehicles](#) are preferred for urgent duty driving as they are more visible.

**Note:** Where it is necessary to use a vehicle other than a category A, enforcement officers must factor this into their threat assessment. No additional or different legal exemptions exist. The driver must be able to justify their actions based on all of the circumstances that existed at that time.

No duty is so urgent that it requires the public or Police to be placed at unjustified risk.

**Note:** Enforcement officers must [assess the risk of carrying non-constabulary passengers](#) before undertaking urgent duty driving.

### What is urgent duty driving?

Urgent duty driving is when an enforcement officer on duty is driving above the speed limit or above the speed of the natural flow of traffic, and may not be complying with certain traffic rules and is:



<p><b>either...</b></p> <ul style="list-style-type: none"> <li>• responding to a <a href="#">critical incident</a></li> <li>• gathering evidence of an alleged offence</li> <li>• apprehending an offender for an alleged traffic or criminal offence</li> <li>• responding to a fleeing driver event in accordance with the <a href="#">Fleeing driver policy</a></li> <li>• providing security to, and facilitating the movement of, an official motorcade as part of an operation (as established in the relevant Operation Orders)</li> <li>• engaged in activities approved by the Commissioner in writing.</li> </ul>	<p><b>and...</b></p> <p>are relying on the defences under the <a href="#">Land Transport (Road User) Rule 2004</a> (RUR) and the <a href="#">Land Transport Act 1998</a> (LTA) for not complying with certain traffic rules and regulations which would prevent the execution of that duty.</p>
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## What is a 'critical incident'?

A 'critical incident' includes situations where:

- force or the threat of force is involved
- any person faces the risk of serious harm
- Police are responding to people in the act of committing a crime.

## Factors to consider

Drivers must take all of the circumstances into account including the following factors when deciding to commence or continue urgent duty driving and to determine the appropriate speed and driving manner:

- time of the incident (is it in progress?);
- nature and seriousness of the incident;
- proximity of incident;
- proximity of other units to the incident;
- environment, e.g. weather, traffic volume, road type, speed limit and pedestrians etc.;
- driver classification, vehicle classification and [vehicle passengers](#);
- whether [warning devices](#) are activated or a ['tactical approach'](#) is being used; and
- vehicle type.

Situations may change, meaning drivers and enforcement officers who are passengers must constantly re-assess the situation considering all of the factors, including those above, in line with [TENR](#). The manner and speed of driving must be adjusted accordingly (e.g. environmental conditions, incident seriousness or road speed limit).

## Warning devices

Police **must** use red and blue flashing lights and siren at all times (continuously) while undertaking urgent duty driving unless a 'tactical approach' is used.

Police must not rely on road users to take evasive action when warning lights and sirens are activated - they do not guarantee safety.

## What is a 'tactical approach'?

A 'tactical approach' refers to urgent duty driving without the activation of either warning lights and/or sirens. Undertaking urgent duty driving without the activation of warning lights and/or sirens increases the road safety risks to public and Police. Therefore, using a tactical approach is the exception rather than the rule. Vehicle speed and manner of driving **must** reflect and take into account the increased risks resulting from the absence of warning devices.

A tactical approach can involve:

- adjusting vehicle speed;
- turning off or not activating the siren; and
- turning off or not activating the warning lights.

Using a tactical approach can be an advantage, allowing you to bring a patrol car closer to an offender/incident without alerting anyone of your arrival. This can also provide you with greater opportunities to gather evidence. Lights, sirens, and engine noise may alert an offender or aggravate a situation.

For example:

- approaching a scene of a serious crime in progress;
- attending a report of a suicidal person; or
- obtaining evidence of a speeding offence, where the offender's driving is not dangerous and the risk of not using the warning devices is judged as low.

Any tactical approach must be proportional to the incident, in line with the [TENR](#) assessment, and be able to be executed safely.

A tactical approach, without lights or sirens whilst exceeding the speed limit or exceeding the speed of the natural flow of traffic, can only be used in justifiable circumstances.

Notes:

- You will need to justify your decision to use a tactical approach should there be any subsequent investigation; and
- if neither lights nor sirens are used, then the defences for proceeding against traffic signals or through intersections do not apply. See '[Legal provisions - defences](#)'.

**Note:** A tactical approach cannot be used once a fleeing driver incident is initiated. Any deactivation of warning devices must be in line with the fleeing driver [abandonment procedure](#).

## Legal provisions - defences

Police involved in urgent duty driving must familiarise themselves and comply with the law. There is no blanket legal protection when involved in these duties, and Police may need to justify their actions in civil and criminal proceedings.

Note that some of the provisions cited below require, in order for the exemption to apply, warning devices to be activated. If warning devices are required but not activated, or not fitted to the vehicle to use, the exemption will not be available.

The [Land Transport \(Road User\) Rule 2004](#) (RUR) and the [Land Transport Act 1998](#) (LTA) provide for defences, subject to these conditions.

You may have a defence for ...	if ...
any act or omission in breach of the RUR (under RUR clause <a href="#">1.8</a> )	the act or omission was necessary in executing your duty.  <b>Note:</b> Where a specific exemption applies (e.g. proceeding against a stop sign), that exemption and associated conditions override this section.
exceeding speed limits (under RUR clauses <a href="#">5.1</a> (3)(a), (b) and (c))	you are either: <ul style="list-style-type: none"> <li>engaged in urgent duty and to comply with the speed limit would be likely to prevent the duty being executed</li> <li>driving an emergency vehicle in an emergency and operating a red beacon or a siren, or both (see <a href="#">warning devices</a>)</li> <li>your vehicle is on a road with a speed limit of 60 km/h or more and you are transporting an Executive Council member (all Ministers of the Crown) on urgent public business. (This also applies when you are transporting another person authorised by the Minister on urgent public business).</li> </ul>
Proceeding against a stop sign, give way sign or traffic signal (under RUR clause <a href="#">11.18</a> )	you are: <ul style="list-style-type: none"> <li>driving an emergency vehicle displaying blue or red beacon (or both) or sounding a siren</li> <li>not exceeding 20 km/h (see <a href="#">warning devices</a>)</li> <li>taking due care to avoid collisions with pedestrians and other traffic.</li> </ul> <b>Note:</b> All of these conditions apply.
Proceeding through an intersection (under clause <a href="#">11.19</a> of the RUR)	you are: <ul style="list-style-type: none"> <li>driving an emergency vehicle displaying blue or red beacon (or both) or sounding a siren</li> <li>not exceeding 20 km/h (see <a href="#">warning devices</a>)</li> <li>taking due care to avoid a collision with other traffic.</li> </ul> <b>Note:</b> All of these conditions apply.
The mandatory 28-day licence suspension for exceeding the speed limit by more than 40km/h (under section <a href="#">95</a> (6)(b) LTA)	the vehicle is conveying Police performing an urgent duty, and to comply with the speed limit is likely to prevent or hinder that duty being executed.

## Breaches of statute

Note that defences for breaches of the [Land Transport \(Road User\) Rule 2004](#) are unlikely to be a defence for contravention of a statute. This particularly applies in respect of excessive speed giving rise to a dangerous speed charge.

## Responsibilities

This table sets out the responsibilities of different roles when Police engage in urgent duty driving.

Role	Responsibilities
<b>Driver</b>	<ul style="list-style-type: none"> <li>Complies with the law and drives in a manner that prioritises public and Police safety.</li> <li>Prior to commencing Urgent Duty Driving and continually throughout, conducts threat assessment using <a href="#">TENR</a>.</li> </ul>
<b>Enforcement officer</b> who is a passenger	<ul style="list-style-type: none"> <li>Advises the driver about the route, situational factors, risks and threats.</li> <li>Operates the radio if communications are required.</li> <li>Prior to Urgent Duty Driving commencing, and continually throughout, conducts threat assessment using <a href="#">TENR</a>.</li> </ul>
<b>Field supervisor</b>	<ul style="list-style-type: none"> <li>Manages Police performance relating to driving behaviour.</li> <li>Identifies and manages health and safety risks to those staff.</li> <li>Immediately reports policy breaches to their superior.</li> <li>Investigates and reports <a href="#">crashes involving a Police vehicle</a>.</li> </ul>
<b>Manager</b>	<p>Ensures:</p> <ul style="list-style-type: none"> <li>Sureplan notified of <a href="#">Police Vehicle crashes</a></li> <li>monitoring of health and safety obligations</li> <li>crash files progressed to the District Road Policing Manager and District Police Professional Conduct Manager for their review.</li> </ul>
<b>Controlling officer</b>	<ul style="list-style-type: none"> <li>Ensures units are directed to the incident as appropriate.</li> </ul>
<p><b>Note:</b> The controlling officer is a shift supervisor (office of constable) at the appropriate Communications Centre.</p>	

## Related instructions

This chapter must be read in association with these Police Manual chapters:

- '[Fleeing driver policy](#)'
- '[Police vehicle management](#)'
- '[Professional Police Driver Programme](#)'
- '[TENR-Operational threat assessment](#)'.

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