

Organisational Capability Governance Group Cover Sheet

Reference	OCGG/20/32 <i>[Obtained from the Executive Services team]</i>
Paper title	Fleeing Driver Events: Investigation Practice Guide
Sponsor	Deputy Commissioner Glenn Dunbier
Presenter/s	Assistant Commissioner Sandra Venables
Prepared by	Nigel Thomson, Public Safety Team, Christchurch Kelly Larsen, Fleeing Driver Programme Manager
Meeting date	Tuesday 17 November 2020 <i>[Paper is due with ES six working days before scheduled meeting date]</i>

Consultation required

Unless specifically directed by the paper's Sponsor, the paper should be presented to at least one of the four sub governance groups in the first instance, using the appropriate governance group paper template.

If the contents of this paper are such that they are to be presented to the SLB only, consultation may still need to be undertaken with other work groups / service centres / districts to ensure their views have been sought and are accurately reflected in this paper.

For consultation purposes, please use the following group email addresses: '**DL_Assistant Commissioners**' and '**DL_GovernanceConsultation**'. These email lists are frequently updated.

Please double click the boxes to tick which groups / individuals have been consulted regarding this paper and include their feedback in the Feedback Received section.

Tick	Group / individual	Specify, if required
<input type="checkbox"/>	Assistant Commissioners	
<input type="checkbox"/>	Executive Directors	
<input type="checkbox"/>	Consultation Group (SLB Papers)	
<input type="checkbox"/>	District staff (specify)	
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While a sponsor can exempt a paper from seeking consultation this should be an extremely rare occurrence. If your Sponsor deems consultation to be unnecessary, a full explanation must be provided below:

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Organisational Capability Governance Group

Reference
Title

OCGG/20/32
Fleeing Driver Events: Investigation Practice Guide

10 November 2020

Purpose

1. The purpose of this paper is to provide the Strategic Leadership Board (SLB) with a nationally consistent practice guide for post-event investigations following fleeing driver events.
2. This information will assist the SLB in considering and approving proposed revisions to the Fleeing Driver Policy (the Policy), specifically the requirement for mandatory post-event investigations to ensure driver accountability.

Executive Summary

3. The Executive Leadership Board (ELB) considered proposed revisions to the Policy on 18 May 2020 [refer ELB/20/35].
4. Arising from this discussion, the ELB requested the development of a nationally consistent best practice process for post-event investigations following fleeing driver events.
5. A hui was undertaken in July 2020 with a range of District staff to discuss what a best practice investigation process looked like, to ensure that fleeing drivers and any person enabling this behaviour, are held to account.
6. The proposed Fleeing Driver: Investigation Practice Guide (Appendix A) is the result of those discussions, and wider internal consultation.
7. The overarching principle of the Fleeing Driver Policy is that public, vehicle occupants(s) and Police employee safety takes precedence over the immediate apprehension of a fleeing driver.
8. A key principle of the Policy is that an inquiry is preferred over the commencement of a pursuit.
9. Increased emphasis on using investigations rather than pursuits to identify and hold fleeing drivers to account will realign operational practice with policy and will have safety benefits. It is likely that fewer pursuits will result in fewer injuries and deaths from fleeing driver events.
10. This aligns with our vision and our purpose, as well as our goals of safe roads and safe communities. While there is a risk that fewer pursuits may lead to a decrease in the overall apprehension rate, this is outweighed by the safety benefits and the comparatively high apprehension rate currently achieved through post-event investigations.
11. It is recommended the OCGG notes this information when considering and endorsing the proposed revisions to the Policy, specifically the requirement for mandatory post-event investigations.

Fleeing Driver Policy – Mandatory Post-Event Investigations

12. Proposed revisions to the Fleeing Driver Policy give effect to the agreed recommendations detailed in the joint Independent Police Conduct Authority and New Zealand Police thematic review; *Fleeing Drivers in New Zealand: A collaborative review of events, practices, and procedures* (the Review).

13. The Review recommends Police strengthens oversight and post-event accountability processes for fleeing driver events (Recommendation 5). This includes introducing a requirement for officers to record a fleeing driver event as either resulting in an arrest (K9), or requiring further investigation (K6), where it has not been possible to identify or apprehend the driver. This would arise in situations where Police signal a driver to stop, the driver fails to stop or remain stopped, and:
- Officers elect not to initiate a pursuit
 - Officers initiate, but then abandon a pursuit
 - Officers initiate a pursuit, but the driver subsequently abandons the vehicle and is unable to be located.
14. The proposed Policy revisions emphasise that where a fleeing driver event does not result in an apprehension, there must be a robust investigation to identify the driver and hold them to account. Where immediate follow up is required, the Pursuit Controller will direct an available supervisor to lead these enquiries. Follow-up enquiries may include obtaining vehicle registration details (e.g. s.6(c) [redacted] locating the vehicle, or speaking with the owner or hirer of the vehicle to obtain information which may lead to the identification of the driver.
15. The rationale for this change is that by requiring officers to undertake robust investigations, rather than initiating or continuing pursuits Police will manage high-risk drivers in a way that:
- reduces the number of pursuits;
 - increases public and staff safety;
 - increases fleeing driver accountability; and
 - enhances public trust and confidence.

Fleeing Driver Event Investigations

16. The ELB requested the development of a nationally consistent investigation practice to ensure an effective response to fleeing driver events.
17. A hui was undertaken in July 2020 with a range of District staff to discuss what a best practice investigation process in relation to fleeing drivers needed to encompass. Participants agreed the current Fleeing Driver Policy was robust. They also agreed with the need to strengthen the post event investigations and establish nationally consistent best practice to ensure that fleeing drivers, and anyone enabling this behaviour, are held to account.
18. An increased emphasis on using investigations rather than pursuits to identify and hold fleeing drivers to account will have safety benefits. There is a higher likelihood of death and serious injuries occurring during pursuits compared with other Police responses (besides firearms) with, on average, six and 41 per 1,000 events resulting in fatal and serious injuries respectively.¹ Therefore, it is likely that fewer pursuits will result in fewer injuries and deaths from fleeing driver events.
19. While there is a risk that fewer pursuits may lead to a decrease in the overall apprehension rate, this is outweighed by potential safety benefits and the relatively high apprehension rate already achieved through post-event investigations [refer Table 1].

¹ Based on number of fleeing driver events involving fatal and serious injuries per 1,000 events by year for the period 2005 to 2017 from the joint Independent Police Conduct Authority and New Zealand Police thematic review; *Fleeing Drivers in New Zealand: A collaborative review of events, practices, and procedures*.

Table 1. Proportion of fleeing driver events by outcome (average across period 2015 to 2019)

Fleeing driver event outcome	New Zealand
Driver apprehended at end of pursuit	40%
Driver identified and apprehended following investigation	30%
Driver not identified or outcome unknown	30%

Risks/Opportunities

20. The previous paper to the ELB [refer ELB/20/35] outlined specific risks and opportunities relating to implementation of the revised Policy, including requirement for Police to undertake investigations into fleeing driver events.

Financial Implications

21. There are no specific financial implications relating to post-event investigations. Funding for training and implementation is expected to come from baseline.
22. Police records damage to Police vehicles using incident codes. These are subjectively recorded by the person who submits the claim to SurePlan. As such, Police does not have an entirely accurate record of every instance where a Police vehicle is damaged in a fleeing driver event.
23. However, for the period of 2015-2019 there have been 814 recorded incidents of damage to Police vehicles using the incidents codes related to 'Police Vehicle Intentionally Rammed by Offender' and 'Police Vehicle Intentionally Rammed Offender Vehicle'. The accompanying narrative identifies that in almost all cases this damage is associated with fleeing driver events.
24. Table 2 details vehicle repair costs associated with incident codes related to 'Police Vehicle Intentionally Rammed by Offender' and 'Police Vehicle Intentionally Rammed Offender Vehicle' for the five-year period 2014 - 2019. These figures do not include the cost of vehicle write-offs².
25. Increased operational compliance with the Fleeing Driver Policy, together with greater emphasis on identifying and holding fleeing drivers to account through an investigative process, is likely to result in Police engaging in less pursuits. This is likely to translate into a reduction in vehicle repair and write-off costs linked to fleeing driver events.

Table 2. Vehicle repair costs per District for the period 2014 to 2019 (inclusive of GST)

District	2015	2016	2017	2018	2019	5 Year Total
Tasman	6,169	4,062	17,838	18,048	13,173	59,290
Southern	20,347	35,762	23,058	16,771	51,582	147,521
Northland	61,878	36,987	20,848	106,313	41,412	267,437
Wellington	25,099	63,576	47,370	75,017	76,176	287,237
Waikato	62,772	37,380	33,606	88,007	74,061	295,827
Central	31,355	65,989	96,366	76,156	101,246	371,111
Waitematā	43,197	89,862	43,876	133,409	64,178	374,523
Eastern	17,864	86,338	44,892	114,470	130,157	393,721
Counties Manukau	90,342	65,024	64,050	130,101	75,052	424,569
Bay of Plenty	23,127	57,407	132,647	104,984	147,498	465,662
Canterbury	37,855	94,680	104,053	113,514	221,388	571,490
Auckland	112,858	103,724	111,126	143,835	107,702	579,245
Total	506,347	700,967	1,207,314	1,085,806	1,038,869	

² Data sourced from SurePlan.

Resourcing / Staff Implications

26. The requirement to undertake investigations into all fleeing driver events may result in staff allocating more time to investigations. However, it is anticipated the revised Policy will not have significant resourcing or people implications overall.

IT Implications

27. There are no anticipated IT implications as the CARD system and policies around the coding and resulting of fleeing driver events have already been implemented.

Māori, Pacific and Ethnic Peoples

28. Police acknowledges there are a disproportionate number of young Māori men involved in fleeing driver events. Increased emphasis on using investigations (rather than pursuits) to identify and hold fleeing drivers to account may improve safety outcomes for this demographic due to fewer serious injuries and deaths.
29. However, this may still result in a disproportionate effect for Māori. For example, an investigation resulting in criminal charges may be the entry point into the criminal justice system.
30. In many instances it will be appropriate to take prosecutorial action. Consideration ought to be given to supported resolutions such as alternative justice pathways for young or first-time offenders to address potential inequities.

Alignment with strategic priorities

31. Increased emphasis on identifying and holding fleeing drivers to account through a robust investigation process is likely to reduce the number of pursuits, which will increase the safety of the public and our people. This aligns with our vision and our purpose, as well as our goals of safe roads and safe communities.
32. Ensuring fleeing drivers are held to account aligns with our functions of maintaining public safety and law enforcement, thereby ensuring that we have the trust and confidence of all.

Legislative Implications

33. There are no anticipated legislation implications.

Health and Safety Implications

34. An increased focus on investigations rather than pursuits to hold fleeing drivers to account is likely to reduce health and safety risks for our people, as a result of engaging in fewer pursuits. This will ensure our people are safe and feel safe.

Training and Implementation Implications

35. Development and delivery of appropriate, effective training will be required to communicate the requirement for post-event investigations to be completed, which adhere to the investigation process developed.

Case Management

36. Case management processes are applied to all cases. When an occurrence is first created in NIA, the system will determine from the offence or incident code the category of the offence or incident.
37. Currently offences related to fleeing driver events are assigned a category of 9, which includes all tasks/incidents and minor traffic matters.
38. Only categories 1-4 are included within the scope of the case management programme reporting framework. These categories are:

- 1 – Mandatory
- 2 – Critical
- 3 – Priority
- 4 – Volume

39. To ensure the investigation of fleeing driver events is prioritised against competing demand, it is recommended that all offences relating to fleeing drivers are assigned a case category of 2 - Critical.

District Implications

40. Effective District prioritisation and oversight will be required to ensure post-event investigations are conducted in a timely manner and completed to a high standard.
41. It is difficult to quantify what impact (if any) the requirement to complete post-event investigations will have in terms of demand and resourcing. Feedback from some Road Policing Managers is that they don't anticipate this will result in a significant increase in investigation time. In contrast, other Districts believe the investigation process will have capacity and capability impacts.
42. Work is currently underway to develop reporting to support Districts to monitor the status of fleeing driver investigations, which will help ensure accountability.

Implications for other Agencies

43. There are no specific implications for other agencies.

Public Relations

44. Following the approval of the proposed investigation practice guide, Media and Communications, together with the Fleeing Driver Action Plan Steering Group, will develop an appropriate communication strategy to convey this information to staff nationally. Delivery of Fleeing Driver investigation training could be facilitated through a mandated course in My Learning in My Police.

Consultation

45. As a result of the hui, the Fleeing Drivers: Investigation Practice Guide was developed and circulated to the working group for review and feedback.
46. This paper and the proposed investigation process were circulated to the Fleeing Driver Action Plan Steering Group, before being sent out for wider consultation via the Consultation Group (ELB&SLT Papers) distribution list.
47. Feedback was received from Counties Manukau, Waitemata, Eastern, Bay of Plenty and Central districts, as well as from Policy Group, Assurance Group and the Office of the Commissioner. Feedback is summarised in Appendix A.

Recommendations

It is recommended the OCGG:

- (i) **Note** that ELB requested development of a nationally consistent investigation process to hold fleeing drivers to account.
- (ii) **Note** that this paper is intended to assist the ELT in considering and approving the revised Policy and should be considered alongside the paper discussed on 18 May 2020 [refer ELB/20/35].
- (iii) **Endorse** the Fleeing Driver Event: Investigation Practice Guide (Appendix A).
- (iv) **Direct** that the Fleeing Driver Event: Investigation Practice Guide is attached to the Fleeing Driver Policy.

48. **Endorse** the recommendation that all offences relating to fleeing drivers are assigned a case category of 2 - Critical.

Glenn Dunbier
Deputy Commissioner: District Operations

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FLEEING DRIVERS: INVESTIGATION PRACTICE GUIDE

Fleeing Driver Policy

1. The overarching principle of the Fleeing Driver Policy is that public, vehicle occupants(s) and Police employee safety takes precedence over the immediate apprehension of a fleeing driver.
2. One of the key principles is that an investigation is preferred over the commencement or continuation of a pursuit wherever possible.

Definition

3. A fleeing driver is any driver who has been signalled to stop by a constable, but fails to stop or remain stopped, or a driver who flees as a result of Police presence, whether signalled to stop or not.
4. A fleeing driver event has occurred as soon as a driver signalled to stop fails to do so, regardless of whether the officer decides to initiate a pursuit with that driver.

Police Powers to Stop Vehicles

5. The powers Police rely on to stop a vehicle are found in the following legislation:
 - a. Land Transport Act 1998, Section 114. The offence and penalty for failing to stop for an enforcement officer is detailed in the Land Transport Act 1998, Section 52A.
 - b. Search and Surveillance Act 2012, Section 9 and Section 121. The offence and penalty relating to stopping vehicles is detailed in the Search and Surveillance Act 2012, Section 177.
 - c. Prohibition of Gang Insignia in Government Premises Act 2013, Section 8 outlines the powers, offence and penalty to stop a vehicle to exercise powers of arrest or seizure.
 - d. The COVID-19 Public Health Response Act 2020, Section 22. The offence and penalty relating to the exercise of enforcement powers is detailed in Section 27 of the Act.

Holding Fleeing Drivers to Account

6. If the driver of the fleeing vehicle is apprehended at the time of the event, the file is to be managed in the normal manner by the initiating Police unit, with appropriate action taken against the driver and/or passengers.
7. Where there is a mandatory period of disqualification, a prosecution is likely to be the most appropriate course of action, however this does not preclude consideration of alternative supported resolutions (e.g. a referral to Te Pae Oranga).
8. If a pursuit is either a) not initiated, or b) abandoned, an investigation must be undertaken to identify the driver and hold them to account.

Creating the Fleeing Driver Investigation File

9. Every fleeing driver event reported to the Police Emergency Centre must be resulted with either a K6 (reported) or a K9 (arrest).

10. The initiating unit is responsible for creating an occurrence. This may be done using 'Offence Report' in OnDuty or in NIA.
11. Enter an occurrence in the National Intelligence Application (NIA) for the offence of failing to stop, and any associated offences.
12. A fleeing driver notification must be completed and submitted to the initiating unit's supervisor for review.
13. Consider using the fleeing driver notification narrative as the basis for the NIA file narrative. Alternatively, enter a note in the NIA narrative 'Fleeing driver notification attached at case level' and attach a PDF copy to the file.

INVESTIGATION PROCESS

Complete Enquiries to Identify the Vehicle Registration

s.6(c)



15. Where a partial registration plate and vehicle description is obtained, complete NIA checks to try and identify the full registration.
16. When a vehicle fails to stop regularly or there is a pattern over a short period of time where the same vehicle comes to Police attention, the description of the vehicle can sometimes be linked to other offences or fleeing driver events where a registration has been obtained.
17. In these circumstances, consider requesting Intel disseminates known information via daily documents, briefing documents, digital signage, FLINT products etc. Another staff member may recognise the vehicle, s.6(c)

Unable to Obtain Registration

18. Where Police have been unable to obtain the vehicle registration and there are no further avenues for enquiry, update the NIA narrative detailing enquiries made.
19. Submit the file for supervisory review, with a recommendation that the file is filed.

Registration Obtained

20. Identify the registered person by completing a 'Query Vehicle' search in NIA.
21. Establish whether the vehicle has been unlawfully taken. If so, associate the burglary / unlawful taking file with the fleeing driver file.
22. Link the vehicle to the NIA file.
23. Enter a 'Sought' alert against the vehicle in NIA, with the text: *Vehicle involved in a fleeing driver event at [time] on [date] in [place].*

24. A search of the Police Infringement Bureau (PIB) database may provide avenues for enquiry if an infringement notice has previously been issued to a driver of that vehicle. Email PIB Intel at pib.enquiries@police.govt.nz
25. If the vehicle has not been stolen, make enquiries at the address of the registered person as soon as practicable to establish who is in possession of, or likely to be driving the vehicle. s.6(c)
[REDACTED]
26. Section 118(4) of the Land Transport Act 1998 requires the owner or hirer of the vehicle to provide all information in their possession or obtainable by them, which may lead to the identification and apprehension of the driver. The owner or hirer must provide this information *immediately*.
27. If the registered person is based in a different geographical area of New Zealand, initiate a 4Q event through the Police Emergency Centre. The requirement is to speak with the owner or hirer of the vehicle and obtain all information which may lead to the identification and apprehension of the driver.
28. If initial enquiries to locate and speak with the registered person are unsuccessful, a NIA part file is to be created and submitted to a supervisor for forwarding to the appropriate District to action.
29. Complete a Formal Written Statement (FWS) and attach to the NIA file.

Details of Driver Supplied to Police

30. Where details of driver have been supplied to Police, but the driver is still required to be located, consider digital signage or a FLINT if there is potential risk to the public or Police.
31. Link the driver to the NIA file.
32. Enter either a 'Sought' or 'WTI' alert in NIA, with the text: *Required to be arrested / interviewed in relation to a fleeing driver event at [time] on [date] in [place]*.
33. Provide direction in the NIA entry about how the information is to be submitted to the Officer in Charge of the file.
34. Update the NIA narrative detailing action taken.

Details of Driver Not Supplied to Police on Request

35. Where the details of driver are not supplied to Police on request, create a prosecution file (summons) for 'failing to supply information as to the identity of the driver', as required under Section 118 of the Land Transport Act 1998.
36. Serve the summons on the person who failed to provide the details to Police. Endorse the service of the summons prior to submitting the file.
37. Attach all relevant documentation to the NIA file at case level.
38. Update the NIA narrative detailing action taken.
39. Consideration ought to be given to seeking discretionary disqualification under Section 80 of the Land Transport 1998 for the offence of 'failing to supply information as to the identity of the driver' on the basis that the vehicle was involved in a road safety offence.
40. Prepare the file for prosecution.

Vehicle Located in a Public Place – No Person(s) Present

41. The vehicle can be seized and impounded pursuant to the Section 123(1)(b) of the Land Transport Act 1998 if the driver of the vehicle failed to stop (or remained stopped) as signalled, requested or required under Section 114, Land Transport Act 1998
42. There is provision to impound the vehicle for 28 days under Section 96(1AB), Land Transport Act 1998 if an enforcement officer believes on reasonable grounds that a driver of the vehicle failed to stop (or remained stopped) as signalled, requested or required under Section 114, Land Transport Act 1998.
43. There is provision to impound the vehicle under Section 122(1) of the Search and Surveillance Act 2012, which allows an enforcement officer to move a vehicle to another place if they 'find' or 'stop' the vehicle, and have lawful authority to search the vehicle but it is impracticable to do so at that place.
44. Section 122(2), Search and Surveillance Act 2012 also allows an enforcement officer who has the power to arrest a person, to move a vehicle to another place if they find or stop the vehicle, and have reasonable grounds to believe it is necessary to move the vehicle for safekeeping.
45. Arrange for the vehicle to be towed to the appropriate local storage provider.
46. Enter an 'Impound' alert against the vehicle in NIA as this will assist with vehicle movements and chain of custody.
47. Depending on the nature of the fleeing driver event, a search of the vehicle contents should be considered as best practice. Refer to Appendix B. This Legal Memorandum sets out the legal obligations to consider when searching impounded vehicles.
48. All property seized by Police should be recorded in 'PROP' and the owner (if identified) provided with an inventory receipt within 7 days.
49. A forensic examination of the vehicle should be considered as best practice to identify the driver and/or vehicle occupants, as outlined in Section 123(1)(b) of the Land Transport Act 1998.
50. Request that Police Communications create a 4F event (Fingerprinting).
51. Notify the local SOCO. Advise them of the location of the vehicle and NIA file number relating to the fleeing driver event.

NOTE: To subsequently review the results of the SOCO examination, the forensic case notes made by the SOCO examiner will be attached under the Forensic Node in the NIA file. These notes will state whether the identity of any person was identified during the examination.
52. Ensure all identified person(s) are linked to the NIA file.
53. Complete follow up enquiries in relation to person(s) identified as a result of the forensic examination to determine their relationship with the vehicle and/or people.
54. s.6(c)
55. Conduct an interview based on the Best Practice Interviewing Suspects Guidelines.
56. Where the evidential sufficiency and public interest tests detailed in the Solicitor General's Prosecution Guidelines are met, charge the person with the initial offence identified, failing to stop and any associated offending.

57. Create the appropriate summons / arrest / youth aid / alternative resolution file and submit for supervisor endorsement and direction.
58. Attach all relevant documentation to the NIA file at case level.
59. If the person(s) identified in the forensic examination lives in a different geographical area of New Zealand, create a NIA part file and submit to a supervisor for forwarding to the appropriate District to locate and interview.
60. If the registered person refuses to provide information to Police as required under Section 118(4) of the Land Transport Act 1998, refer to the 'Details of Driver not supplied to Police' section of this document.
61. Where the fleeing driver is identified, but is still required to be located, consider digital signage or a FLINT if there is potential risk to the public or Police.
62. Enter either a 'Sought' or 'WTI' alert in NIA, with the text: *Required to be arrested / interviewed in relation to a fleeing driver event at [time] on [date] in [place].*
63. Provide direction in the NIA entry about how the information is to be submitted to the Officer in Charge of the file.
64. If Police establish the vehicle was used in a fleeing driver event and the vehicle is not registered in the name of the current owner, or with the current address of that person, a non-operation order may be affixed under Section 248 of the Land Transport Act 1998. This prohibits the vehicle from being driven on a road until such time as it has been registered in the name and current address of the owner.
65. Update the NIA narrative detailing action taken.

Vehicle Located on Private Property

66. If the general provisions of entry onto private property under Section 119 of the Land Transport Act 1998, or under Section 120 of the Search and Surveillance Act 2012 do not apply (i.e. fresh pursuit, loss/destruction evidence, used in further offending, or impractical), obtain a search warrant to enter, seize and impound the vehicle as per Section 119(5) of the Land Transport Act 1998.
67. Attach an electronic copy of the Search Warrant Application and the Warrant to the NIA file at case level.
68. Interview the vehicle owner(s) and/or occupants of the address to determine who had possession of the vehicle on the 'applicable day'.
69. Arrange for the vehicle to be towed to the appropriate local storage provider as per the conditions sought in the Search Warrant.
70. Enter an 'Impound' alert against the vehicle in NIA as this will assist with vehicle movements and chain of custody.
71. A forensic examination of the vehicle should be considered as best practice to identify the driver and/or vehicle occupants, as outlined in Section 123(1)(b) of the Land Transport Act 1998.
72. Request that Police Emergency Centres create a 4F event (Fingerprinting).
73. Notify the local SOCO. Advise them of the location of the vehicle and NIA file number relating to the fleeing driver event.

NOTE: To subsequently review the results of the SOCO examination, the forensic case notes made by the SOCO examiner will be attached under the Forensic Node in the NIA file. These notes will state whether the identity of any person was identified during the examination.

74. Ensure all identified person(s) are linked to the NIA file.
75. Complete follow up enquiries in relation to person(s) identified as a result of the forensic examination to determine their relationship with the vehicle and/or people.
76. s.6(c) [REDACTED]
77. Conduct an interview based on the Best Practice Interviewing Suspects Guidelines.
78. Where the evidential sufficiency and public interest tests detailed in the Solicitor General's Prosecution Guidelines are met, charge the person with the initial offence identified, failing to stop and any associated offending.
79. Create the appropriate summons / arrest / youth aid / alternative resolution file and submit for supervisor endorsement and direction.
80. Attach all relevant documentation to the NIA file at case level
81. If the person(s) identified in the forensic examination lives in a different geographical area of New Zealand, create a NIA part file and submit to a supervisor for forwarding to the appropriate District to locate and interview.
82. If the registered person refuses to provide information to Police as required under Section 118(4) of the Land Transport Act 1998, refer to the 'Details of Driver not supplied to Police' section of this document.
83. Where the fleeing driver is identified, but is still required to be located, consider digital signage or a FLINT if there is potential risk to the public or Police.
84. Enter either a 'Sought' or 'WTI' alert in NIA, with the text: *Required to be arrested / interviewed in relation to a fleeing driver event at [time] on [date] in [place].*
85. Provide direction in the NIA entry about how the information is to be submitted to the Officer in Charge of the file.
86. If Police establish the vehicle was used in a fleeing driver event and the offender is not the registered owner, a non-operation order may be affixed under Section 248 of the Land Transport Act 1998. This prohibits the vehicle from being driven on a road until such time as it has been registered in the name and current address of the owner.
87. Update the NIA narrative detailing action taken.

District Review and Monitoring

88. The file holder's immediate supervisor is responsible for monitoring and reviewing the timeliness and quality of the fleeing driver investigation in NIA.
89. Each District will nominate a person who is responsible for auditing and monitoring all fleeing driver investigation files. In many cases this will be the person responsible for reviewing the District's Fleeing Driver Notifications.

90. District oversight will ensure that fleeing driver investigations are progressed in a timely manner, meet a consistently high standard of investigation and effectively mitigate the risk fleeing drivers pose to our communities by identifying and holding offending drivers to account.
91. As part of the audit and review process, the District reviewer will ensure that:
- a. There is a corresponding NIA investigation file for every fleeing driver notification.
 - b. On completion of the District Review, the Fleeing Driver Notification form is printed as a PDF document and attached to the NIA file.
 - c. The correct offence code has been used to assist with the national audit process.
 - d. Investigations are of a high standard and follow the Fleeing Driver Investigation Practice Guide.
 - e. Feedback is provided to the supervisor to acknowledge good practice, and to address any identified areas for improvement.

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APPENDIX A

Legal Memorandum relating to General Principles of Search and Inventory

1. Police are entitled to search a vehicle they have impounded in order to make an inventory of personal property for the benefit of the owners of the vehicle or owners of the property. Police are entitled to search the vehicle without warrant provided they do so reasonably and for the purpose of preserving property and identifying its owner. Searches of this nature conducted reasonably and for these purposes, will not breach Section 21 of the NZ Bill of Rights Act.
2. Police have a discretionary common law duty to take possession of items of property in circumstances where an owner is unable to take steps to secure the safety of that property.
3. Where there is no immediate or imminent danger to the impounded vehicle and there is a high possibility that the property in the vehicle would be stolen, lost or damaged if left unprotected, the public have a legitimate expectation that Police will secure and care for that property.
4. When Police take action to protect or preserve property but not in connection with any actual or anticipated criminal offending, Police becomes a bailee and is under a legal obligation to keep the property safe and if possible, return the property to the owner. The legal obligation arises from the decision to take responsibility for the property, regardless of whether the owner's identity is known or not.
5. If it is necessary to conduct a search of the property to ascertain its ownership and/or its nature, that search must not be done unreasonably. An excessive search or one conducted for an ulterior purpose, for example to obtain evidence of criminal offending, would not be reasonable and indeed may be unlawful. But if a police officer is genuinely acting for the predominant purpose of preservation of property, the fact that he or she may suspect wrongdoing associated with the property will not, in itself, make the dealing with the property either unlawful or unreasonable at common law or under Section 21 of the New Zealand Bill of Rights Act.
 - a. If an occupant of an impounded vehicle denies ownership or knowledge of property located in the vehicle, Police can legitimately inspect the contents in order to ascertain the description of the property and the identity of its owner.
 - b. If, in the course of examining property in an impounded vehicle, an officer finds evidence of criminal offending, any relevant power to search without warrant under the Search and Surveillance Act should immediately be engaged so that that evidence can be examined and seized lawfully.

Feedback received

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Title Fleeing driver events: Investigation Practice Guide
Date paper sent for consultation Wednesday 23 September 2020

In the table below, please record the names of those people consulted, their feedback and your action or recommendations. Please clearly state if no response is received from any parties. If consultation has not been undertaken, a full explanation must be provided on the Cover Sheet.

Key themes	Feedback provided	Action taken or recommended following the feedback
Support for the paper	<p>Overall, feedback received was positive, with all submitters expressing support for the paper and the investigative process detailed.</p> <ul style="list-style-type: none"> • The practice outlined will possibly have an impact on reducing the number of fleeing driver events occurring in our District, which result in D&SI as a result of the incident. • The suggested best practise may positively affect the number of District vehicles intentionally rammed or damaged as a result of Fleeing Driver incidents. • We support it as positive step forward. • The document clearly identifies actions to be taken and avenues for enquiry which should provide some consistency. It would be good to see more emphasis on the follow up investigation as these aren't always completed as they should be. This may be addressed in the proposed audit process. 	

	<ul style="list-style-type: none"> • The practice guide looks good. The intent of this paper and the process described are very worthy and thorough. Any steps we can take to reduce the risk posed by fleeing driver incidents are worth the effort. • This is an extremely sound initiative and aligns with delivering what the public expect and deserve – especially in reducing harm to communities and groups where we need to increase positive interactions e.g. Youths, Māori. • This is great thank you, makes perfect sense. • This has significant frontline safety benefits via giving us more time to investigate fleeing drivers for potential threats before we pursue. • Fully supportive – the policy strikes me as being very comprehensive too, and that’s great. • We have identified poor investigation practice as a key failing in identifying offenders. [so this will support efforts] to improve our overall performance. 	
Resource implications	<p>While supportive of the intent and objectives of the paper, some reservations were expressed about the resourcing required to carry out fleeing driver investigations.</p> <ul style="list-style-type: none"> • I would have thought that completing an investigation into a fleeing driver event is a considerably longer and more resource-intensive process than a pursuit? 	<p>A high percentage of fleeing driver events are already resolved by way of investigation (30%), however any potential increase in resource required is difficult to quantify.</p> <p>Arguably, an increased emphasis on resolving fleeing driver events by way of investigation may result in time and cost savings.</p>

	<p>Eastern</p> <p>It is resource intensive and will require co-ordination across shifts, as many of these are night shifts and then they go onto days off. This makes it challenging to identify who would hold the file.</p> <p>There is work that ISU could potentially do but with everything this would mean a review of priorities</p> <p>Counties Manukau</p> <ol style="list-style-type: none"> 1. The number of Fleeing Driver incidents within our District are considerable, and the subsequent investigation process as proposed would impact and capability. 2. In our current environment, frontline staff (who are predominantly the engaging unit) will not have time outside of their BAU to give sufficient investigation action to these incidents. Bearing in mind that some units may be involved in several fleeing driver incidents in one shift. 3. Due to their inexperience, they would not be capable of completing the entire investigation, which as suggested would need Search Warrant applications being prepared, cell-phone warrants, and visits to various addresses to locate vehicle owners and possible driver suspects...whilst continuing their frontline BAU. They simply do not have the skill or experience, nor the time in a frontline PST position. 	<p>Currently, when someone is injured or killed as a result of a pursuit, Police commit significant resources to the criminal investigation and any subsequent prosecution, the IPCA investigation, the employment investigation, and the coronial inquiry, as well as the media response and engagement with the victim's family.</p> <p>From a welfare perspective we also need to factor in welfare officer time, leave and rehabilitation time if one of our people is physically or psychologically injured as a result of the pursuit.</p> <p>The broader social cost per fatality is \$4.56 million. For non-fatal injuries, the average social cost is estimated at \$477,600 per serious injury and \$25,500 per minor injury.³</p> <p>The comparison is a simple investigation and prosecution file, versus criminal / IPCA / employment investigations, media headlines that negatively impact trust and confidence in Police, grieving family, friends, colleagues and an avoidable death.</p> <p>In the national hui there was debate about who should hold the investigation file. Some Districts wanted these to go to their enquiry office, but not all Districts have an enquiry office.</p>
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³ <https://www.transport.govt.nz/mot-resources/road-safety-resources/roadcrashstatistics/social-cost-of-road-crashes-and-injuries/>

	<ol style="list-style-type: none"> 4. Currently RP staff do follow up inquiries and Search warrants with ISR suspects, and this severely impacts on their BAU. If they were to conduct investigations into the Fleeing Driver events they initiate, it would severely impact RP productivity. 5. Fleeing Drivers need to be held accountable, but we would need a dedicated position/s to effectively investigate files for fleeing drivers. 6. By having a single point, they can be easily monitored as suggested in #89 for compliance to the process and good investigation procedure. Increased knowledge of the process would lead to more streamlined and effective investigations. 7. I would suggest 2 x FTE in ISU to undertake the investigation process to hold the fleeing driver accountable, if the unit who initiated the pursuit could not resolve it on the shift. 	<p>The alternative view was that the investigation file should sit with the officers initiating the pursuit except in exceptional circumstances (e.g. crash or fatal pursuit, which generally sit with CIB).</p> <p>There was further discussion that the investigation practice guide should not be prescriptive about the 'how', but rather allow each District to determine how to allocate their resources, dependant on structure and demand, to achieve the desired outcome.</p>
<p>Consistent approach to assigning files</p>	<p>It was noted the paper was not specific about how fleeing driver events would be assigned for investigation.</p> <ul style="list-style-type: none"> • What's our expectation about how the matters are passed on to investigation / enquiry units? • A nationally consistent (at the very least a TM consistent) approach to assigning these files for investigation [would be useful]. 	<p>Refer above.</p>

	<p>For example, if a car registered to Orewa is pursued in Papakura who should hold the investigation? And which workgroup will take on the investigations? These matters could be prescribed at a national level to set clear expectations.</p>	
Priority of Investigations	<p>How to prioritise fleeing driver investigations against competing demand was raised several times.</p> <ul style="list-style-type: none"> • I'd like to see the policy address the priority of these investigations from a case management perspective. • What priority will be afforded to these [investigations] against other demand? 	<p>Paragraphs 36 – 39 added to include a recommendation that all offence codes relating to fleeing drivers be assigned a case category of 'Critical'.</p>
Case Management	<p>It was noted that robust case management will be required to ensure files are resolved within appropriate timeframes.</p> <p>Feedback identified that national reporting would be useful to assist with oversight and monitoring of investigations.</p> <ul style="list-style-type: none"> • It would be helpful if a reporting tool (Business Objects or SAS) could be built and sent out to Districts on a monthly basis to assist with the auditing to ensure consistency and accountability. • Central District provided a potential solution for consideration. <p>The following suggestion was proposed to enhance the audit process:</p> <ul style="list-style-type: none"> • With the large number of PREC codes for actual offences available, could we have a new incident code for any fleeing 	<p>Paragraph 42 added.</p> <p>A new reporting platform is being developed for Fleeing Driver Notifications. This is expected to be operational by April 2021. There will be internal reporting built into the programme, and SAS reporting will also be available.</p> <p>An interim solution will be explored.</p> <p>Work is underway with the Police Emergency Centres and Assurance Group, Strategy and Service to identify the best solution.</p>

	<p>driver event? I would propose 6U (close to 1U but still distinct), which is currently not in use.</p> <p>Then any fleeing driver event, regardless of what the correct offence PREC code might be, could be entered 6U into CARD by Comms, which would streamline the data retrieval/review process.</p> <p>A failsafe could be included whereby a 6U could not be recoded or K1d without supervisor approval (much the same as 5Fs currently). With the opportunity to conduct this review on procedure and with the high risk fleeing driver incidents pose, as well as to promote and allow for a robust auditing process, I would think a mandatory supervisor approval for recode is appropriate and would also look good from an external scrutiny (i.e. IPCA) point of view.</p>	<p>Currently the code 'PURS' is used in CARD, which enables the transfer of event data from CARD through to NIA.</p> <p>A fleeing driver event is not able to be recoded by officers via mobility, however these events can be recoded by the Police Emergency Centres on request. For example, where an elderly driver is not aware of the Police signal to stop, or in the event of a visiting driver, who did not understand the correct action to take when signalled to stop.</p>
<p>Language and format</p>	<p>Policy Group provided recommendations for rewording to enhance clarity.</p> <p>The Police Instructions team identified the term 'good practice' is preferable to 'best practice'.</p> <p>The Police Instructions team also identified significant repetition that occurs under different fleeing driver results / situations.</p> <ul style="list-style-type: none"> The policy could be significantly reduced in content if [we could] process map and convert to tables. This would deliver enhanced readability to users and when added to the Fleeing Driver policy will have consistent style and language. 	<p>Recommendations incorporated as appropriate.</p> <p>Paper amended to Fleeing Drivers: Investigation Practice Guide and all references updated.</p> <p>The working group discussed the issue of repetition, but felt it was helpful for people to be able to follow through the process for a given situation i.e. vehicle located public place.</p>

		<p>Once the Fleeing Driver: Investigation Practice Guide has been approved, we will work with the Police Instructions team to integrate the content into the Fleeing Driver Policy in a way that ensures consistency and maximises readability.</p>
<p>Alternative Resolutions</p>	<p>A question was raised around whether an additional recommendation be made that this change is specifically considered as part of Te Pae Oranga/Community panels, to see if changes can be made to accommodate.</p>	<p>If an offence carries a penalty of mandatory disqualification, then only the Courts have jurisdiction.</p> <p>Contravention of section 114 of the Land Transport Act 1998 (i.e. failing to stop or remain stopped when signalled to do so) carries a mandatory period of disqualification.</p> <p>However, paragraph 7 of the Fleeing Driver: Investigation Guide refers to alternative resolutions. Te Pae Oranga has been added as a specific example for consideration.</p>
<p>Legislative Change</p>	<p>Feedback received from one District was that legislative change would assist with the investigation process, enabling a greater number of offending drivers to be identified.</p> <ul style="list-style-type: none"> It is currently the purchaser's responsibility to change ownership of the vehicle. As a result, a significant number of vehicles on the road are registered to 'persons unknown'. This is regularly seen when dealing with impounded vehicles. This will automatically result in the investigation being halted. Therefore, I believe legislative change needs to occur to place the onus on the vehicle seller to ensure correct ownership of the vehicle is recorded. 	<p>Forwarded to the Policy and Partnerships team for assessment and follow up. Response below.</p> <p>Registration to 'persons unknown' <i>This is an interesting proposal. We'll get this logged on the issues register for further work given it clearly relates to supporting investigations into fleeing drivers and our shifting preference towards this, rather than pursuit.</i></p> <p>Other options being explored in terms of legislative change include:</p>

	<p>Comment was made that the judiciary regularly ‘convict and discharge’ defendants for failing to stop matters.</p> <ul style="list-style-type: none"> • Until there is a decent penalty in place, there is no accountability. There is not even any point in following up with a prosecution, but we do. <p>It was also noted that if the owner or driver fails to provide details it's a fine only penalty through the courts.</p> <ul style="list-style-type: none"> • It would be a benefit is a change could be made to the penalty for a breach of 118(4). 	<ul style="list-style-type: none"> - Minimum sentencing option (penalty) for failing to stop - Minimum non-concurrently served imprisonment for intentionally driving at an enforcement officer or emergency worker, including the ramming of a police car - Vehicle seizure for vehicle owners who fail to identify driver details of a vehicle that has failed to stop - A change to the penalty for a breach of 118(4)

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