

20 November 2024

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Tēnā koe M

Request for information

Thank you for your Official Information Act 1982 (OIA) request of 26 October 2024. You requested:

“Can you please provide the Police Manual and any formal training notes that are provided to recruits at the RNZPC regarding:

- 1) The use of sections 113 and 114 of the Land Transport Act 1998.*
- 2) The Search and Surveillance Act 2012.*
- 3) The two week practical driving phase.*

Can you please confirm whether there are practical training scenarios which assess the recruits ability to safely stop motor vehicles and their knowledge on which statutory authority to use and its legislative requirements or limitations?”

The Recruit Driver Training programme runs across nine days of the 20-week Initial Training Programme.

As requested, the attached document, appendix one, is an excerpt from the Police Driver Training Manual which covers material on the use of sections 113 and 114 of the Land Transport Act 1998.

Appendix two covers the Recruit Resource Book containing information taught to the recruits on the Search and Surveillance Act 2012.

As part of the recruit training, practical training scenarios, which assess the recruit’s ability to safely monitor vehicles, their knowledge on which statutory authority to use and its legislative requirements or limitations, are run throughout the nine-day period. Appendix three is the Driver Training Recruit Resource Book which is provided to recruits to aid their driver training.

You may also find the following policies of use, which are both publicly available: [Identifying Drivers with face coverings](#) and [Traffic Patrol Techniques](#).

Please note that as part of its commitment to openness and transparency, Police proactively releases some information and documents that may be of interest to the public. An anonymised version of this response may be publicly released on the New Zealand Police website.

Nāku noa, nā



Inspector Bernadette Boyle-Tiatia
Director - Training
New Zealand Police

The following information is from the Police driver training manual 2017.
This is what the recruits are required to learn during recruit training.

Re Sct 114 of the Land Transport Act 1998.

Conducting vehicle stops

Patrolling

The general aims of patrolling are to:

- preserve the peace
- protect life and property
- prevent crime
- detect and apprehend offenders
- gather intelligence.

During a police officer's shift, a large portion of time is spent on patrol in a vehicle. To be effective, the officer should employ the following patrol techniques:

- Drive at a speed that allows you to observe and react to incidents/offences.
- Do not impede the flow of traffic (pull over and let traffic pass).
- Plan your patrol to cover areas with a high reported crime/incident rate in accordance with your station's directed patrol plan, and maintain a visible presence to deter offending.

Vehicle stop tactics

Vehicle stops are a hazardous part of an officer's duty.

Every stop is different and provides the officer with potential danger from a number of sources:

- drivers and passengers that are potentially, or known to be, violent
- passers-by
- passing traffic
- environmental influences such as weather, visibility and locations
- occupants armed with firearms or other weapons.

If firearms or other weapons are suspected during a vehicle stop, officers must use the 'high risk vehicle stop' procedure.

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Because of the unpredictable nature of each situation, it is important that you never become complacent during a stop. You must observe basic safety precautions, for your protection and that of your partners and members of the public.

Before stopping a vehicle

Advise the Communications Centre of your location, the vehicle's description and registration number and any further information that is relevant to the stop.

Consider risk factors

- How many occupants there are in the vehicle.
- The type of vehicle.
- Where you first observed the vehicle.
- The nearest back-up patrol.
- Known history of owner/occupants (QVR and QP).

Do not hesitate to request back-up if the situation requires it. Follow the vehicle until back-up is confirmed.

Stopping the vehicle

- Select a suitable location for stopping the vehicle. Avoid stopping vehicles outside licensed premises and take-away premises, where undesirable pedestrian interference may occur. On all roads, motorways and state highways, select a section of road that has an adequate safety

shoulder that is not obscured by a bend or rise.

- At night, where possible, select a well-lit area.
 - Ensure your vehicle is highly visible by using the warning devices correctly.
 - Advise the Communications Centre of your location and the vehicle's description and registration number.
 - Activate your red and blue lights (primary), headlights and, if necessary, the siren to signal the vehicle to stop. Use your indicators to signal to the offender and following traffic your intention to pull over to the left of the road. On many occasions, it may not be necessary or desirable to activate the siren or headlights, but to support a case of failing to stop or failing to remain stopped, you should ensure all the requirements of section 114 of the Land Transport Act 1998 or the Search and Surveillance Act 2012, are complied with where appropriate. This should satisfy the court that a driver who failed to stop or remain stopped had clearly heard and seen the patrol vehicle.
 - Check traffic behind you.
 - Once you have attracted the driver's attention and it is obvious that they are pulling over, you should immediately cover the brake, ready to brake in a controlled manner.
- Remember: Some drivers' reactions at this stage may be unpredictable and they may, unintentionally or intentionally, try to out-brake you.

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- Position your vehicle, where possible, at least one car length from the rear of the other vehicle and half a car width out to the right. This provides a safety zone when conducting the interview.
 - Once the vehicle is stationary, consider turning your flashing lights to secondary, turn on your auxiliary switch, turn the ignition off and secure the keys. (The auxiliary switch will allow all auxiliary equipment to operate with or without the ignition on.) The flashing lights should be operating at an appropriate level for risk and environmental visibility.
 - At night, keep the offender's car illuminated with your headlights and, if necessary, use the takedown lights. Keep in mind that with all the auxiliary equipment operating, the battery will lose its charge. Where there are two officers on patrol, the driver may leave the engine running to keep the battery charged. At any time the vehicle is left unattended, the keys must be removed. Activate the ATIS button.
 - Check the traffic before getting out of your vehicle and maintain observation of the driver and passenger.
 - Remember: The Police Manual chapter 'Uniform, dress standards and appearance' states that high visibility garments must be worn when policing any incident on a road or where safety is a factor. The only exception is when attending incidents requiring ballistic armour.
 - During daylight hours you must wear the high visibility safety raincoat, long sleeved safety jacket, or sleeveless jerkin.
 - At night wear only the high visibility safety raincoat, or long sleeved safety jacket.
- Where two officers are on duty in the patrol vehicle, the passenger should conduct the interview. The driver maintains immediate control of the vehicle to protect his or her partner should an emergency situation develop.

Interviewing the driver

Once you have stopped the vehicle, there are a number of potential dangers to consider:

- the driver
- the passengers in the vehicle
- passing traffic
- pedestrians.

When conducting the interview, select the position that is safest for you. This could be:

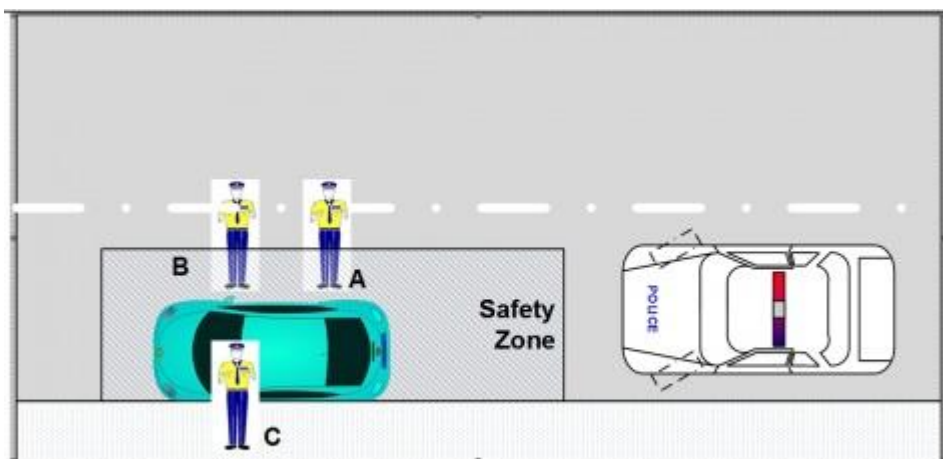
- A. Centre pillar, driver's side of the vehicle, facing forward (position A in diagram below).
- B. In front of driver's side wing mirror, facing traffic (position B in diagram below).
- C. Passenger's side, in circumstances where approaching the driver's side may be hazardous due to factors such as the location or traffic density. An example would be an unavoidable

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stop on a busy section of road where there is no shoulder to safely pull over to (position C in diagram below).

Note: This diagram shows one example of a best practice vehicle stop. Another option may be necessary depending on the level of risk and the environment.

Exercise common sense when creating the safety zone to ensure minimum disruption to passing traffic. If the passing or approaching traffic is likely to be obstructed, your exposure to danger may increase. In this case, your vehicle should not be offset to the right of the subject vehicle.



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The initial approach and interview, where practicable, should be conducted at the driver's centre pillar (position A), as this puts the driver in a difficult position if he or she attempts to present a weapon at the interviewing officer. The interviewing officer, likewise, has a good view of the person's hands. Once the officer has established there is no threat from the driver, his or her next biggest risk will be from passing traffic. As soon as possible, the officer should move ahead of the driver's door and face the traffic within the safety zone (position B).

- Throughout the interview, constantly monitor the actions of all occupants of the vehicle, passing traffic and pedestrians.
- If the interview takes place on the roadside, place yourself and the driver on the footpath or verge, NOT between the vehicles. In this situation, adopt the interview position and be prepared to react to any indications of confrontation or physical violence from the driver.
- Where possible, bring the driver back towards the patrol car and away from their own vehicle and the influence of passengers. Place the driver with their back to their own car, and place yourself between the driver and your own vehicle so you can maintain observation of the driver's vehicle and any remaining occupants. This also keeps you in visual contact with your partner and patrol vehicle and enables you to return to your vehicle without having to pass the driver if a confrontation occurs.
- Always be alert to unpredictable behaviour and the unexpected. Anticipate problems.

The interview

- Greet the driver politely (for example, “Good morning, sir”; “Good afternoon, madam.”). It is important to use non-provocative and neutral terms, as the initial greeting will often influence the driver and the manner in which the interview continues. Avoid using terms such as ‘mate’ – keep your manner firm yet friendly, but not casual.

At this stage, if the vehicle has been stopped as a result of an offence that is to be dealt with under the Search and Surveillance Act 2012, you must identify yourself by name or QID, if not in uniform produce evidence that you are a member of the police and inform the person that a search is being conducted under the Search and Surveillance Act 2012, and the reason for the search.

- State the reason for stopping the vehicle (I have stopped you for/because ...).
- Request and note any explanation or admission (evidence).
- Ask the driver to produce their licence for inspection.

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- Demand the information that the driver is obliged to give under section 114 of the Land Transport Act 1998:

- Give his or her full name, full address, date of birth, occupation, and telephone number, or such of those particulars as the enforcement officer may specify; and
- state whether or not he or she is the owner of the vehicle; and
- if the driver is not the owner of the vehicle, give the name and address of the owner or such particulars within the driver’s knowledge as may lead to the identification of the owner.

Remember: If the vehicle has been stopped under section 9 of the Search and Surveillance Act 2012, you can require all the occupants of the vehicle to supply their full details (section 10 Search and Surveillance Act 2012).

Note: Where a driver has been stopped and detained for the purposes of section 114 of the Land Transport Act 1998 only, you can detain the driver for a period not exceeding 15 minutes. If the vehicle has been stopped under section 9, 121 or 32 of the Search and Surveillance Act 2012, you can require the vehicle to remain stopped for as long as is required to carry out the requirements of the Act.

- Note the front registration plate number and check whether it matches the rear plate. Check and note the Evidence of Vehicle Inspection (WOF) and licence (often referred to incorrectly as ‘registration’) expiry dates and that all relevant details match. Inspect the vehicle for defects. (Refer to section 113(2)(b) of the Land Transport Act 1998.)

When undertaking an inspection, avoid entering the vehicle while the driver and/or passengers are still seated inside.

- Ask the driver to remain stationary while you confirm the details given.
- Conduct a passive alcohol test and/or breath screening test if you form good cause to suspect consumption of alcohol.
- Return to your patrol vehicle and confirm the information and details given (QVR/QP).
- Return to the driver and tell them what action is necessary, such as a warning/TON/ION.
- Release the driver and observe departure from a safe position, such as on the footpath or road shoulder, or inside your patrol vehicle.
- Ensure you leave the patrol car’s warning devices on (flashing lights) until the vehicle has reentered the traffic flow safely and the patrol car has moved off or out of the safety zone position back onto the road.

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Summary

- Any stop is a high-risk activity.
- Avoid complacency – no matter how minor the offence, observe all the safety precautions.

- Advise the Communications Centre (location, registration, and description of occupants and vehicle).
- Consider all risk factors.
- Select a suitable location.
- Wear appropriate high-visibility clothing.
- Ensure your vehicle remains highly visible.
- Use the safety zone.
- At night, keep the other vehicle illuminated.
- In double-up situations, ensure the driver remains with the patrol vehicle.
- Check traffic when getting out of the patrol vehicle.
- Use the appropriate interview location and position.
- Be firm, fair, and friendly.
- Ask direct questions.
- Keep the driver informed of what you are doing.
- Maintain the safety zone and display warning devices until the subject has safely re-entered the traffic flow.

Remember: Every stop is different. By taking these safety precautions, you will be better equipped to take and maintain control if the stop develops into a confrontation.

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Power to require driver to stop and give name and address, etc

Land Transport Act 1998, section 114

Important note for readers: This training document is continuously under review and may refer to Police Instructions, legislation, or other instructional material that might have been superseded. Police Instructions and government legislation (www.legislation.govt.nz) hold the most up-to-date information and should be considered the definitive references. For the full current version of legislation, go to:

<http://nzpintranet/resources/operational/prosecutionslegal/Pages/WestlawLegalQuicklinks.aspx> (or go directly to www.legislation.govt.nz to search the relevant legislation).

114. Power to require driver to stop and give name and address, etc.

1. An enforcement officer who is in uniform, or wearing a distinctive cap, hat, or helmet, with a badge of authority affixed to it, may signal or request the driver of a vehicle to stop the vehicle as soon as is practicable.

2. An enforcement officer in a vehicle following another vehicle may, by displaying flashing blue, or blue and red, lights or sounding a siren, require the driver of the other vehicle to stop.

2A. Subject to subsections (4) and (5), the driver of a vehicle that is stopped by an enforcement officer under this Act must remain stopped for as long as is reasonably necessary for the enforcement officer to complete the exercise of any powers conferred, or duties imposed, on an enforcement officer by this Act.

3. An enforcement officer may require the driver of a vehicle that is stopped under this Act to:

(a) Remain stopped for as long as is reasonably necessary for an enforcement officer to obtain the particulars referred to in paragraph (b), or to complete the exercise of any other power conferred on an enforcement officer by this Act; and

(b) On demand by an enforcement officer:

(i) Give his or her full name, full address, date of birth, occupation, and telephone number, or such of those particulars as the enforcement officer may specify; and

(ii) State whether or not he or she is the owner of the vehicle; and

(iii) If the driver is not the owner of the vehicle, give the name and address of the owner or such particulars within the driver's knowledge as may lead to the identification of the owner.

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4. The driver of a vehicle that is stopped under subsection (2) is not obliged to remain stopped if the vehicle with flashing lights and siren does not itself stop in the near vicinity of the place where the driver has stopped.

5. An enforcement officer may require a driver to remain stopped on a road for as long as is reasonably necessary to enable the officer to establish the identity of the driver, but not for longer than 15 minutes if the requirement to remain stopped is made under this subsection only.

6. An enforcement officer may arrest a person without warrant if the officer has good cause to suspect the person of having:

(a) Failed to comply with this section or a signal or request or requirement under this section;
or

(b) Given false or misleading information under this section.

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Below are the training notes (accessed via Totara) from the “Recruit Handbook” relating to the section RP03-Road Policing-Traffic Powers

RP03 – ROAD POLICING – TRAFFIC POWERS

Introduction

Road Policing is a core role of the New Zealand Police. It is a role that will bring you into contact with every group in the communities we serve.

NZ Police officers have far reaching powers under specific Transport related legislation.

How you use these powers will directly impact the trust and confidence of the New Zealand public.

When enforcing these powers, bear in mind that the great majority of road users are law abiding and these powers should be exercised with discretion and politeness.

Activities

You are working a night shift in Manurewa. It is very quiet, as usual, so you decide to undertake some proactive patrolling. You see an Orange 1974 Toyota Corolla driving along Great South Road, just south of the intersection with Halsey Road. This is a 50km/hour area. The Corolla only has one headlight working.

What powers do you have to stop this vehicle (Act and Section)? What details can you demand from the driver?

Section 114 of the LTA 1998 outlines specific requirements for what you should be wearing when you stop a vehicle. Outline these requirements.

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If the officer is not in uniform (i.e. plain clothes) how could they stop a vehicle under this section?

The driver of the Corolla has failed to produce a driver's licence and has only provided vague identity details. The vehicle comes back to another person who is currently disqualified.

How long can you stop the driver of the Corolla to confirm identity?

Where does this power come from?

You have dealt with the Corolla and then see a 1981 Toyota Lift-back drive past in the opposite direction. You recognise the driver as Joe MARSHALL, a member of the local Black Power chapter. He has an outstanding warrant for his arrest.

You pull in behind Joe and decide to stop him.

Can you use the same power that you used for the Corolla to stop Joe?

Explain your answer.

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After dealing with Joe you receive a call from Comms. One of your colleagues has stopped the driver of the orange Corolla down the road. The driver gave your colleague a different name.

What could the driver be arrested for? Where does your power of arrest come from?

Section 113 of the LTA 1998 outlines certain powers available to a constable. What are they?

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You are back dealing with the driver of the Corolla. The driver is sitting in the front seat of the car with the keys in the ignition. You have ascertained he is currently an unlicensed driver who has not previously been forbidden to drive. His car is blocking someone's drive way and he has refused to move it as he waits for a taxi to drive him home.

Consider Section 113 and your powers to get him to move his car to a safe place.

What does this power allow you to do? If you consider arresting him, what would this be for and where would your power come from?

Outline four key differences between sections 114 and 113.

You have finally finished dealing with the driver of the Corolla. As you pull away, you see a car drive past with four members of the local Black Power gang. You recognise the driver as Timothy Riley who you forbade to drive last week, as he did not have a current drivers' licence.

Outline your powers to stop Timothy's vehicle and demand his details.

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As you speak with Timothy he shows you his new driver's licence and tells you to go catch real criminals instead of hassling the public. You look into the vehicle and notice the two rear seat passengers are not wearing seatbelts.

Outline your power to demand details from the two rear seat passengers of Timothy's vehicle.

When you ask the two in the back why they are not wearing seatbelts they state they are not fitted to the car. It saves weight so the car can go faster. Timothy's car is a 2004 Subaru Legacy. You take a closer look at the car. It seems Timothy has made several other modifications including lowering the vehicle, to a point where the body hits the tyres when it goes over bumps. Timothy has also turned the tow ball upside down so it causes sparks whenever the car bottoms out. You deem the car unsafe to be driven on the road.

Outline your actions in dealing with Timothy's car. Where do you get your power to carry them out?

You leave Timothy to wait for a tow truck as he reads his paperwork. You get a call from Comms stating a vehicle is being followed down Weymouth Road between Great South and the rail bridge. The vehicle is weaving across both lanes of the road and travelling at a speed of between 15 to 20 kilometres per hour. You catch up to the vehicle and stop it.

The driver passes a Breath Screening Test. He states that he has just finished a 19 hour shift at the Steel Mill, as he is on maintenance week. He states that he just needs to sleep.

He thought he was still on the motorway as he lives in Otahuhu.

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You do not want him driving until he has had a chance to rest. What power do you have to stop him from driving until he has recovered?

You QV the vehicle and find it belongs to another person, Andrew Smith, who is the Timothy's boss. It is a company car. There is an alert on that vehicle for a petrol drive off from BP Bombay. The description of the driver, at the time of the drive off, was a blonde female in her early forties.

What power do you have to demand details from the registered owner of the vehicle to try and identify the offender? How long does the owner have to reply to your request? If the vehicle has failed to stop for Police (with the driver not being located at the time) what would be the time frame for the registered owner to provide details of the driver? With reference to section 95 of the LTA 1998, list 6 occasions when an enforcement officer can suspend a person's driver licence, on notice, for 28 days.

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- 1
- 2
- 3
- 4
- 5
- 6

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Give an example of when you can seize a vehicle for the following periods of time.

Provide the section that gives you this power.

10 Days

28 Days

12 Hours

The following information is taken from the recruit resource book "Road Policing and Driver Training"

Traffic law powers – RP03

LEARNING OBJECTIVES

At completion of this chapter, recruits will be able to:

1. Explain the following police powers related to the Land Transport act 1998 – Sections 113, 114, 115, 118, 119, 121, 122 and 123.
2. Identify circumstances where Police can suspend a driver's licence (Section 90 for excess demerit points and Section 95 for alcohol and speed offences) and impound vehicles (section 96).
3. Explain when a road safety directive is used.

Duties of drivers

Drivers of motor vehicles are required to be licensed and fit to drive, and the motor vehicles they drive are required to meet specific standards under various transport laws.

Your powers

This chapter outlines your powers as an enforcement officer under the Land Transport Act 1998 ('the Act').

Your powers include:

- Stopping vehicles and asking for the details of drivers and passengers.
- Using general powers to keep the roadway clear and free from unsafe vehicles.
- Taking the keys off unsafe drivers.

- Suspending licences and forbidding people from driving.
- Seizing vehicles and impounding them.

Using your discretion and being polite

When enforcing these powers, bear in mind that the great majority of road users are law abiding and these powers

should be exercised with discretion and politeness.

Stopping vehicles and demanding details: Section 114

Power to stop vehicles and demand details

An enforcement officer:

- in uniform, or
- wearing a cap, helmet or hat displaying a badge of authority
- may request or signal a driver of a vehicle to stop as soon as practicable;

or

• an enforcement officer, in a vehicle, including one in plain clothes, may stop a vehicle by:

– displaying flashing blue, or blue and red lights, or

– sounding a siren

and demand that the driver state:

- their full name, full address, electronic address (if they have one), date of birth, occupation, and telephone number

(or such of those particulars as the enforcement officer may specify),

- whether they are the registered person for the vehicle and, if not,
- the name and address of the registered person of the vehicle or such particulars within the driver's knowledge as

may lead to the identification of the owner.

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Keeping the driver stopped

The driver must remain stopped for as long as is reasonably necessary for you to:

- obtain particulars, or
- exercise any other power conferred under this Act.

If you stop the driver solely for the purpose of establishing their identity, you can delay them for up to 15 minutes for

this purpose.

Power of arrest

You can arrest using Section 114(6) any person who:

- fails to stop
- refuses to supply details
- supplies details that you have good cause to suspect are false or misleading.

Offence

A driver who fails to comply with anything you have lawfully required of them under the Act can be charged under

section 52.

Duty to be in uniform

The law requires you to be in uniform or wearing a distinctive cap, hat or helmet with a badge of authority attached to

it. An officer who is in plain clothes has no power to signal drivers to stop unless they use a car fitted with flashing lights

or a siren. Generally, both lights and siren should be used.

Vehicles that can be stopped

The power to stop vehicles applies to all vehicles, not just motor vehicles. This means you can use it to stop cyclists,

rollerbladers, rollerskaters, skateboarders etc.

When to use section 114

Section 114 can be used to stop vehicles only if you are enforcing the Land Transport Act 1998 or other traffic-related

Act or Regulations. It cannot be used as a general stopping power; for example, to stop a vehicle to speak to a driver

who is acting suspiciously.

General roadway-related powers: Section 113

Acronym

The acronyms DIMDOD and FARMED may be used to memorise sections 113 and 121 respectively of the Land Transport

Act 1998 (LTA).

General powers of transport legislation enforcement

An enforcement officer in uniform, or with evidence of identification as an enforcement officer, may enforce the

provisions of the:

- Land Transport Act 1998
- Local Government Act 1974
- Local Government Act 2002
- Road User Charges Act 2012
- Government Rounding Powers Act 1989
- Railways Act 2005
- Land Transport Management Act 2003.

This includes regulations and rules and bylaws in force under the above Acts.

Note: You can only use section 113 of the LTA if an offence against one of the acts listed above has been committed by

the person.

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LAND TRANSPORT ACT 1998 - Section 113

Direct any person on a road to give

1. Birth date
2. Address
3. Electronic address
4. Telephone #
5. Occupation
6. Name
7. Give information within their knowledge about the identity of the driver of the vehicle (unless that person is being detained or under arrest)

The person must be connected with a breach of the Road Policing laws, whether the Land Transport Act or other Land Transport Act / Regulations.

So effectively we are talking about passengers of a vehicle or, on rare occasions, pedestrians here.

If we are dealing with the DRIVER, we must use Section 114.

There are FOUR occasions you can use this part of Section 113.

1. You stop a vehicle under Section 114 and the driver runs off. You can demand these details (1 – 6) from the passengers and use #6 to attempt to establish the identity of the driver by interviewing the passengers.
2. You attempt to stop a vehicle using Section 114 and it fails to stop. It takes off and quickly turns a corner. As you turn the corner you see that

the car has stopped and all people in the car are now standing on the pavement.

You do not know who the driver is, so, you can demand details (1 – 6) from all of them and then interview them in an attempt to establish #6.

3. You witness a passenger committing an offence against road policing laws. Perhaps, a passenger for no seat belt or a licensed driver supervising a learner driver. Can demand (1 – 6).

4. A pedestrian is trying to cross the road in a dangerous place or manner. Can demand (1 – 6).

Note 1: If you stop a vehicle under Section 114 and speak with the driver, you have no power to demand the passenger's details unless it is to establish the identity of the driver or that particular passenger has committed an offence.

Note 2: A motorcyclist and a cyclist are drivers.

See example 2

If you suspected alcohol was an issue you would breath test all four of them.

Remember you can only prosecute the driver once they have been identified.

Inspect, test, examine vehicle / documents You can check the road worthiness of a vehicle such as brakes, steering and

tyres. You can also examine licence labels and Warrants of Fitness.

Move or cause to be moved - any vehicle causing obstruction or a hazard

A car is parked in a dangerous position or is causing an obstruction.

1. You can move it yourself
2. Have it moved perhaps a tow truck etc.

Direct the driver or person in charge of the vehicle to move the vehicle

A car is parked in a dangerous position or is causing an obstruction.

You tell the driver or person in charge of it to move it to a safe place.

Order (forbid)an unlicensed driver not to drive

You stop a vehicle and establish the driver does not have a driver's licence for that class of vehicle. They commit an offence and you now also forbid to drive.

Enter this in NIA.

Can also order person operating a transport service without a licence to stop operating.

Direct traffic and pedestrians Carry out point duty when traffic lights are out. Stop pedestrian crossing the road when dangerous.

If the person fails to give information or fails/refuses to carry out an action required

You have a power of arrest under Land Transport Act 1998 - Section 116

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As outlined in section 113, an enforcement officer may order an unlicensed driver not to drive.

However, it should be

noted that there is a difference with a person who has no licence for any class of motor vehicle and a person who is

driving a motor vehicle with the wrong class of licence.

Non-compliance

Where a person is found operating a motor vehicle with no driver licence or the wrong class of licence and they have

previously been forbidden to drive a motor vehicle of that class, the enforcement officer will:

- prosecute the driver for driving whilst forbidden or issue an ION, and
- must impound the motor vehicle pursuant to section 96 of the LTA.

A power of arrest is found in section 116 of the LTA.

Arresting and charging LTA section 116

You can arrest a person without warrant under section 116 if you have good cause to suspect the person has failed to

comply with a direction given under sections 113 or 115 of the LTA.

A driver who fails to comply with any lawful requirement, direction, notice, request or prohibition imposed on them

under the LTA commits an offence under section 52 of the LTA.

Comment

Sections 114 and 113 have several key differences.

- Section 114 allows you to stop vehicles.
- Section 113 does not allow you to stop vehicles.
- Section 114 allows you to demand details from a driver you have stopped.
- Section 113 allows you to obtain a person's details on a road:
 - who has committed an offence against specified acts referred to in section 113 of the LTA
 - when the identity of the driver of the vehicle is unknown.

Examples

The following examples demonstrate the use of section 113.

Example 1: You are on patrol when you see a car drive past. The front seat passenger is not wearing their seatbelt.

You can stop the vehicle and demand the driver's details under section 114 of the LTA and exercise any other powers under the LTA.

You can demand the passenger's details under section 113 as the passenger has committed the offence of not wearing a seatbelt. This enables you to issue an infringement notice to the passenger.

If the passenger refuses to give their details, they should be warned and if they continue to refuse, they may be arrested.

Example 2: You have been tasked to deal with parking offences outside a local primary school.

You observe a car stop and double park outside the school. You approach the driver and they explain they are just waiting for their children to finish school.

You can demand the driver's details under section 113 of the LTA as they are committing the offence of 'Double Parked'

under the 6.11 Road User Rule 2004 which is a rule pursuant to the LTA.

If the driver refuses to give their details, they should be warned and if they continue to refuse, they may be arrested.

Example 3 (when you cannot demand details): You are on patrol when you see a car drive past. You recognise the driver

as a person you have recently arrested for driving while forbidden. You know he is a gang member and you also notice

there are three male passengers in the car.

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You can stop the vehicle and demand the driver's details under section 114 of the LTA. You establish he has recently

renewed his driver licence and is no longer forbidden. You check the vehicle and note the three passengers (who are

wearing gang patches) are all wearing their seat belts and you have not detected any offences by them under any of the specified acts referred to in section 113 of the LTA.

As the passengers in the vehicle have not committed any offences against one of the Acts listed in Section 113, there is no power to demand their details.

Recruit Resource Book

Search & Surveillance Act 2012

SS01 – SS05



**NEW ZEALAND
POLICE**
Ngā Pirihimana o Aotearoa

VERSION 1.0

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Search and Surveillance Overview

LEARNING OBJECTIVES

At completion of this chapter, recruits will be able to:

1. Discuss the thresholds of:
 - Reasonable grounds to suspect
 - Reasonable grounds to believe
2. Explain the general principles of search.

Introduction to the Search and Surveillance Act 2012

The Search and Surveillance Act 2012 collated most Police and other law enforcement agency search, seizure and surveillance powers under one Act. The Act does not apply to New Zealand's intelligence agencies who have their own separate legislation.

The enactment of this legislation had wide-reaching implications for Police, particularly for frontline staff.

The Act clarifies the nature and scope of search and surveillance powers and requires that these are exercised in a way that protects human rights. It clarifies the law for those using the powers of search and surveillance and those subject to them. The powers in the Search and Surveillance Act 2012 have made it easier to detect and apprehend offenders committing serious criminal offences.

The Act provides rules that recognise the importance of rights and entitlements affirmed in other enactments such as the New Zealand Bill of Rights Act 1990, the Privacy Act 2020 and the Evidence Act 2006.

The sections contained within this chapter are the ones that will be discussed during the recruit programme. Most will be covered during the five specific Search and Surveillance sessions and others during the relevant offence session.

Key Definitions

Notably the Act does not define either the terms "search" or "surveillance".

A "search" is generally understood in caselaw to be a State intrusion on a person's "reasonable expectation of privacy". A good example is the Police looking for evidence inside a person's home, as a person's home is a private space.

"Surveillance" is not defined, but the purpose of the Act is to provide a set of rules for visual, interception and tracking devices which are designed to monitor the movements of individuals.

Component	Explanation
Access	in relation to any computer system, means instruct, communicate with, store data in, receive data from, or otherwise make use of any of the resources of the computer system
Access information	includes codes, password, and encryption keys and any related information that enables access to a computer system or any other data storage device
Arms	means any firearm, airgun, pistol, restricted weapon, imitation firearm, or explosive (as those terms are defined in section 2 of the Arms Act 1983), or any ammunition

Computer system	<p>means a computer, or</p> <ul style="list-style-type: none"> • 2 or more interconnected computers, or • any communication links between computers or another device, or • 2 or more interconnected computers combined with any communication links between computers to remote terminals or any other device • and includes any part of the items described above and all related input, output, processing, storage, software, or communications facilities and stored data
Curtilage*	<p>is a legal term used to define the land immediately surrounding a house or dwelling, including any closely associated buildings and structures, but excluding any associated 'open fields beyond'. It defines the boundary within which a homeowner can have a reasonable expectation of privacy and where 'common home activities' take place.</p>
Disabling substance	<p>in relation to Part 2, Subpart 9 (Warrantless powers in relation to offences against section 202A of Crimes Act 1961) means any anaesthetizing or other substance produced to use for disabling a person, or intended for such use by the person who has it with him or her: s26</p>
Evidential material	<p>in relation to a particular offence, means evidence of the offence or any other item, tangible or intangible, of relevance to the investigation of the offence.</p>
Locked up*	<p>means a person taken into lawful custody and being placed behind a closed or locked door that prevents them from leaving. Examples include a secure interview room, cell or charge room at a Police station, or a vehicle used for Police purposes (other than being placed in a police vehicle only for the immediate purposes of transport).</p>
Non-private premises	<p>means premises, or part of a premises, to which members of the public are frequently permitted to have access, and includes any part of a hospital, bus station, railway station, airport, or shop.</p>
Offensive weapon	<p>in relation to Part 2, Subpart 9 (Warrantless powers in relation to offences against section 202A of Crimes Act 1961) means any article made or altered to use for causing bodily injury or intended for such use by the person who has it with him or her.</p>
Private activity	<p>means activity that, in the circumstances, any 1 or more of the participants in it ought reasonably to expect is observed or recorded by no one except the participants.</p>
Private communication	<p>means a communication (whether in oral or written form, or in the form of a telecommunication, or otherwise) made under circumstances that may reasonably be taken to indicate that any party to the communication desires it to be confined to the parties to the communication; but does not include a communication of that kind occurring in circumstances in which any party to the communication ought reasonably to expect that the communication may be intercepted by some other person without having the express or implied consent of any party to do so.</p>
Private premises	<p>means a private dwelling-house, a marae, and any other premises that are not within the definition of non-private premises.</p>

Reasonable grounds to believe*	means having a sound basis for believing that a situation or circumstance actually exists.
Reasonable grounds to suspect*	means having a sound basis for suspecting that a situation or circumstance is likely to exist.
Remote access search	means a search of a thing such as an internet data storage facility that does not have a physical address that a person can enter and search.
Strip search	means a search where the person conducting the search may require the person being searched to undress, or to remove, raise, lower, or open any item or items of clothing so that the genitals, buttocks, or (in the case of a female) breasts are— uncovered; or covered only by underclothing.
Surveillance device	means a device that is any 1 or more of the following kinds of devices: (a) an interception device: (b) a tracking device: (c) a visual surveillance device.
Thing	in relation to Part 4, Subpart 3 (Search Warrants), includes any intangible thing (for example, an email address or access information to an Internet data storage facility).
Trespass surveillance	means surveillance that involves trespass to land or trespass to goods.
Unique identifier	in relation to an enforcement officer, means an identifier, used to identify the officer, that is not his or her name and that: (a) is assigned to him or her by the law enforcement agency that employs or engages him or her for the purposes of its operations; and (b) uniquely identifies him or her in relation to the law enforcement agency.
Unlawfully at large	in relation to a person, means that the person: <ul style="list-style-type: none"> • has an arrest warrant in force (excluding fines warrants) • has escaped from prison or is absent without leave • has escaped from lawful custody, e.g., police cells or a police car • is a special patient or a restricted patient and has escaped or has failed to return from leave • is a care recipient or special care recipient (with an intellectual disability) and has escaped or has failed to return from leave • is a “young person” who is the subject of a Youth Court “Supervision with residence” order and they are absconding from CYFS custody
Vehicle	means any conveyance that is capable of being moved under a person’s control, whether or not the conveyance is used for the carriage of persons or goods, and includes a motor vehicle, aircraft, train, ship, or bicycle.
Visual surveillance device	(a) means any electronic, mechanical, electromagnetic, optical, or electro-optical instrument, apparatus, equipment, or other device that is used or is capable of being used to observe, or to observe and record, a private activity; but (b) does not include spectacles, contact lenses, or a similar device used to correct subnormal vision of the user to no better than normal vision.

+ Adapted from Search and Surveillance Act 2012

* Definition not taken from Search and Surveillance Act 2012

General principles

All searches must be lawful and reasonable. You may only conduct a search if it has lawful authority. This means you must always either:

- execute a search warrant, or
- exercise a warrantless power, or
- conduct a consent search.

If a search is not conducted under a lawful authority, it will be unlawful, and any evidence gathered may not be admissible.

When considering any search, you must, wherever possible:

1. Apply for a search warrant

If you believe you can practically achieve your purpose taking into account the time involved in applying for a search warrant, you must apply for a search warrant.

2. Use warrantless powers

If you believe that the immediate exercise of the power is necessary to achieve its purpose (e.g., obtaining evidence, protecting life or safety or arresting a person) then you should use the relevant warrantless power.

3. Undertake a consent search

A consent search is not the most desirable action. This is because consent can be withdrawn at any time. If not conducted in accordance with the Act, and for the purposes outlined in the Act, a consent search may be unlawful.

It is best practice to use a search power if available.

SS01 Searching People

LEARNING OBJECTIVES

At completion of this chapter, recruits will be able to:

1. Explain the statutory obligations when searching a person.
2. Identify and explain the warrantless powers available in relation to searching people.
3. Discuss the rules in relation to consent searches.

Rules and obligations when searching persons (section 125)

People being searched must be treated with dignity, privacy, respect and sensitivity. You must also consider safety and the need to preserve evidence.

Section 125 of the Search and Surveillance Act 2012 sets out special rules for searching people.

When exercising a power to search a person, you **must**:

Name - identify yourself	Your Name and/or unique identifier (QID) and ID if not in uniform
Intention to search	State that you intend to search and why - reason for the search (unless this is impractical in the circumstances)
Act	State the Act you are searching person under
Reason for the search	Tell the person why you are searching them and what you are looking for - (unless this is impractical in the circumstances)

When exercising a power to search a person, you **may**:

detain	the person for as long as is necessary to carry out the search
use reasonable force	to carry out the search (arrest for obstruction and use force to complete the search)
search	any item that the person is wearing or carrying or is in the person's physical possession or immediate control
seize	anything the person is carrying or is in their physical possession or immediate control if that is the thing you are searching for or may lawfully be seized

A commonly used acronym is N.I.A.R.

Example:

N - **Name** - "I am Constable SMITH")

I - "I **intend** to search you..."

A - Act ...under the Search and Surveillance **Act** 2012

R- Reasonto ensure you have nothing that may harm any person or facilitate your escape".

Searches of Arrested or Detained Persons

s85 - Rub-down search of arrested or detained persons

You **may** carry out a rub-down search of a person when:

- the person is arrested
- or
- detained under a statutory power of detention (any enactment)

to ensure that the person is not carrying anything that **may** be used to:

- harm any person
- or
- facilitate the person's escape.

Note:

A s85 search should be carried out on all people who have been arrested or detained under enactment before placing them in a vehicle or secure area.

Common examples of enactments under which a person can be detained in the context of s85 include:

- Policing Act 2008 (intoxicated persons)
- Mental Health (Compulsory Assessment and Treatment) Act 1992
- Land Transport Act 1998

Obligations (s85)

- s125
- Identify yourself
 - State the Act and reason for the search
 - Show ID if not in Police uniform

There is no requirement to complete an online notification for the search of a person carried out under s85.

s85(2) - Rub-down search process of arrested or detained person

If you are conducting a rub-down search you **may** do any or all of the following:

- run or pat your hand over the body of the person being searched whether outside or inside the clothing (other than the underclothing)
- insert your hand inside any pocket or pouch in the clothing of the person being searched (other than the underclothing).

For visual inspection, you **may** require the person being searched to:

- open their mouth
- display the palms of their hands
- display the soles of their feet
- lift or rub their hair.

s86 - Things that can be done to facilitate a rub-down search

When you are conducting a rub-down search you **may** require the person being searched to:

- remove, raise, lower or open any outer clothing such as a:
 - coat
 - jacket
 - jumper
 - cardigan

- being worn by that person except where the person has no other clothing, or only underclothing under the outer clothing and

- remove any:
 - head covering
 - gloves
 - footwear
 - socks
 - stockings.

Note: Items of clothing removed from the person can also be searched separately.

Any items carried by or in the possession of the person being searched at the time of the search are also included in the search: s86(2)(a).

This means a bag carried by the person can be searched but the search would not extend to the search of a vehicle.

s87 - Rub-down search may include visual examination

A rub-down search **may** include:

- a visual examination of the mouth, nose and ears
but you **must not**:
- insert any instrument, device or thing into any of those orifices.

You **may** use an instrument or device to illuminate or magnify any of those orifices.

s88 - Warrantless search of arrested or detained persons (for evidential material)

You **may** search a person pursuant to arrest or statutory detention **if** you have reasonable grounds to **believe** the person is carrying anything that:

- is evidential material relating to the offence in respect of which the arrest is made or the person is detained
or
 - may be used to harm any person
or
 - may be used to facilitate the person's escape.
-

Obligations (s85)

- s125
- Identify yourself
 - State the Act and reason for the search
 - Show ID if not in Police uniform

There is no requirement to complete an online notification for the search of a person carried out under s85.

Note: Common examples of enactments under which a person can be detained include:

- Policing Act 2008 (intoxicated persons)
- Mental Health (Compulsory Assessment and Treatment) Act 1992
- Land Transport Act 1998
- Oranga Tamariki Act 1989

Searching for evidential material includes looking for marks on a person such as birthmarks, tattoos and scars for the purpose of identification.

s11 - Warrantless searches of people who are, or are to be, locked up in Police custody

You **may** conduct a warrantless search of any person who has been taken into lawful custody **and** is or is to be locked up:

- at a Police station
or
- in other premises being used for Police purposes
or
- in or about to be placed in a vehicle being used for Police purposes.

You may conduct a warrantless search under this power **before** the person is locked up.

s11(3) - Searching after a person has been locked up

You **may** also conduct a search of a person **after** they have been locked up if:

- the person was not searched before they were locked up
or
- you reasonably suspect that they have been close to another person who has not been locked up in Police custody
or
- you reasonably suspect that they have been close to another person who has been locked up but not searched yet
or
- you have reasonable grounds to believe that the person may have anything that may be used to harm themselves or others.

Note: Under this section, a search of a person can be carried out by a constable or searcher. A constable or searcher may take property found on the person during the search.

“Locked up” means a person taken into lawful custody and being placed behind a closed or locked door that prevents them from leaving. Examples are a secure interview room, cell or charge room at a Police station, or a vehicle used for Police purposes (other than being placed in a police vehicle only for the immediate purposes of transport).

s13 - Property taken from people locked up in Police custody

If you take money and/or items of property from a person under s11, you **must** return them when the person is released from custody, **unless** you consider that:

- any money or property may need to be given in evidence in proceedings arising out of a charge brought against the person
- or
- possession of any money or property may constitute an offence.

If the person is released from Police custody and placed in the custody of another person, money and property taken from them **must** be delivered to:

- the person who is taking over custody
- or
- the person in charge of the facility the person is being moved to
- unless
- any of the points about money or property above apply.

Consent Searches

s91 - Application of rules about consent searches

If you have a statutory power to search a person, vehicle, place or other thing then you must use the statutory powers contained within the Search and Surveillance Act 2012.

s92 - Purposes for which consent search may be undertaken

You **may** conduct a consent search for one or more of the following purposes:

- to prevent the commission of an offence
- to investigate whether an offence has been committed
- to protect life or property
- to prevent injury or harm.

You **may** ask a person to consent to a search of:

- themselves
- a place
- a vehicle or
- a thing apparently in their control.

s93 - Advice that must be given before consent search undertaken

Before you undertake a consent search you **must**:

- determine that the search is for a purpose authorised by s92
- and
- advise the person of the reason for the proposed search
- and
- advise the person that they may either consent to be searched or refuse to be searched.

s94 - Circumstances where search is unlawful

A search by consent is unlawful if:

- it is not for a purpose set out in s92
or
 - you fail to give the required advice as set out in s93
or
 - consent is given by a person who does not have the authority to consent.
-

s95 - Ability of persons under 14 years to consent to searches of places, vehicles or other things

Persons under 14 years of age are unable to consent to the search of:

- a place
or
 - a vehicle
or
 - other thing.
-

Note: A person who is under 14 years old and driving a vehicle can consent to a search of the vehicle if:

- there is no passenger over 14 years of age in the vehicle who:
 - has authority over the vehicle, and
 - is able to consent to the search of the vehicle.

s96 - Exceptions to consent search rules

Sections 92 to 95 do not:

- apply to a search conducted as a condition of entry to any public or private place
or
 - apply to a search conducted in accordance with a statutory search power
or
 - affect the rule of law relating to the implied licence to enter property.
-

Note: When you are undertaking a consent search, you are not exercising a search power under this Act. However, you must comply with ss91 - 96.

As you are not exercising a search power there is no requirement to complete an online notification (s169) or comply with the requirements of sections 125 or 131.

Best practice indicates that you should identify yourself before undertaking a consent search.

SS02 Searching Vehicles and Places

LEARNING OBJECTIVES

At completion of this chapter, recruits will be able to:

1. Recognise when you must complete an online notification to report use of powers.
2. Explain the statutory obligations required when searching a place, vehicle or other thing.
3. Identify and explain the warrantless powers available in relation to searching places, vehicles and other things for evidential material or for people.

s169 – Reporting use of powers

When you use a **warrantless power of entry, search or surveillance** you **must** report this by completing an online notification form as soon as practicable.

The notification **must** contain:

- a short summary of the circumstances
- the reasons you needed to exercise the warrantless power
- whether any evidential material was seized
- whether any criminal proceedings have been brought or are being considered as a consequence of seizing that evidential material.

You **do not** need to report on:

- a search of a person following their arrest or a search of a person following their detention under any other enactment (ss85 or 88)
- a search of a person in lawful custody (s11)
- a consent search (ss91-96)
- the exercise of a power of entry that does not confer a power of search (such as s14 – entry to prevent offence or respond to risk to life or safety).

Note: You should make detailed notebook entries covering the circumstances and reasons (grounds to suspect or believe) for your use of a warrantless power. This will act as your decision record.

These notes will form the basis of online notification and references for possible future Court appearances.

Police policy states that online notifications should be completed by the end of your shift.

Your online notifications can be completed using OnDuty.

s131 – Identification and notice requirements

When you are using a search power in relation to a **place** or **vehicle** or **other thing** (with or without a warrant), you **must** comply with a series of identification and notice requirements.

Before initial entry into or onto the place, vehicle or other thing to be searched, you **must**:

- identify yourself by name or unique identifier
- announce your intention to enter and search the place, vehicle or other thing under the Search and Surveillance Act 2012 or any other statutory power
- if you are not in Police uniform, provide proof of identity.

Before or on initial entry into or onto the place, vehicle or other thing to be searched you **must** provide the occupier of the place or the person in charge of the vehicle or other thing with:

- a copy of the search warrant or
- (if the power is exercised without a warrant) the name of the Act¹ and reason for the search, unless it is impracticable to do so in the circumstances.

You are **not** required to: announce the Act, your intention, the reason; identify yourself; or provide a copy of the search warrant if you have reasonable grounds to **believe** that:

- no person is lawfully present in or on the place, vehicle or other thing to be searched, or
- complying with these requirements would:
 - endanger any person's safety, or
 - prejudice the successful use of the search and entry power, or
 - prejudice ongoing investigations.

If you undertook a search and the occupier or person in charge of the vehicle or other thing was not present, **before leaving** the place, vehicle or other thing searched you **must**:

- leave a copy of the search warrant in a prominent position or
- leave a written notice (POL form) stating the Act and reason for your search in a prominent position if you undertook a warrantless search.
- If it is not practicable to supply the search warrant or written notice at the time of completing the search, it must be supplied no later than 7 days after the search and must include:
 - date and time of the start and finish of the search.
 - name or unique identifier of the O/C with contact details
 - whether or not anything has been seized
 - authority and reason for seizure
 - if anything has been seized, an inventory of items taken.

¹ "The Act" always refers to the Search and Surveillance Act 2012

You may use **reasonable** force to enter the place, vehicle or other thing if you have reasonable grounds to **believe** that:

- no person is lawfully present in or on the place, vehicle or other thing to be searched or
- announcing your intention and identifying yourself would:
 - endanger any person's safety, or
 - prejudice the successful use of the search and entry power, or
 - prejudice ongoing investigations

or following a request, the person present refuses entry or does not allow entry within a reasonable time.

A commonly used acronym is N.I.A.R

Example:

N - Name (“I am Constable SMITH”)

I - Intent to enter (“I intend to enter and search your vehicle”)

A - Act (“under the Search and Surveillance Act 2012”)

R- Reason (“as I believe Donald GREEN is here and he has a warrant to arrest ”)

s110 - Power incidental to search of places and vehicles

Every search power authorises you to:

enter and search	the place, vehicle or other thing that you are authorised to enter and search, and any items found in that place, vehicle or other thing (at any reasonable time)
request assistance	with the entry and search (from any person)
use reasonable force	on property only to search and lawfully seize
Seize	anything that is the subject of the search or anything else that may be lawfully seized
bring and use	any equipment, or use any equipment found on the place, vehicle or other thing. You may also use electricity from the place, vehicle or other thing to operate the equipment used for entry and search
bring and use	a trained law enforcement dog and its handler in or on the place, vehicle or other thing being searched
Copy	any documents that may be lawfully seized
use reasonable measures	to access a computer system or other data storage device located (wholly or in part) at the place, vehicle, or other thing if any intangible material that is the subject of the search may be in that computer system or device

Every search power authorises you to:

Copy	the intangible material described above or any other material that may lawfully be seized. This includes previewing, cloning, or using other forensic methods either before or after removal or examination
Take	photographs, drawings, sound and video recordings of the place, vehicle or other thing being searched, and anything found there if you have reasonable grounds to believe they may be relevant to the purposes of the entry and search

Use of Force

When it comes to the use of force when searching vehicles and places, the following sections apply:

- Section 131(3) is the relevant section where you have to use force to **ENTER** a place or vehicle. e.g., smashing a car window or forcing a dwelling door open.
- Section 110 is about using force on property once you have gained entry. e.g., forcing open a vehicle glove box or a cupboard door.

Emergency powers

s14 - Warrantless entry to prevent offences or respond to risk to life or safety

If you have reasonable grounds to **suspect** that in relation to a place or vehicle:

an offence is being committed, or is about to be committed that would be likely to cause:

- injury to any person
or
- serious damage to **or** serious loss of, any property
or
- there is a risk to the life or safety of any person that requires an emergency response

you **may**:

- enter the place or vehicle without warrant
and
- take any action that you have reasonable grounds to believe is necessary
 - to prevent the offending from being committed or continuing
- or
 - to avert the emergency.

Wanted persons

s7 - Entry without warrant to arrest person unlawfully at large

If you have reasonable grounds:

- to **suspect** that a person is unlawfully at large
and
- to **believe** that the person is in a place or vehicle

you **may**:

- enter the place or vehicle without warrant to search for and arrest that person.

s8 - Entry without warrant to avoid loss of offender or evidential material

If you have reasonable grounds to:

- **suspect** that a person has committed an offence punishable by imprisonment for which they may be arrested without warrant
and

- **believe** that the person is in a place or vehicle
and
- **believe** that, if entry is not effected immediately, **either or both** of the following **may** occur:
 - the person will leave the place or vehicle to avoid arrest
 - evidential material relating to the offence for which the person is to be arrested will be concealed, altered, damaged or destroyed.

you **may**:

- enter that place or vehicle without warrant
and
- search for and arrest the person you suspect has committed the offence.

Note: Section 8 does not give you a power to search for evidential material.

Powers incidental to arrest or detention

s83 - Entry without warrant after arrest

If you have arrested a person **and** have reasonable grounds to **believe** that:

- evidential material relating to the offence for which the person was arrested is at a place
and
- if entry is delayed in order to obtain a search warrant, the evidential material will be concealed, altered, damaged or destroyed

you **may**:

- enter that place without warrant to search for the evidential material (whether or not the person was arrested there).

Note: Section 83 is also intended to allow you to search a vehicle at the place you are searching.

s84 - Warrantless entry and search of vehicle after arrest

If you have arrested a person **and** have reasonable grounds to **believe** that:

- evidential material relating to the offence for which the person was arrested is in or on a vehicle

you **may**:

- enter and search that vehicle for the evidential material without warrant (whether or not the person arrested was with the vehicle).

Note: Section 84 is only intended to allow you to search a vehicle in a public place.

Stolen Property

s29 - Power to search vehicles without warrant for stolen property

If you have reasonable grounds to **believe** that:

- any stolen property is in or on any vehicle

you **may**:

- search the vehicle without warrant.

Note: Section 29 is intended to allow you to search a vehicle in a public place.

If the vehicle is on private property, you should seek a search warrant or use an alternative warrantless power.

Seizure of items of uncertain status and in plain view

s112 - Items of uncertain status may be seized

If you are exercising a search power **and**:

- you are uncertain whether any item found may be lawfully seized
and
- it is not reasonably practical to determine whether the item can be seized at the place or vehicle where the search takes place

you **may**:

- **remove** the item for analysis or examination to determine whether it may be lawfully seized.

s123 - Seizure of items in plain view

If you, as part of your duties:

- exercise a search power or
- are conducting a lawful search of a person or
- are lawfully in any place or in or on a vehicle

you **may** seize any item(s) you (or anyone assisting you) find:

- in the course of carrying out the search
or
- as a result of observations at that place or in or on the vehicle

and you have reasonable grounds to **believe** that you could have seized the item under:

- any search warrant that you could have obtained
or
- any other search power you may exercise.

Note: Items in plain view or of uncertain status can be seized during a search of a place, vehicle, other thing or a person.

s133 – Inventory of items seized

If you seize anything as a result of a search of a place, vehicle or other thing, you **must** supply:

- a written notice (warrantless search notice) or a copy of any search warrant/order (only if not provided on entry) **and**
- an inventory specifying what has been seized

to:

- the occupier of the place
or
- the person in charge of the vehicle or other thing
and
- to every other person you believe is the owner of the thing seized

- at the time of the seizure
or
- as soon as practicable after the seizure
or
- in every case, no later than 7 days after the seizure.

If the person in charge of the vehicle or other thing or the occupier of the place is not present at the time of the seizure, you **must** leave:

- a written notice (warrantless search notice) or a copy of any search warrant **and**
- an inventory specifying what has been seized

in a prominent position.

SS03 Powers when dealing with vehicles

LEARNING OBJECTIVES

At completion of this chapter, recruits will be able to:

1. Explain the statutory obligations required when stopping a vehicle.
2. Identify and explain the warrantless powers available in relation to stopping and dealing with vehicles.
3. Recognise when you must complete an online notification to report use of powers.
4. Explain the warrantless powers in relation to road blocks.

Vehicle stops

s9 - Stopping a vehicle to find persons unlawfully at large or who have committed certain offences (imprisonable offences)

If you have reasonable grounds to **suspect** that a person is:

- unlawfully at large
or
- has committed an offence punishable by imprisonment
and
- you have reasonable grounds to **believe** the person is in or on a vehicle

then you **may**:

- stop the vehicle without warrant to arrest the person.

s10 - Powers and duties of constable after vehicle stopped

If you are exercising the stopping power under s9 you **may**:

require any person in or on the vehicle to supply all or any of their name, address, other contact details and DOB **if** you have reasonable grounds to **suspect**:

- they are unlawfully at large
or
- they have committed an offence punishable by imprisonment.

then you **may** also:

- search the vehicle to locate the person the vehicle was stopped for **if** you have reasonable grounds to **believe** that person is in or on the vehicle
- search the vehicle to locate evidential material in relation to any offence in respect of which the vehicle was stopped **if** the person sought:
 - has been arrestedor
 - is seen fleeing from the vehicle before they can be arrested.

If the driver is not the person the vehicle was stopped for you **must** tell the driver the object of the proposed search before conducting the search.

Stopping vehicles with or without warrant for purposes of search

s121(1) - Stopping a vehicle without a warrant for purposes of search

If you are satisfied that there are grounds to conduct a warrantless search under this Act, you **may**:

- stop a vehicle to conduct the warrantless search.
-

s121(2) - Stopping a vehicle to execute a search warrant

If you are satisfied that a search warrant has been issued under this Act and it is in force, you **may**:

- stop a vehicle to execute the search warrant.
-

If you are exercising a power under s121(1) or (2) **you must on request** of any person affected by the stop:

- identify yourself by name or unique identifier
and
 - state the Act under which the search is taking place and the reason for the search unless it is impracticable in the circumstances
and
 - produce evidence of your identity if you are not in Police uniform.
-

Note: Police policy states that when stopping a vehicle you **must**:

- be wearing a Police uniform or distinctive cap, hat or helmet with a badge of authority affixed to that cap, hat or helmet **or**
- be following immediately behind the vehicle and displaying flashing blue lights or flashing blue and red lights, **and/or** sounding a siren.

s122 - Moving a vehicle for the purpose of search or safekeeping

If you find or stop a vehicle **and** you have:

- lawful authority to search the vehicle, but it is impracticable to do so at that place
or
 - reasonable grounds to believe that it is necessary to move the vehicle for safekeeping
-

you **may**:

- move the vehicle to another place.
-

s128 - Duty to remain stopped

If you exercise a power to:

- stop a vehicle
or
 - search a vehicle
-

you **may** require the vehicle to remain stopped for as long as is reasonably necessary to exercise any powers in relation to:

- the vehicle
or
- the occupants of the vehicle.

s129 - Duty to provide information

If you exercise a power to stop a vehicle, as soon as you have stopped it, you **must** provide the driver with:

- your name or unique identifier
and
- the Act under which the search is taking place and the reason for the search unless it is impracticable to do so in the circumstances
and
- proof of your identity if you are not in Police uniform (Police policy).

Road Blocks

s30 - Obtaining authorisation for warrantless road block

If a senior constable (Sergeant / Acting Sergeant or higher)

- has reasonable grounds to **believe** that in or on a vehicle there is a person they have reasonable grounds to **suspect**
 - has committed an offence punishable by a term of imprisonment
- or
- is unlawfully at large
- and
- has reasonable grounds to **suspect** that the vehicle will travel past the place where it is proposed that the road block be established
- and
- is satisfied that, as far as is reasonably practicable, the safety of all road users will be ensured in the area in which it is proposed that the road block be established

then the senior constable (Sergeant / Acting Sergeant or higher) may:

- authorise the establishment of a road block to arrest the person.

s32 - Authorised road blocks implemented without warrant

When a road block is authorised under s30, you **may**:

establish	a road block at the place specified in the authorisation
stop	vehicles at or in the vicinity of the road block
require	any person in or on any vehicle stopped by the road block, who you have reasonable grounds to suspect has committed an offence punishable by imprisonment, to state any or all of his or her name, address and date of birth
search	the vehicle for the purpose of locating the person who has committed an offence punishable by a term of imprisonment or who is unlawfully at large if any constable has reasonable grounds to believe the person is in or on the vehicle

SS04 Serious Offence Searches

LEARNING OBJECTIVES

At completion of this chapter, recruits will be able to:

1. Identify and explain the warrantless powers available to search people, places, vehicles for evidential material when serious offences have occurred.
2. Explain the warrantless incidental powers available to secure, detain occupants and search.
3. Recognise when you must complete an online notification to report use of powers.

Securing a place, vehicle or other thing to be searched

s116(1)(a) – Secure place, vehicle or other thing

If you are carrying out any search of a place, vehicle or other thing, you may, in a reasonable manner and for a reasonable duration:

- secure the place, vehicle or other thing being searched
 - secure any area in or on that place, vehicle or other thing
 - secure any items found in or on that place, vehicle or other thing.
-

116(1)(b) – Exclude person from place, vehicle or other thing

If you **believe** a person will obstruct or hinder any of the powers above, you **may**, in a reasonable manner and for a reasonable duration:

- exclude any person from the place, vehicle or other thing being searched
 - exclude any person from any area within the place, vehicle or other thing
 - give any reasonable direction to such a person.
-

116(2) – Obligations on request by affected persons

If you are exercising the powers above and any person **affected requests** it, you must:

- identify yourself by name or unique identifier
and
 - state the name of the Act under which the search is taking place
and
 - the reason for the search unless it is impractical to do so in the circumstances
and
 - provide proof of your identity if you are not in Police uniform.
-

Note: Police policy states that you should always show identification when not in Police uniform. For this section, to “secure” means to “freeze, control and preserve” a scene.

s118 - Powers of detention incidental to powers to search places and vehicles

If you exercise a search power in relation to a place or vehicle

and

you need to determine if there is any connection between a person at the place or in or on the vehicle and the object of the search, then you **may**:

detain any person who:

- is in that place or in or on the vehicle at the start of the search
or
 - arrives at the place while the search is being carried out
or
 - stops at, or enters, or tries to enter the vehicle while the search is being carried out.
-

When detaining a person, you **may**:

- detain them for a reasonable period but for no longer than the duration of the search: s118(2)
 - use reasonable force to effect and continue the detention of the person at the search scene: s118(4).
-

Note: The detention of a person starts when they are directed to remain and ends when the person is told they are free to leave by the person exercising the search power.

Should the person leave the search scene (without reasonable excuse) where they have been detained, they can be arrested and charged under s176 of this Act.

s119 - Powers to search persons at a place or vehicle

If you exercise a power of search in relation to a place or vehicle you **may** search any person:

- found at the place or in or on the vehicle
or
 - who arrives at the place
or
 - who stops at, or enters, or tries to enter or get into or onto the vehicle
-

if either:

- you have reasonable grounds to believe that evidential material that you are searching for is on the person: s119(1)
or
 - you have reasonable grounds to suspect that the person has in their possession a dangerous item that poses a threat to safety, and you believe that immediate action is needed to address that threat: s119(2).
-

You **must** return any item seized to the person it was seized from (unless possession of the item constitutes an offence) s119(3).

- once the search has been completed
or
- you are satisfied that there is no longer a threat to safety.

s117 - Entry where a search warrant is pending

If a search warrant application is about to be made or is being made:

and

- the application has not yet been granted or refused

and

- you **believe** on reasonable grounds that before the search warrant can be issued, evidential material may be concealed, altered, damaged, destroyed or **removed**

then at any time that is reasonable in the circumstances you **may**:

- enter and secure the place, vehicle or other thing

and

- secure any item or items found there

and

- direct any person to assist with the entry and securing of the place, vehicle or other thing or securing of items

You may only exercise this power until:

- the expiry of 6 hours after the power was first exercised

or

- the search warrant is available for execution at that place or vehicle

or

- the application for the search warrant is refused

Note: Should a person fail to comply with a direction under s117, they can be arrested and charged under s176 of this Act.

Evidential material (serious offences)

s15 - Entry without warrant to find and avoid loss of evidential material

If you have reasonable grounds to **suspect** that:

- an offence punishable by imprisonment for a term of 14 years or more:
 - has been committed **or**
 - is being committed **or**
 - is about to be committed

and you have reasonable grounds to **believe** that:

- evidential material relating to the offence is in a place
- and**
- if entry is delayed in order to obtain a search warrant, the evidential material will be concealed, altered, damaged or destroyed

you **may**:

- enter and search the place without warrant.

Note: Section 15 is also intended to allow you to search a vehicle in the place you are searching. This does not include a vehicle in a public place which is covered under section 17.

s16 - Searching people in public place without warrant for evidential material relating to certain offences

If a person is in a public place **and** you have reasonable grounds to **believe** that:

- the person is in possession of evidential material relating to an offence punishable by imprisonment for a term of 14 years or more

you **may**:

- search the person without warrant.
-

Selected additional powers (s16)

You may:

- **detain** a person for the duration of the search: s125(1)(d)
 - **search** anything the person is wearing or carrying or that is in their possession or immediate control: s125(1)(i)
 - **seize** anything the person is wearing or carrying, is in their physical possession or in their immediate control if that thing is the subject of the search or may otherwise be lawfully seized: s125(1)(j)
-

s17 - Warrantless entry and search of a vehicle for evidential material relating to certain offences

If a vehicle is in a public place **and** you have reasonable grounds to **believe** that:

- evidential material relating to an offence punishable by imprisonment for a term of 14 years or more is in or on the vehicle

you **may**:

- enter and search the vehicle without warrant.
-

Note: Section 17 only allows you to search a vehicle in a public place. Section 15 allows you to search a vehicle if it is in a place you are searching.

SS05 Warrant Preference Rule

LEARNING OBJECTIVES

At completion of this chapter, recruits will be able to:

1. Explain the warrant preference rule.
2. Explain the considerations which should be recorded in their decision record if they use a warrantless power.

Warrant Preference Rule

Under the Search and Surveillance Act a *lawful* search is conducted:

- with a search warrant, or
- under a warrantless search power, or
- with the person's consent.

The courts have been clear that this is the preferred order of how searches should be conducted.

Under the Search and Surveillance Act a *reasonable* search is a search that:

- complies with section 21 of the NZ Bill of Rights Act and considers factors such as:
 - the nature of the search
 - how intrusive the search is
 - where and when the search takes place

Before considering any search, you should think about whether applying for a search warrant is practicable in the circumstances.

If it is, then **you should apply** for a search warrant even if a warrantless power is available.

If you decide to use a warrantless power, you should have reasonable grounds to believe that it is not practicable to apply for a search warrant in the circumstances.

Decision Log

When you are deciding whether to apply for a search warrant the following factors may be considered.

- Is there time to gain approval and apply for a search warrant?
- Do you have a genuine belief that evidence will be concealed, altered, damaged or destroyed (CADD) (Sections 8, 15, 20, 83, 117 include CADD).
- Are there staff available to prepare a search warrant?
- The location of the search and who is present.
- Can the scene be secured? (Section 117) pending a search warrant
- Is there continuing potential risk for the safety of any person (note, if the risk is immediate then consider a warrantless entry/search power)

Remember to record your considerations in your decision log (Notebook).

If you are later giving evidence in court and you used a warrantless power the defence will most likely ask you if you considered whether to ask for a search warrant. You will also be asked if you considered making an oral application for a search warrant.

Recent case law where officers gave evidence that they did not consider a search warrant, has resulted in their searches being found unlawful.

You will be in a strong position, however, if your notebook decision log and verbal evidence shows that you considered getting a search warrant and your decision log outlines the reasons why you decided to use a warrantless search rather than a search warrant.

Oral Applications for Search Warrants

The second decision to be made if a search warrant is to be sought is whether to opt for an oral application rather than a written one.

Factors to consider with this decision are similar to those listed in applying for a search warrant.

- The urgency of the situation (if the situation is not urgent, the issuing officer may refuse to hear your application and can ask you to provide a written application and search warrant). Genuine belief that CADD will occur.
- Availability of resources to secure the scene under Section 117.
- Scene is in a remote location - cell phone coverage.
- Time of the day and whether the issuing officer is available.
- The complexity of the application and whether it can properly be determined on an oral application.
- Availability and access to the on-line Search and Surveillance system.

Making an Oral Applications for a Search Warrant

Make notes regarding the offence and your grounds to believe the evidential material you wish to search for will be located in the target vehicle/place. (Use the “Oral Application for a search warrant” template).

Unless impracticable, obtain approval/assistance from a Sergeant or above.

Use your copy of the template to dictate the application to the Issuing Officer by phone.

The Issuing Officer will make notes about the circumstances and grounds for the application on their own copy of the template.

The Issuing Officer can dictate the search warrant for you to fill in a blank “Search Warrant” template. They will direct you to endorse it with the date and time of issue and the issuing officers identifying number.

Note: Officers should carry copies of the two blank templates (“Oral Application for a Search Warrant” and the “Search Warrant”) so that an oral application can be made.

When an oral application is made to an issuing officer, the applicant must “back capture” the application and outcome of the search warrant as soon as possible in the on-line search and surveillance system. This enables the target history details to populate any future applications on the same target(s).

Previous search warrant application re the same target(s) within the last three months must be notified to the issuing officer. Search in On Duty or NIA to identify any previous warrants.

Additional Powers

The following warrantless powers allow you to detain and search suspects, vehicles and places without arresting suspects first.

LEARNING OBJECTIVES

At completion of this chapter, recruits will be able to:

1. Identify and explain the warrantless powers for arms, drugs and offensive weapons.
2. Recognise when you must complete an online notification to report use of powers.

Arms

s18 - Warrantless searches associated with arms

If you (any constable) have reasonable grounds to **suspect** that a person who is carrying arms, or is in possession of them or has them under their control **and**

- the person is in breach of the Arms Act 1983
or
- the person, by reason of their physical or mental condition, is incapable of having proper control of the arms
or
- the person, by reason of their physical and mental condition, may kill or cause bodily injury to any person
or
- a protection order is in force against the person under the Family Violence Act 2018
or
- there are grounds to make an application against the person for a protection order under the Family Violence Act 2018
or
- a police safety order is in force against the person under the Family Violence Act 2018

then you **may do any or all** of the following without warrant:

- search the person
- search anything in their possession or under their control (including a vehicle)
- enter a place or vehicle to search:
 - the person
 - anything in the person's possession or under their control (including a vehicle)
- seize and detain any arms found
- seize and detain the person's firearms licence.

s18(3) – Powers in relation to category 3 or 4 offence

If you (any constable) have reasonable grounds to **suspect** that there are arms in a place or vehicle **and**

- a category 3 or 4 offence or an offence against the Arms Act 1983:
 - has been committed or
 - is being committed or
 - is about to be committed
- or

- the arms may be evidential material in relation to a category 3 or 4 offence or an offence against the Arms Act 1983

you **may** without warrant:

- enter the place or vehicle and search it
- seize and detain any arms or firearms licence found there.

Note: Advise your NCO if you intend to execute a warrantless search for arms, unless impractical in the circumstances.

Section 18(3) powers are available to any constable.

Under the Search and Surveillance Act 2012, the definition of “arms” includes ammunition (refer Key Definitions).

Drugs

s20 - Warrantless search of places and vehicles in relation to some Misuse of Drugs Act 1975 (MODA 1975) offences

If you have reasonable grounds to **believe** that in or on a place or vehicle there is:

- a controlled drug or precursor substance
and
- you have reasonable grounds to **believe** that it is not practicable to obtain a warrant
and
- you have reasonable grounds to suspect that in or on the place or vehicle an offence against the MODA 1975:
 - has been committed **or**
 - is being committed **or**
 - is about to be committed
 and
- you have reasonable grounds to **believe** that if an entry and search is not carried out immediately evidential material relating to the suspected offence will be concealed, altered, damaged or destroyed

then you **may**:

- enter and search that place or vehicle without warrant.

Note: Advise your NCO if you intend to execute a warrantless search for drugs, unless impracticable in the circumstances.

s21 - Warrantless searches of people found in or on places or vehicles

If you conduct a search of a place or vehicle under s20 you **may**:

- search any person found in or on the place or vehicle without a warrant.

Selected additional powers (s21)

You may:

- **detain** a person for the duration of the search to enable the search to be carried out: s125(1)(d)
- **search** anything the person is wearing or carrying or that is in their possession or immediate control: s125(1)(i)

- **seize** anything the person is wearing or carrying, is in their physical possession or in their immediate control if that thing is the subject of the search or may otherwise be lawfully seized: s125(1)(j)
-

s22 - Warrantless power to search for controlled drugs and precursor substances if offence suspected against MODA 1975

If you have reasonable grounds to **believe** that a person is in possession of a controlled drug or precursor substance **and**

- you have reasonable grounds to **suspect** that an offence against the MODA 1975:
 - has been committed or
 - is being committed or
 - is about to be committed

then you **may** without warrant:

- search the person.
-

Note: Advise your NCO if you intend to execute a warrantless search for drugs, unless impracticable in the circumstances.

Selected additional powers (s22)

You may:

- **detain** a person for the duration of the search to enable the search to be carried out: s125(1)(d)
 - **search** anything the person is wearing or carrying or that is in their possession or immediate control: s125(1)(i)
 - **seize** anything the person is wearing or carrying, is in their physical possession or in their immediate control if that thing is the subject of the search or may otherwise be lawfully seized: s125(1)(j)
-

Note: The powers under sections 20 and 22 are only available when searching for drugs listed in the following schedules to the MODA 1975:

- a controlled drug specified in:

Schedule 1

- Part 1 of Schedule 2, or
- Part 1 of Schedule 3, or

- a precursor substance specified in Part 3 of Schedule 4.

Offensive weapons

s27 - Searching people in public places without warrant if offence against section 202A(4)(a) of the Crimes Act 1961 suspected

If you have reasonable grounds to **suspect** that:

- a person is committing an offence against s202A(4)(a) of the Crimes Act 1961 (in a public place)

then you **may** without warrant:

- search the person.

Selected additional powers (s27)

You may:

- **detain** a person for the duration of the search: s125(1)(d)
- **search** anything the person is wearing or carrying, is in their physical possession or in their immediate control: s125(1)(i)
- **use reasonable force** to carry out the search of a person: s125(1)(e)
- **seize** anything the person is wearing or carrying, is in their physical possession or in their immediate control if that thing is the subject of the search or may otherwise be lawfully seized: s125(1)(j)

s28 - Searching vehicles without warrant for offensive weapons

If you have reasonable grounds to **suspect** that:

- a person travelling in a vehicle (or who has exited from the vehicle) is committing an offence against s202A(4)(a) of the Crimes Act 1961 (in a public place)
and
- the vehicle contains a knife, offensive weapon or disabling substance

then you **may** without warrant:

- search the vehicle.

Recruit Resource Book

Road Policing & Driver Training

RP01-RP08



**NEW ZEALAND
POLICE**
Ngā Pirihimana o Aotearoa

VERSION 1.4

ENDORSED BY: Initial Training, NZ Police

DATE: May 2024



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Road Policing – RP01

LEARNING OBJECTIVES

At completion of this chapter, recruits will be able to:

1. Discuss the role New Zealand Police plays in the NZ Road Safety Strategy 'Road to Zero'
2. Explain what each of the letters in the acronym 'RIDS' represents.

Improving road safety outcomes

Why is road safety a priority?

Every year hundreds of people are killed on New Zealand's roads and thousands more are seriously injured. New Zealand's road death rate is significantly worse than countries who have introduced road safety strategies to improve the safety on their roads.

We know speed, impairment, distraction and not wearing seatbelts remain major factors in road deaths and injuries. But we also need to look at other contributing factors such as the state of the road network, the quality of vehicle safety standards, which help address the fact that humans make mistakes and that we are physically vulnerable on our roads.

Improving road safety outcomes

In April 2018, Police began working with our transport partners on the Road to Zero road safety strategy to support a significant and sustained improvement in road safety outcomes.

Vision Zero

Road to Zero is based on Vision Zero, a world-leading approach that refers to a societal commitment to work towards zero harm on the road. First launched in Sweden in 1997, it has been adopted by places like Norway, New York and London.

Under the Vision Zero philosophy, no loss of life is acceptable. It is based on the fact that we are human and make mistakes so, while the road system needs to keep us moving, it must also be designed to protect us.

How we can achieve no deaths and serious injuries on our roads

Our Road to Zero vision is 'a New Zealand where no one is killed or seriously injured in road crashes'. It is based on Vision Zero.

Adopting this vision means we no longer viewing the deaths on our roads as a 'toll' we're prepared to pay for mobility. Whilst systems cannot be designed to prevent every crash, they can, and should, keep people alive when crashes happen. Vision Zero applies the expectation that loss of life should NOT be an inevitable and accepted consequence of using our road system. By adopting this vision, our country is taking meaningful and sustained steps towards reducing road trauma.

How we decided on a target to reduce death and serious injuries

The target to reduce road user death and serious injuries by 40% by 2030 resulted from modelling of a substantial programme of road safety improvements over the next 10 years. The modelling is based on robust international evidence on how effective some interventions are.

The modelling shows that the best gains can be achieved by sustained investment in infrastructure improvements and effective enforcement, alongside safer speeds, safer vehicles, and deterring high-risk behaviours.

Who is responsible for delivering this strategy?

Partner agencies

The Road to Zero strategy is implemented through a series of action plans which allocate responsibilities to transport sector partners. These partners include Ministry of Transport, Waka Kotahi NZ Transport Agency, ACC, New Zealand Police and local government.

Under a Safe System, responsibility is shared between road users and system designers. So, for example:

- road users have to take steps to increase their safety, such as complying with road rules, buying the safest car they can afford, and not driving whilst impaired by alcohol, drugs, fatigue or distraction.

So where do the NZ Police fit into all of this?

NZ Police plays an important part in helping to make New Zealand roads safer through rigorous enforcement of the traffic laws including alcohol and speed regulations; promoting good driving practices; and road safety education.

We also work with other road safety organisations to implement the Government's Road to Zero Strategy and safe systems approach.

Things like the information provided in a Traffic Crash Report may go towards lowering the speed limit or changing the design of the road that has a high crash rate.

NZ Police are committed to Safe Roads - preventing death and injury with our partners. *Our Business*, NZ Police's guiding strategic document, includes this as part of 'What we do'.



Top four Risk Behaviours

Risk behaviours

The top four risk behaviours Police are targeting that can make a significant difference are Restraints, Impairment, Distractions and Speed (**RIDS**). There is still a lot of work to do through rigorous enforcement to ensure we meet our goal of having safe roads, free from death and injury.

Restraints

We want all vehicle occupants to wear restraints at all times to maximise crash survival probability. Not wearing a seat belt is identified as a contributing factor in approximately 26% of NZ road related deaths.

Impairment

We want to prevent impairment related crashes (alcohol, drugs and fatigue) entirely. Impairment is identified as a contributing factor in approximately 47% of NZ road related deaths.

Distractions

We want all drivers to focus on the task of driving and to expect the unexpected. Distraction is identified as a contributing factor in approximately 7.5% of NZ road related deaths and serious injuries.

Speed

We want to reduce crash severity through the reduction of mean speed across the network. Speed is identified as a contributing factor in approximately 35% of NZ fatal crashes.

Land Transport Act 1998 – RP02

LEARNING OBJECTIVES

At completion of this chapter, recruits will be able to:

1. Define the following Land Transport Act definitions:
 - Driver
 - Vehicle
 - Operate
 - Road
 - Vehicle
2. Explain New Zealand's graduated driver licensing system.
3. Identify common driver licensing offences.
4. Identify and explain the following Land Transport Act offences:
 - Inconsiderate driving
 - Careless driving
 - Dangerous driving
 - Reckless driving
5. Be aware of the "boy racer" related offences.

Transport law definitions

Driver

'Driver' in relation to a vehicle, includes the rider of the motorcycle or moped or bicycle; and 'drive' has a corresponding meaning.

Motor vehicle

'Motor vehicle' means a vehicle drawn or propelled by mechanical power, and includes a trailer; but does not include:

- a vehicle running on rails; *or*
- a trailer (other than a trailer designed solely for the carriage of goods) that is designed and used exclusively as part of the armament of the New Zealand Defence Force; *or*
- a trailer running on one wheel and designed exclusively as a speed measuring device or for testing the wear of vehicle tyres; *or*
- a vehicle designed for amusement purposes and used exclusively within a place of recreation, amusement, or entertainment to which the public does not have access with motor vehicles; *or*
- a pedestrian-controlled machine; *or*
- a vehicle the Director has declared under section 168A of the Land Transport Act 1998 is not a motor vehicle; *or*
- a mobility device.

Operate

In relation to a vehicle, 'operate' means to drive or use the vehicle on a road, or to cause or permit the vehicle to be on a road or to be driven on a road, whether or not the person is present with the vehicle; and 'operator' has a corresponding meaning.

Road

'Road' includes:

- a street; *and*
- a motorway; *and*
- a beach; *and*
- a place to which the public have access, whether as of right or not; *and*
- all bridges, culverts, ferries, and fords forming part of a road or street or motorway, or a place referred to in the previous bullet points; *and*
- all sites at which vehicles may be weighed for the purposes of this Act or any other enactment.

Vehicle

- ‘Vehicle’ means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; **and includes:**
 - a hovercraft,
 - a skateboard,
 - in-line skates,
 - and roller skates;
- but does not include:
 - a perambulator or pushchair
 - a shopping or sporting trundler not propelled by mechanical power
 - a wheelbarrow or hand-trolley
 - a pedestrian-controlled lawn mower
 - a pedestrian-controlled agricultural machine not propelled by mechanical power
 - an article of furniture
 - a wheelchair not propelled by mechanical power
 - any other contrivance specified by the rules not to be a vehicle for the purposes of this definition
 - any rail vehicle.

Types of driver licences

Introduction

Drivers must hold a driver licence before driving a motor vehicle.

The definition of a ‘road’ is very wide, and a licence is required for a driver to legally drive in any place covered by that definition.

Types of licences

New Zealand has a graduated driver licensing system. There are three categories of driver licence:

- the learner licence (blue)
- the restricted licence (yellow)
- the full licence (green)

Learner licenses

A learner licence allows a person to drive on a road under the following conditions:

- The person must be accompanied by a supervisor seated in the front passenger seat, who has held a full licence for at least two years.
- The person must carry the learner licence while driving and produce it on demand.
- The person must display two ‘L’ plates on the vehicle.

Restricted licenses

A restricted licence allows a person to drive on a road under the following conditions:

- When driving between 10pm and 5am, the person must be accompanied by a supervisor seated in the front passenger seat who has held a full licence for at least two years.

- If carrying passengers, the person must be accompanied by a supervisor (see above) unless the passengers are their spouse, partner, guardian or dependant.
- The person must carry the restricted licence while driving and produce it on demand.

Time limit for holding Learner and Restricted licences

Learner and Restricted licences expire after ten years. They can be renewed at any point in that ten year span.

Full licences

With a full licence, the learner and restricted conditions no longer apply, except that the driver must carry the licence while driving and produce it on demand.

Limited licences

A limited licence means the driver is subject to special conditions. All limited licences are pink in colour for easy identification. There are three different types of limited licence:

Limited Licence: No licence classes are shown. 'Limited licence expiry DD/MM/YYYY' appears. The conditions on the back require the driver to carry the court order at all times and drive under the conditions of it.

Alcohol Interlock Licence: This driver has an alcohol interlock condition which allows them to only drive vehicles which are fitted with an alcohol interlock device.

Zero Alcohol Licence: The words 'zero alcohol' appear on the front of the licence. This driver has a zero-alcohol condition which means they must maintain a zero-alcohol limit when driving.

Driver licence offences

Failing to comply with learner/ restricted conditions: Section 31

It is an offence under section 31 to fail to comply with the conditions of a learner or restricted licence.

Contravening the conditions of these licences is always an infringement offence, with a fee of \$100 and 35 demerit points.

Failing to produce a Driver Licence on demand is a \$55 infringement offence.

No driver licence or failing to produce a licence: Section 31

Under section 31 of the Act, a person commits an offence if they:

- (a) Drive a motor vehicle on a road:
 - (i) with an expired licence, *or*
 - (ii) without an appropriate driver licence; *or*
- (b) Drive a motor vehicle contrary to the conditions of their driver licence; *or*
- (c) Are the driver of a motor vehicle and fail to produce their driver licence for inspection without delay after being required to do so by an enforcement officer; *or*
- (d) Fail to return their driver licence to NZTA when required to do so

The maximum penalty on conviction for an offence is a fine not exceeding \$1,000.

Returning driver licences

A driver licence must be returned to the Director under section 30 if the holder:

- has their licence suspended or revoked
- is disqualified from holding or obtaining a driver licence
- has their licence superseded by another licence (new licence issued).

Driving while disqualified: Section 32

Under section 32 of the Act, a person commits an offence if they drive a motor vehicle on a road:

- (a) While disqualified from holding or obtaining a driver licence;
- or*
- (b) Contrary to a limited licence; *or*
- (c) While their driver licence is suspended or revoked.

Penalties imposed increase if subsequent similar offences are committed.

The courts may disqualify a defendant as a result of being convicted for a traffic matter relating to road safety; for example, careless driving, dangerous driving, reckless driving, and EBA convictions.

What disqualification involves

Disqualification means that the defendant must not drive, or have control of, any motor vehicle on any road for the term of the disqualification. They cannot apply for a new driver licence.

The disqualification is a **total** one. It means that the defendant is not allowed to drive any motor vehicle. For example, if the defendant was disqualified as a result of a traffic incident while driving a car, they are not allowed to ride motorcycles or drive trucks.

Limited licences

Convicted people can apply to the court for a 'limited' licence, which gives them permission to drive vehicles purely for employment purposes. There are terms and conditions imposed on these licences, which can be extremely expensive to obtain. The court can decline the application.

Arrest versus summons

Time, place and circumstance will dictate whether you should arrest or summons. The following example demonstrates when a summons may be more appropriate:

A family of four are heading to Kaitaia on holiday from Wellington. The driver is stopped in Taupo and the disqualification is discovered. The family will be inconvenienced enough with having their car seized for 28 days. A summons may be more prudent.

Major driving offences

Introduction

Enforcement officers have many powers to stop, inspect and report motorists when they fail to maintain a safe standard of driving.

Driving standards

Failing to maintain an acceptable standard of driving in the circumstances at the time falls into four classes, depending on the seriousness of the breach.

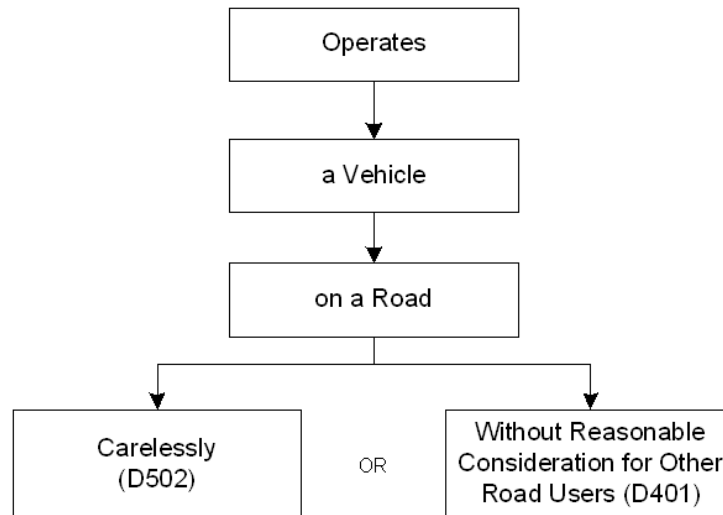
The four classes are, ranging from least serious to most serious:

- inconsiderate driving
- careless driving
- dangerous driving
- reckless driving

“Anti-Social Road Users”

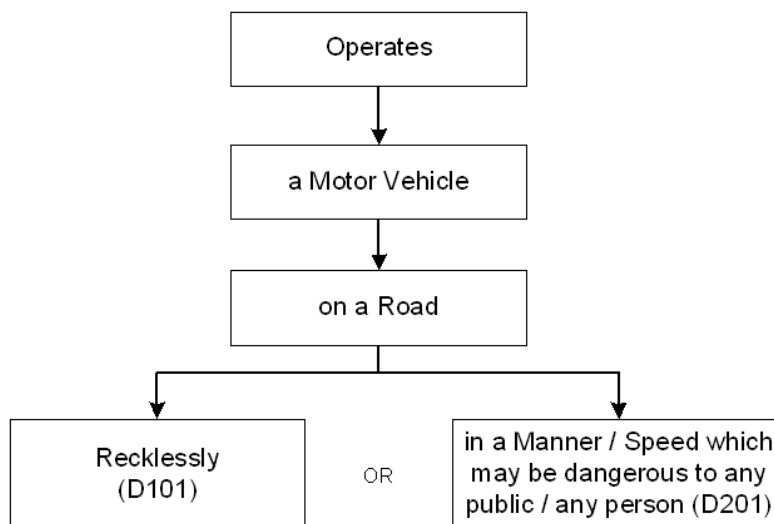
In addition, there are offences known as ‘Anti-Social Road Use’. These offences make it illegal to race, make an unnecessary exhibition of speed, or pour substances onto the road to induce loss of traction.

Inconsiderate or careless use: Section 37



Arrest power: *There is no power of arrest for this offence.*

Reckless or dangerous driving – Section 35



Arrest power: *There is a power of arrest for this offence from s.315 Crimes Act 1961.*

Be aware: *There are related aggravating offences such as causing injury or death for the four offences mentioned. There is a power of arrest for all (including inconsiderate or careless). They also do not have to be committed on a road. They can occur anywhere such as on a private road or farm.*

The chart below gives examples of each driving breach:

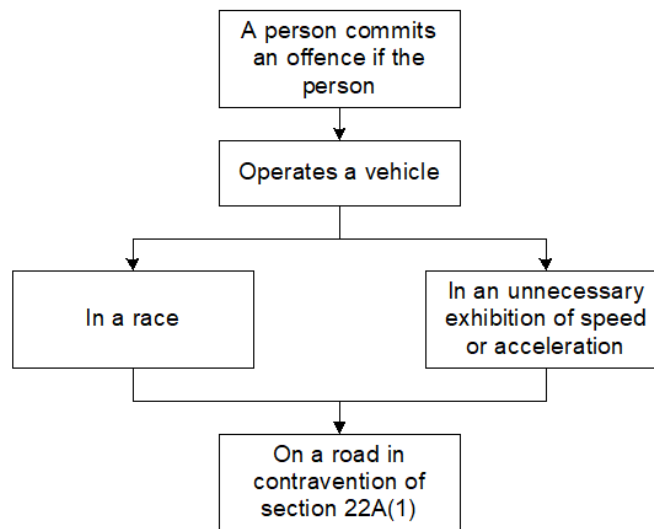
Breach	Explanation	Example
Inconsiderate	<ul style="list-style-type: none"> Driving that includes inattention or thoughtless actions or omissions, as well as deliberate ones, which is inconsiderate to the other road users. 	<ul style="list-style-type: none"> Driving at such a slow speed as to hinder traffic. (This offence can also be issued as an infringement – slow speed, inconsiderate use.) Not taking reasonable steps to allow a line of following vehicles to pass.
Careless	<ul style="list-style-type: none"> Falling below the driving standards of a reasonable prudent motorist. 	<ul style="list-style-type: none"> Indicating a left turn, then changing your mind and immediately turning right into the path of an overtaking car. Colliding with a correctly parked car, while travelling along a street.
Dangerous	<ul style="list-style-type: none"> Driving in a manner or speed which was or might have been dangerous to anyone. 	<ul style="list-style-type: none"> A driver on a two-lane road pulling out to overtake on the wrong side of the road in the face of oncoming traffic. Travelling at 80kph at 0830 hrs in a 50kph built-up area; presence of school children, other pedestrians, vehicles, etc.
Reckless	<ul style="list-style-type: none"> Knowingly disregarding one's duty as a driver Deliberately running an unjustifiable risk of injury or collision. 	<ul style="list-style-type: none"> Knowingly trying to outrun a patrol car at night and turning off headlights, endangering public safety; that is, the same principles as for dangerous driving. Deliberately driving through a stop sign at 80-100kph, which the driver knows is there, knowing that they would not be able to stop if required to.

Note: Reckless driving requires an element of intent (mens rea) that is absent in dangerous driving.

Anti-Social Road Users offences

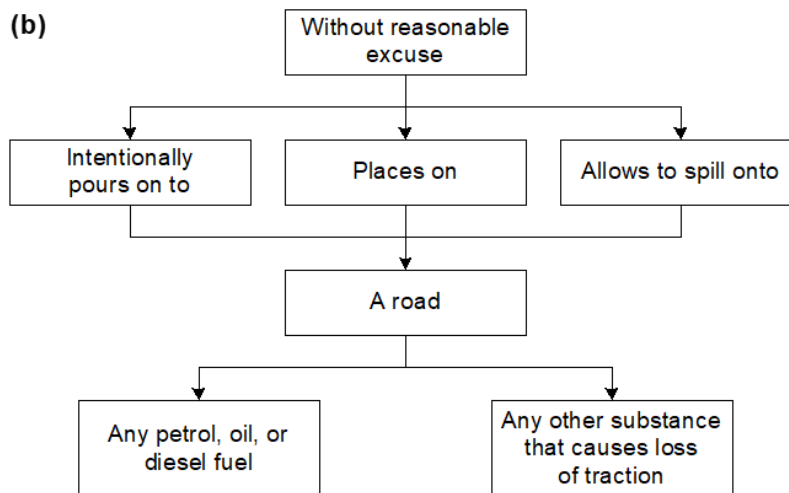
Engaging in unauthorised street or drag racing: Section 22A

1 (a)



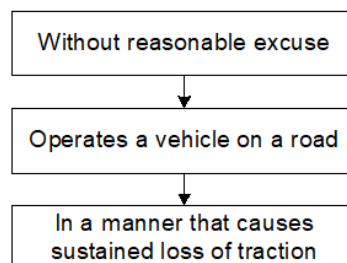
OR

1 (b)



OR

1 (c)



You can arrest for offences under subsections (1)(a) and (1)(c). Power of arrest is derived from Section 315 of the Crimes Act 1961.

Note: The offence relating to a “sustained loss of traction” is focused on the intent and actions of the driver and not simply on how long any loss of traction might be.

Overview of regulations around mobile phone use while driving

Introduction

The Land Transport (Road User) Amendment Rule 2009 introduced a range of new or updated regulations, including restrictions on the use of mobile phones when driving.

What is a mobile phone?

A mobile phone is a portable electronic device which functions as a telephone. It does not include any other type of two-way radio; nor does it include a voice or automatically activated earpiece/mouthpiece that is connected to a mobile phone to allow a driver to use the mobile phone without holding or manipulating it.

Interpretation

As a general rule:

- Mobile phones not in a mounting fixed to the vehicle can be used if the mobile phone does not need to be touched in any way. An example of this is a mobile phone on automatic answer, or where a hands-free kit is used that answers the mobile phone with a button on the headset or cord.
- Mobile phones secured in a mounting fixed to the vehicle can be used so long as the phone is manipulated infrequently and briefly.

Exemptions

A driver may while driving a vehicle use a mobile phone if they are calling 111 or *555 (does not include 105) and it is unsafe or impracticable for the driver to stop and park to make the call.

The regulations allow an enforcement officer to use a mobile phone only if it is being used in the execution of duty. However, it is important that Police set a good example by not using mobile phones when driving. The exemption applies only to Police employees with constabulary powers and when it is operationally necessary.

Traffic law powers – RP03

LEARNING OBJECTIVES

At completion of this chapter, recruits will be able to:

1. Explain the following police powers related to the Land Transport act 1998
 - Sections 113, 114, 115, 118, 119, 121, 122 and 123.
2. Identify circumstances where Police can suspend a driver's licence (Section 90 for excess demerit points and Section 95 for alcohol and speed offences) and impound vehicles (section 96).
3. Explain when a road safety directive is used.

Duties of drivers

Drivers of motor vehicles are required to be licensed and fit to drive, and the motor vehicles they drive are required to meet specific standards under various transport laws.

Your powers

This chapter outlines your powers as an enforcement officer under the Land Transport Act 1998 ('the Act').

Your powers include:

- Stopping vehicles and asking for the details of drivers and passengers.
- Using general powers to keep the roadway clear and free from unsafe vehicles.
- Taking the keys off unsafe drivers.
- Suspending licences and forbidding people from driving.
- Seizing vehicles and impounding them.

Using your discretion and being polite

When enforcing these powers, bear in mind that the great majority of road users are law abiding and these powers should be exercised with discretion and politeness.

Stopping vehicles and demanding details: Section 114

Power to stop vehicles and demand details

An enforcement officer:

- in uniform, *or*
- wearing a cap, helmet or hat displaying a badge of authority
- may request or signal a driver of a vehicle to stop as soon as practicable;

or

- an enforcement officer, in a vehicle, including one in plain clothes, may stop a vehicle by:
 - displaying flashing blue, or blue and red lights, *or*
 - sounding a siren

and demand that the driver state:

- their full name, full address, electronic address (if they have one), date of birth, occupation, and telephone number (or such of those particulars as the enforcement officer may specify),
- whether they are the registered person for the vehicle and, if not,
- the name and address of the registered person of the vehicle or such particulars within the driver's knowledge as may lead to the identification of the owner.

Keeping the driver stopped

The driver must remain stopped for as long as is reasonably necessary for you to:

- obtain particulars, or
- exercise any other power conferred under this Act.

If you stop the driver solely for the purpose of establishing their identity, you can delay them for up to 15 minutes for this purpose.

Power of arrest

You can arrest using Section 114(6) any person who:

- fails to stop
- refuses to supply details
- supplies details that you have good cause to suspect are false or misleading.

Offence

A driver who fails to comply with anything you have lawfully required of them under the Act can be charged under section 52.

Duty to be in uniform

The law requires you to be in uniform or wearing a distinctive cap, hat or helmet with a badge of authority attached to it. An officer who is in plain clothes has no power to signal drivers to stop unless they use a car fitted with flashing lights or a siren. Generally, both lights and siren should be used.

Vehicles that can be stopped

The power to stop vehicles applies to all vehicles, not just motor vehicles. This means you can use it to stop cyclists, rollerbladers, rollerskaters, skateboarders etc.

When to use section 114

Section 114 can be used to stop vehicles only if you are enforcing the Land Transport Act 1998 or other traffic-related Act or Regulations. It cannot be used as a general stopping power; for example, to stop a vehicle to speak to a driver who is acting suspiciously.

General roadway-related powers: Section 113

Acronym

The acronyms DIMDOD and FARMED may be used to memorise sections 113 and 121 respectively of the Land Transport Act 1998 (LTA).

General powers of transport legislation enforcement

An enforcement officer in uniform, or with evidence of identification as an enforcement officer, may enforce the provisions of the:

- Land Transport Act 1998
- Local Government Act 1974
- Local Government Act 2002
- Road User Charges Act 2012
- Government Roding Powers Act 1989
- Railways Act 2005
- Land Transport Management Act 2003.

This includes regulations and rules and bylaws in force under the above Acts.

Note: You can only use section 113 of the LTA if an offence against one of the acts listed above has been committed by the person.

LAND TRANSPORT ACT 1998 - Section 113

<p>Direct any person on a road to give</p> <ol style="list-style-type: none"> 1. Birth date 2. Address 3. Electronic address 4. Telephone # 5. Occupation 6. Name 7. Give information within their knowledge about the identity of the driver of the vehicle (unless that person is being detained or under arrest) 	<p>The person must be connected with a breach of the Road Policing laws, whether the Land Transport Act or other Land Transport Act / Regulations.</p> <p>So effectively we are talking about passengers of a vehicle or, on rare occasions, pedestrians here.</p> <p>If we are dealing with the DRIVER, we must use Section 114.</p> <p>There are FOUR occasions you can use this part of Section 113.</p> <ol style="list-style-type: none"> 1. You stop a vehicle under Section 114 and the driver runs off. You can demand these details (1 – 6) from the passengers and use #6 to attempt to establish the identity of the driver by interviewing the passengers. 2. You attempt to stop a vehicle using Section 114 and it fails to stop. It takes off and quickly turns a corner. As you turn the corner you see that the car has stopped and all people in the car are now standing on the pavement. You do not know who the driver is, so, you can demand details (1 – 6) from all of them and then interview them in an attempt to establish #6. 3. You witness a passenger committing an offence against road policing laws. Perhaps, a passenger for no seat belt or a licensed driver supervising a learner driver. Can demand (1 – 6). 4. A pedestrian is trying to cross the road in a dangerous place or manner. Can demand (1 – 6). <p>Note 1: If you stop a vehicle under Section 114 and speak with the driver, you have no power to demand the passenger’s details unless it is to establish the identity of the driver or that particular passenger has committed an offence.</p> <p>Note 2: A motorcyclist and a cyclist are drivers.</p>
<p>See example 2</p> <p>If you suspected alcohol was an issue you would breath test all four of them. Remember you can only prosecute the driver once they have been identified.</p>	
<p>Inspect, test, examine vehicle / documents</p>	<p>You can check the road worthiness of a vehicle such as brakes, steering and tyres. You can also examine licence labels and Warrants of Fitness.</p>
<p>Move or cause to be moved - any vehicle causing obstruction or a hazard</p>	<p>A car is parked in a dangerous position or is causing an obstruction.</p> <ol style="list-style-type: none"> 1. You can move it yourself 2. Have it moved perhaps a tow truck etc.
<p>Direct the driver or person in charge of the vehicle to move the vehicle</p>	<p>A car is parked in a dangerous position or is causing an obstruction. You tell the driver or person in charge of it to move it to a safe place.</p>
<p>Order (forbid)an unlicensed driver not to drive</p>	<p>You stop a vehicle and establish the driver does not have a driver’s licence for that class of vehicle. They commit an offence and you now also forbid to drive. Enter this in NIA.</p> <p>Can also order person operating a transport service without a licence to stop operating.</p>
<p>Direct traffic and pedestrians</p>	<p>Carry out point duty when traffic lights are out. Stop pedestrian crossing the road when dangerous.</p>
<p>If the person fails to give information or fails/refuses to carry out an action required</p> <p>You have a power of arrest under Land Transport Act 1998 - Section 116</p>	

As outlined in section 113, an enforcement officer may order an unlicensed driver not to drive. However, it should be noted that there is a difference with a person who has no licence for any class of motor vehicle and a person who is driving a motor vehicle with the wrong class of licence.

Non-compliance

Where a person is found operating a motor vehicle with no driver licence or the wrong class of licence and they have previously been forbidden to drive a motor vehicle of that class, the enforcement officer will:

- prosecute the driver for driving whilst forbidden or issue an ION, and
- must impound the motor vehicle pursuant to section 96 of the LTA.

A power of arrest is found in section 116 of the LTA.

Arresting and charging LTA section 116

You can arrest a person without warrant under section 116 if you have good cause to suspect the person has failed to comply with a direction given under sections 113 or 115 of the LTA.

A driver who fails to comply with any lawful requirement, direction, notice, request or prohibition imposed on them under the LTA commits an offence under section 52 of the LTA.

Comment

Sections 114 and 113 have several key differences.

- Section 114 allows you to stop vehicles.
- Section 113 does not allow you to stop vehicles.

- Section 114 allows you to demand details from a driver you have stopped.
- Section 113 allows you to obtain a person's details on a road:
 - who has committed an offence against specified acts referred to in section 113 of the LTA
 - when the identity of the driver of the vehicle is unknown.

Examples

The following examples demonstrate the use of section 113.

Example 1: *You are on patrol when you see a car drive past. The front seat passenger is not wearing their seatbelt.*

You can stop the vehicle and demand the driver's details under section 114 of the LTA and exercise any other powers under the LTA.

You can demand the passenger's details under section 113 as the passenger has committed the offence of not wearing a seatbelt. This enables you to issue an infringement notice to the passenger.

If the passenger refuses to give their details, they should be warned and if they continue to refuse, they may be arrested.

Example 2: *You have been tasked to deal with parking offences outside a local primary school.*

You observe a car stop and double park outside the school. You approach the driver and they explain they are just waiting for their children to finish school.

You can demand the driver's details under section 113 of the LTA as they are committing the offence of 'Double Parked' under the 6.11 Road User Rule 2004 which is a rule pursuant to the LTA.

If the driver refuses to give their details, they should be warned and if they continue to refuse, they may be arrested.

Example 3 (when you cannot demand details): *You are on patrol when you see a car drive past. You recognise the driver as a person you have recently arrested for driving while forbidden. You know he is a gang member and you also notice there are three male passengers in the car.*

You can stop the vehicle and demand the driver's details under section 114 of the LTA. You establish he has recently renewed his driver licence and is no longer forbidden. You check the vehicle and note the three passengers (who are wearing gang patches) are all wearing their seat belts and you have not detected any offences by them under any of the specified acts referred to in section 113 of the LTA.

As the passengers in the vehicle have not committed any offences against one of the Acts listed in Section 113, there is no power to demand their details.

Banning vehicles from the road: Section 115

These powers allow an enforcement officer to prohibit vehicles from being driven on a road.

Power to direct that a vehicle not be driven on a road (Green Sticker)

If you believe on reasonable grounds that a vehicle on a road is defective as it fails to comply with regulations or rules (for example: has a defective exhaust or a tinted windscreen).

A copy of Pol 650 is provided to the driver and a Green Sticker is affixed to the vehicle's front and rear windscreen (preferably covering the WOF sticker).

The affected vehicle must undergo a safety check by an authorised vehicle inspection agent. A new WOF will be issued if the vehicle passes. The agent advises Police and all alerts on NIA are removed.

Power to direct vehicle not to be driven on a road: (Pink Sticker)

If you believe on reasonable grounds that a vehicle on a road is **not in a safe condition to be driven on a road** (for example: it has illegal modifications, or structural rust). A copy of Pol 555 is provided to the driver and a Pink Sticker is affixed to the vehicles front and rear windscreen (preferably covering the WOF sticker).

The affected vehicle must undergo a safety check by an authorised vehicle inspection agent. A new WOF will be issued if the vehicle passes. The agent advises Police and all alerts on NIA are removed.

Condition on the notice

You can include a condition in the notice that the vehicle may be driven to a specified place for repair. Further conditions to green-stickered vehicles may include driving to a certain place (home or for repair) at a particular speed or route.

Power of arrest

You can arrest without warrant under section 116 if the person fails to comply with any of your directions under 115.

Offences

It is an offence against section 52 of the Land Transport Act 1998 to remove the coloured stickers from the vehicle or to drive the vehicle before it is repaired and has new certification.

Warrant of fitness

It is irrelevant whether the vehicle is displaying a current warrant of fitness. However, if an unsafe vehicle is displaying a current warrant of fitness, make further enquiries with the outlet that issued it.

Taking keys and forbidding to drive: Section 121

Acronym

The acronym **FARMED** may be used to memorise Section 121 of the Land Transport Act 1998.

Power to take keys and forbid driving

Where an enforcement officer believes on reasonable grounds that,

- (i) a person who is for the time being in charge of a motor vehicle,—
 - (A) because of his or her physical or mental condition (however arising), is incapable of having proper control of the vehicle; *or*
 - (B) has not completed a Compulsory Impairment Test in a manner satisfactory to an enforcement officer, who is trained to give the test, when required to do so by an enforcement officer under section 71A; *or*
 - (C) has failed or refused to undergo a compulsory impairment test when required to do so under section 71A; *or*
 - (D) has failed or refused to permit a blood specimen to be taken when required to do so by an enforcement officer under section 72(1)(a) or (e); *or*
- (ii) is not complying with driving hours (under any enactment),

the enforcement officer may carry out the following actions (FARMED):

- **FORBID** that person to drive for a specified time; *or*
- **ALL keys to be surrendered** (require to be 'given up'); *or*
- **RENDER** the vehicle immobile; *or*
- **MOVE**, or cause to be moved, any vehicle causing an obstruction or hazard, to a place where it does not constitute a hazard; *or*
- **EBA** offenders must be forbidden to drive for a 12-hour period; *or*
- **DIRECT** that person to drive to a specified place to rest if they have exceeded their driving hours (e.g., a member of the Commercial Vehicle Safety Team (CVST) inspecting a driver's log book has identified non-compliance and directed them to park in a rest area for a period of time).

Power of arrest

You can arrest a person without warrant for:

- failing to comply with your directions; *or*
- attempting to do an act forbidden by section 121.

Procedures

- Issue a Road Safety Directive (Pol 406), clearly stating what prohibitions and actions are being enforced.
- Place the seized keys in the Watchhouse area and record the details in the Seized Key Book.
- If vehicles are moved to a safe place, record the details as per station policy and enter an alert on the vehicle in NIA.

Be aware

Many drivers ignore your directions and use a spare key to drive again. If rendering a vehicle temporarily immobile, care must be taken to ensure no damage is done to the vehicle.

Obtaining information: Section 118

Obtaining information

An enforcement officer may require the owner or hirer of any vehicle to give, within 14 days, all information available to them which may lead to:

- The identification and apprehension of the driver, if that driver is alleged to have committed any offence against any Act while in charge of the vehicle.
- The identification and apprehension of any passenger if that passenger:
 - has **committed**
 - has **aided in the commission of**
 - has **avoided arrest for**

in or through the use of a vehicle

any offence against **any** Act.

- To prove an offence the person must have been the owner/hirer of the vehicle at the time of the offence.
- The information required must be within the owner/hirer's means or ability to supply.

Obtaining information after vehicle fails to stop

You as an enforcement officer can require the owner of a vehicle which has failed to stop or remain stopped for Police to **immediately** give you all the information available to them that would lead to the identification and apprehension of the driver.

You **may** impound the vehicle if the Registered Person fails to provide information under s118(4) about a Driver who has failed to stop, and impounding the vehicle is necessary to prevent a serious threat to road safety.

Section 118 does not apply if the owner is arrested or detained in relation to the suspected offence.

Offence

A driver who fails to comply with anything you have lawfully required of them under the Act can be charged under section 52.

Suspending licenses for 28 days: Section 95

28-day suspension of licence: Section 95

An enforcement officer who believes on reasonable grounds that any of the following situations apply must give notice to the person that their licence will be suspended for 28 days.

1. The person has been found to have breath alcohol of over 650mcg of alcohol per litre of breath.
2. The person has been found to have blood alcohol of over 130mgm of alcohol per 100ml of blood.
3. The person has been found to have breath alcohol of over 400mcg of alcohol per litre of breath and has been convicted for any 'relevant offence' within the last four years.
4. The person has been found to have blood alcohol of over 80mgm of alcohol per 100ml of blood and has been convicted of any 'relevant offence' within the last four years.
5. The person has been found to have a blood concentration level of a listed qualifying drug exceeding the high-risk level for the drug and has been convicted of any 'relevant offence' within the last four years.
6. The person has been found to have an unlisted qualifying drug in their blood after they failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer who is trained to give the test and has been convicted of any 'relevant offence' within the last four years.
7. The person failed or refused a blood test under section 72 or section 73 of the Land Transport Act:
 - at the request of an enforcement officer/health practitioner/medical officer, or
 - at hospital or medical centre.

8. The person drove a vehicle more than 40kph over the permanent posted speed limit. (Does not apply to infringements caught on speed camera.)
9. The person drove a vehicle 50kph over any speed limit other than the permanent one; for example, temporary speed limit, towing speed limit. (Does not apply to infringements caught on speed camera.)

Relevant offences

The 'relevant offences' are:

- section 56(1) excess breath alcohol >400
- section 56(2) excess blood alcohol >80
- section 57A(1) driving while impaired with blood that contains evidence of use of a qualifying drug
- section 57B(1) driving with two or more qualifying drugs in blood
- section 57C(1) driving with alcohol and one qualifying drug in blood
- section 58(1) incapable of proper control under the influence of drink or drug
- section 60(1) failed or refused to give blood
- section 61(1) caused death or injury with EBA
- section 61(2) caused death or injury while incapable.

Youth-level convictions do not count as relevant offences.

Comment

The suspension begins immediately after the notice to suspend the licence has been given to the person. The person must surrender their licence immediately.

Suspending Licences and Disqualifying from Driving: Section 90

Suspension of licence or disqualification from driving: Section 90

Under section 90 of the Land Transport Act 1998 if, in any two-year period, a person has accumulated a total of 100 or more demerit points, the Director of the NZTA must, by notice in writing given to that person, suspend their current driver licence for three months.

The suspension or disqualification starts on the date the notice is given to the person. The NZTA is responsible for serving the notices.

Delegation of powers

Many drivers are difficult to locate and some actively avoid having the notice served on them. To deal with this problem, the NZTA has delegated to the police the authority to carry out roadside suspension of licences.

This authority relates only to drivers that the NZTA has failed to locate. The drivers are recorded as a 'person of interest', wanted for service of a demerit point suspension letter.

Seizing and impounding vehicles for 28 days: Section 96

Power to seize and impound vehicle for 28 days

You **must** seize and impound a motor vehicle for 28 days, or authorise someone else to do this, if you believe on reasonable grounds that a person drove on a road while they were subject to one of the following situations.

1. They were disqualified from holding or obtaining a licence.
2. They had a suspended or revoked driver licence.
3. In the case of a person who is the holder of an alcohol interlock licence, the person operated that vehicle contrary to the conditions of that licence.

4. They were not holding a licence – for example, the licence was expired or they were unlicensed – **and** they had previously been forbidden to drive.
5. They drove or operated a vehicle in breach of a qualifying bylaw and the vehicle is subject to a warning notice issued under section 22AF.
6. They operated the vehicle in a race or in an unnecessary exhibition of speed on a road contrary to section 22A(1).
7. They caused the vehicle to undergo a sustained loss of traction in contravention of section 22A(3).
8. The person operates a motor vehicle recklessly.
9. The person drives or causes a motor vehicle to be driven on a road at a speed or in a manner which is or might be dangerous to the public or to a person.
10. The person causes bodily injury to or the death of a person while carelessly using a motor vehicle.
11. They have been found to have breath alcohol of over 400mcg of alcohol per litre of breath and have two previous convictions for any ‘relevant offence’ within the last four years.
12. They have been found to have blood alcohol of over 80mgm of alcohol per 100 millilitres of blood and have two previous convictions for any ‘relevant offence’ within the last four years.
13. They have failed or refused a blood test under section 72 or section 73 of the Land Transport Act:
 - at the request of an enforcement officer or health practitioner/medical officer,
or
 - at hospital or medical centre
and
 - have two previous convictions for any ‘**relevant offence**’ within the last four years.

You **may** impound the vehicle for 28 days if the person has failed to stop or remain stopped under section 114.

Relevant offences

The ‘relevant offences’ are:

- section 56(1) excess breath alcohol >400
- section 56(2) excess blood alcohol >80
- section 57A(1) driving while impaired with blood that contains evidence of use of a qualifying drug
- section 57B(1) driving with two or more qualifying drug in blood
- section 57C(1) driving with alcohol and one qualifying drug in blood
- section 57AA contravention of breath/blood alcohol limits by holder of alcohol interlock or zero alcohol licence
- section 35(1)(a) operates a vehicle recklessly on a road
- section 35(1)(b) driving in a manner that is or might be dangerous to the public or person
- section 39(1) aggravated careless use of a vehicle causing injury or death
- section 57AA contravention of alcohol interlock or zero alcohol licence
- section 58(1) incapable of proper control under the influence of drink or drug
- section 60(1) failed or refused to give blood
- section 61(1) caused death or injury with EBA
- section 61(2) caused death or injury while incapable.

Youth-level convictions do not count as relevant offences.

Fail to stop: Power to seize and impound vehicle for 6 months:

You **may** impound a vehicle for 6 months for failing to stop or remain stopped when requested, required, or signalled to do so under s114.

Police have discretion about whether or not to impound a vehicle for a fail to stop event.

Fail to stop: Power to seize and impound vehicle for 28 days:

You **may** impound a vehicle for 28 days if the Registered Person of a vehicle fails to provide information under s118(4) about a Driver who has failed to stop, **and** impounding the vehicle is necessary to prevent a serious threat to road safety.

Police have discretion about whether or not to impound a vehicle for a failing to provide information about a fail to stop event.

EBA procedures relating to Section 96

- If the driver has blown >400mcg of alcohol per litre of breath and has the two previous relevant convictions, you should impound the vehicle based on this result. The driver can still request a blood test but this does not affect the impoundment.
- If the result of the subsequent blood test is >80mgm of alcohol per 100ml of blood, do not issue another notice or impound the car for a further 28 days.
- If the result of the subsequent blood test is <80mgm of alcohol per 100ml of blood, you must release the vehicle from impoundment immediately.

Enforcement officer's obligations

- Complete the notice on the prescribed form. Give a copy to the driver, if the person is still at the scene, and a copy to the registered owner as soon as practicable. Also give a copy to the storage provider and retain a copy for 12 months.
- You can only seize the vehicle – not its attachments, such as a trailer or a boat. Release personal property on request to the person lawfully entitled to it. You must also take all care to prevent damage to the vehicle and personal effects (Section 117 LTA 1998).

If no proceedings are taken or the person is acquitted, the vehicle must be released.

Duties in regard to “anti-social road user” offences

If you impound a vehicle for “anti-social road user” offences –

- (a) operated the vehicle in a race, or in an unnecessary exhibition of speed or acceleration, on a road; *or*
- (b) without reasonable excuse, operated the vehicle on a road in a manner that caused the vehicle to undergo sustained loss of traction.

you also issue a section 115 notice (green sticker) – notice to Driver or Owner of Defective Vehicle. This means the vehicle must be examined and new evidence of inspection (WOF) is attached after impound period.

Seizing Vehicles: Sections 122 and 123

Power to seize vehicle for 12 hours: Section 122

If you believe on reasonable grounds that it is in the interest of public safety, you can seize and impound a motor vehicle for a period not exceeding 12 hours. This period may be extended to a further 12 hours if the circumstances have not changed.

Your obligations are the same as for section 96, with any necessary modifications.

Comment: This provision is a **last resort**. It was enacted as a result of the Mohaka Viaduct house bus tragedy, in which the vehicle was rendered immobile, and the driver forbidden to drive, but the vehicle was still driven. Eight people died in that accident.

Power to seize vehicle for up to ten days: Section 123

You can seize and impound a motor vehicle for a period not exceeding 10 working days in order to:

- preserve evidence
- enable scientific examination
- establish the cause of a serious traffic accident

if you believe on reasonable grounds that:

- the vehicle has been involved in a serious traffic accident or hit and run offence, or
- The driver failed to stop in accordance with section 114 (Failed to stop for red and blue lights or siren or officer's signal.)

Definitions

'Hit and run offence' means an offence against this Act or the Crimes Act 1961 involving an event in which a person is struck by a motor vehicle and injured or killed as a result, and the driver fails to stop and render assistance (section 22).

'Serious traffic accident' means an accident involving a vehicle that results in injury or death to a person.

Entering Premises and Seizing Vehicles: Section 119

Powers of entry to carry out breath alcohol testing

Where an enforcement officer has good cause to suspect that any person:

- has failed to stop for flashing lights or a siren,
- and*
- has committed, or is committing, an offence against section 35 (reckless or dangerous driving) *or*
 - is, or has recently been, driving under the influence of alcoholic drink or drug or both,

and you are freshly pursuing that person,

the enforcement officer can:

- without warrant in the course of pursuit,
- enter any premises on which the person has entered, by force if necessary, to exercise or complete the excess breath alcohol (EBA) procedures.

To seize a vehicle without warrant:

The enforcement officer can:

- without warrant enter by force, if necessary
- a building or place where a vehicle to which sections 96 and 123 apply (seizing and impounding vehicles) is being stored or kept.
- to seize and impound the vehicle.

The enforcement officer can do this if:

- they are freshly pursuing the vehicle, or
- the vehicle is about to be removed, concealed, destroyed or disposed of, or
- they believe on reasonable grounds the vehicle was about to be used in the commission of an imprisonable offence, and
- it is impracticable due to the time of day or the locality to obtain a warrant.

To seize a vehicle with warrant

Sections 119 gives you the power to apply for a warrant to seize a vehicle under sections 96 and 123.

Statutory obligations

Section 119 is subject to the provisions of part 4 of the Search and Surveillance Act 2012.

This means that when you exercise a power under section 119 to enter a place or building you must state your section 131, Search and Surveillance Act 2012, obligations to the occupants.

Exercising your power of entry under section 119 does not permit you to arrest a person for an offence against the Land Transport Act 1998, except for:

- failing to remain for the result of a BST or EBT
- failing to accompany you
- driving under the influence of drink or drug
- refusing to remain for a blood test
- refusing to give blood
- assaulting an enforcement officer.

Road safety directive

Methods of dealing with traffic offences

There are more than 1,000 reportable traffic offences contained in the Land Transport Act 1998 and the associated regulations. There are many different resolutions for these offences. Some of these include:

- A written traffic warning.
- Issuing an Infringement Offence Notice.
- A referral to an outside agency (for example using AWHI to assist in obtaining a licence).

Road Safety Directive – purpose

The Road Safety Directive serves as a written notification of a forbidden activity for the offending driver, such as, unlicensed or intoxicated driver forbidden to drive.

A copy of this form is attached to Totara.

Issuing the notice

The driver's section of the Road Safety Directive fairly informs the driver of any prohibitions.

This is completed roadside using a form which will be provided to you in District.

Children and young persons

Discuss any actions taken against CYP in relation to traffic offences with your Supervisor and YAS.

Documentation examples

The following examples of documentation are in Totara.

- notice issued under section 115 (green sticker)

- notice issued under section 115 (pink sticker)
- notice to suspend licence under section 95 (Notice of mandatory suspension of driver licences)
- suspension and disqualification notice under section 90 (Notice of driver license suspension and disqualification for excess demerit points)
- notice for seizing and impounding a vehicle under section 96 (Vehicle seizure and impoundment notice)
- Road safety directive

Excess breath alcohol (EBA) and drug impairment testing

Excess breath alcohol (EBA) procedures – RP04

LEARNING OBJECTIVES

At completion of this chapter, recruits will be able to:

1. Discuss the key offences related to alcohol in the Land Transport Act 1998.
2. Demonstrate the correct procedures when conducting breath and alcohol testing.
3. Identify when a hospital blood sample needs to be taken.

Introduction

Social cost of drink-driving

Attitudes towards drink-driving or drug-impaired driving have hardened over recent years. Neither the police nor the public are prepared to tolerate people driving after consuming too much alcohol or drugs.

Alcohol or drug-impaired drivers are responsible for deaths and injuries that cost the country many lives and many millions of dollars in hospital care and lost production.

Police duties

The Road to Zero Strategy aims to reduce the incidence and effects of crashes on our roads. The duty of the police in this area is to reduce the road toll.

To do this, you will be involved in compulsory breath-testing operations and breath-testing drivers who have broken traffic laws. It is necessary for you to have a sound knowledge of the relevant legislation and procedures.

Relevant legislation

The Land Transport Act 1998 stipulates that drivers are not to exceed specified alcohol limits. Sections 56-62 cover these offences.

Ensuring that you follow correct procedures

The excess breath/blood alcohol testing process is very complicated. If a driver pleads not guilty, you will have to give very detailed evidence. It is therefore essential that you take very detailed notes. In OnDuty, the EBA Procedure Sheet will guide you through the process.

There is also a paper version of this process (POL515) which can be completed if the OnDuty Application is not available.

Basic Drink-Driving Offences Table 1 – Drivers 20 years and over

Section 56(1)	Section 56(1A)	Section 56(2)	Section 56(2A)	Section 56 (2B)	Section 58
Drives or attempts to drive	Drives or attempts to drive	Drives or attempts to drive	Drives or attempts to drive	Drives or attempts to drive	Drives or attempts to drive
While proportion of alcohol in person's BREATH	While proportion of alcohol in person's BREATH	While proportion of alcohol in person's BLOOD	While proportion of alcohol in person's BLOOD	While proportion of alcohol in person's BLOOD	Under influence of drink OR drug OR both
As ascertained by an evidential BREATH TEST subsequently undergone by the person	As ascertained by an evidential BREATH TEST subsequently undergone by the person	As ascertained from an analysis of a BLOOD SPECIMEN subsequently taken from the person	As ascertained from an analysis of a BLOOD SPECIMEN subsequently taken from the person	As ascertained from an analysis of a BLOOD SPECIMEN subsequently taken from the person who has failed or refused to undergo an evidential breath test	To such an extent as to be incapable of having PROPER CONTROL of the vehicle
Exceeds 400mcg of alcohol per litre of BREATH	Exceeds 250mcg but does not exceed 400mcg of alcohol per litre of breath	Exceeds 80mg of alcohol per 100ml of BLOOD	Exceeds 50mg but does not exceed 80mg of alcohol per 100ml of BLOOD	Exceeds 50mg but does not exceed 80mg of alcohol per 100ml of BLOOD	
3 months/\$4,500 or both disqualified 6 months <i>3rd offence:</i> 2 years' prison \$6,000 fine disqualified more than 1 year Prec code A518	Infringement fee \$200.00 Demerit points 50 Prec code A525	3 months/\$4,500 or both disqualified 6 months <i>3rd offence:</i> 2 years' prison \$6,000 fine disqualified more than 1 year Prec code A323	Infringement fee \$200.00 Demerit points 50 Prec code A337	Infringement fee \$700.00 Demerit points 50 Prec code A338	3 months/\$4,500 or both disqualified 6 months <i>3rd offence:</i> 2 years' prison \$6,000 fine disqualified more than 1 year Prec code A109

Basic Drink-Driving Offences Table 2 – Drivers under 20 years

Section 57(1)	Section 57(2)	Section 57(1A)	Section 57(2A)
Being a person who is under 20 yrs of age	Being a person who is under 20 yrs of age	Being a person who is under 20 yrs of age	Being a person who is under 20 yrs of age
Drives or attempts to drive	Drives or attempts to drive	Drives or attempts to drive	Drives or attempts to drive
While proportion of alcohol in person's BREATH	While proportion of alcohol in person's BLOOD	While proportion of alcohol in person's BREATH	While proportion of alcohol in person's BLOOD
As ascertained by an evidential BREATH TEST subsequently undergone by the person	As ascertained from an analysis of a BLOOD SPECIMEN subsequently taken from the person	As ascertained by an evidential BREATH TEST subsequently undergone by the person	As ascertained from an analysis of a BLOOD SPECIMEN subsequently taken from the person
Exceeds 150mcg of alcohol per litre of BREATH	Exceeds 30mg of alcohol per 100ml of BLOOD	Does NOT exceed 150mcg of alcohol per litre of BREATH	Does NOT exceed 30mg of alcohol per 100ml of BLOOD
<p>3 months/\$2,250</p> <p>disqualified 3 months</p> <p><i>* For a youth under 18 years, no charging document is issued. Forward the file to Youth Aid Section</i></p>		<p>Infringement fee \$200.00</p> <p>Demerit points 50</p> <p>Prec code A523</p>	<p>Infringement fee \$200.00</p> <p>Demerit points 50</p> <p>Prec code A328</p>

Comment

If a person under 20 years old records over 400mcg per litre of breath, that person is charged under section 56, the same as an adult. This also applies if a person under 20 years old returns a blood result of over 80mg per 100ml of blood.

Initial breath screening procedures

When to conduct a breath test

There are five situations when you can require a person to undergo a breath screening test without delay.

- Section 68(1)(a)
 - Any **driver** | of a **motor vehicle** | on **any road** (random stopping)
 - Any **person** | **attempting** | **to drive a motor vehicle** | on **any road**
- Section 68(1) (b)
 - Any **person** | **you have good cause to suspect** | has **recently committed an offence** | **against road safety provisions of the Land Transport Act** | **that involves the driving of a motor vehicle**
- Section 68(1)(c)
 - A **driver** | **of a motor vehicle** | **involved in a motor accident**
 - **Where the driver is not known**, you have **good cause to suspect** | **passengers in a vehicle** | **involved in a motor accident**

Note: You must be able to prove that the person you are testing fits into one of these categories.

Passive breath testing

Passive breath test device

An enforcement officer has the power to use a passive breath test device (called a Drager) to test drivers for alcohol consumption.

A passive test is used to detect the presence of alcohol on a driver's breath (yes or no). It holds no evidential value.

A breath screening test **indicates** the proportion of alcohol on a driver's breath. It holds no evidential value.

An evidential breath test is used to support a proceeding in Court.

Passive breath test using the Drager 7510NZ

Step	Action
1	Introduce yourself to the driver and tell them you are conducting a test to establish the presence of alcohol on their breath.
2	Turn the device on by pressing the green "OK" button and holding it for two seconds.
3	Use the arrows to select ' Passive ' from the main screen.
4	Place the device approximately 20mm in front of the driver's mouth and ask them to count slowly to 10. In the case of taxi drivers with passengers, ask for the address of the company they work for.
5	While they are speaking, press the green " OK " button again then release the button immediately. (Press the OK button when the driver counts to number 6 or 7).
6	The device will read "PASS" or "FAIL".
7	If the device reads "FAIL", continue to the next step – BST (Breath Screening Test).

Breath Screening Test (BST)

Preliminary Action

For the Drager 7510NZ, select 'SCREENING' from the main screen and press OK. When prompted by the device, attach a mouthpiece.

When attaching the mouthpiece, ensure your fingers do not come into contact with the portion of the mouthpiece the driver will place in their mouth.

Breath screening test (BST)

You should now conduct the breath screening test (BST) using an approved breath screening device (Drager 7510NZ). Check to ensure the device calibration is still current.

To commence the BST, **say to the driver:**

"I now require you to undergo a breath screening test without delay."

Step	Action
1	Instruct the person to blow through the mouthpiece at a pressure and for long enough to provide a specimen of breath sufficient for analysis.
2	After the person has stopped blowing, you must observe the display panel of the device.
3	If the display panel shows "Insufficient volume" then a sufficient sample of breath was not provided. You may then depress the "OK" button and start the procedure again unless you believe the person has failed or refused the test and will continue to do so.

Results of the test

If the display panel shows "**PASS**", it indicates a negative result. The indicator light will turn **green** for a short time.

If the display panel shows "**UNDER 250**", it indicates that the person's breath contains alcohol but does not exceed 249 micrograms of alcohol per litre of breath. The indicator light will show a steady **amber** for a short time.

If the display panel shows "**250 + OVER**", it indicates that the proportion of alcohol in the person's breath equals or exceeds 250mcg but does not exceed 400mcg of alcohol per litre of breath. The indicator light will be flashing **alternatively amber and red** for a short time.

If the display panel shows **OVER 400**, the result indicates that the proportion of alcohol in the person's breath exceeds 400mcg of alcohol per litre of breath. The indicator light will remain **red** for a short time.

Verify age of driver

As you will have seen, the legal limits of alcohol are different for drivers 20 years and over, so it is important that you establish a driver's age early in the procedure.

You are entitled to regard a driver as under 20 years if:

- their driver licence shows the person is under 20 years;
- they produce a licence showing they are over 20 years but you believe:
 - the licence is not the driver's own licence
 - the licence is invalid
 - the person is under 20 years
- the person fails to produce a licence and cannot satisfy you by some other means that they are over 20 years old.

Zero Alcohol and alcohol interlock licences

The Land Transport Amendment Act 2011 implements numerous road safety initiatives, including the establishment of “zero alcohol” licence and an “alcohol interlock” licence. A person holding either of these licences must not have any alcohol in their system while driving. These licences are a distinctive pink colour.

If a breath screening test shows any alcohol, that person must undergo an evidential breath test using the existing procedures.

Requiring the person to accompany you

Require to accompany

In any of the following situations, you may require the driver to accompany you for the purposes of undergoing an evidential breath test, blood test or both:

- The driver or person being tested fails or refuses to complete a breath screening test without delay.
- No breath screening device is available (after you have made a diligent effort to obtain one).
- If the person is 20 years old or over and the test reading is “OVER 400”.
- If the person is 20 years old or over and the test is “250+ OVER”.
- If the person is under 20 years old and tests one of the following readings:
 - “**UNDER 250**”
 - “**250 + OVER**”
 - “**Over 400**”.

With the Drager 7510NZ, you may conduct the evidential breath test at the roadside if you deem it safe to do so.

Speak to the driver

Say to the driver:

“I now require you to accompany me to the [...] Police station [or other such place] for the purpose of an evidential breath test, blood test or both.”

As you are now detaining the driver, you must inform them of their Rights / Caution.

To do this, you must say:

*“You have the right to remain silent and do not have to make any statement.
Anything you say will be recorded and may be given in evidence in court.
You have the right to speak with a lawyer without delay and in private before
deciding whether to answer any questions.
Police have a list of lawyers you may speak to for free.
These rights will continue throughout the breath or blood alcohol testing
procedures.
If you wish to speak to a lawyer, a telephone will be made available to you for that
purpose as soon as practicable. You will be allowed a reasonable time to consult
and instruct a lawyer from the time a telephone is made available to you.”*

Note: An accused person’s rights to consult and instruct a lawyer without delay and to be informed of those rights would apply before the accused could be required under the Land Transport Act 1998 to undergo an evidential breath test or blood test.

Contacting a lawyer

If the person has a cell phone and wants to ring their lawyer immediately, let them do so. Make sure you give them privacy without allowing them to escape, for example, they could make the call in the back seat of a patrol car with the doors shut. However, you need to consider your safety and the risk of the driver running off.

Search of detained person

Now that the person is detained under the Land Transport Act 1998, they may be searched under section 85 of the Search and Surveillance Act 2012.

Do not forget to state the section 125 obligations.

Refusal to accompany

If the person refuses to accompany you, warn them that they may be arrested for failing to accompany you but that, if they are arrested, bail will be considered.

If the person still refuses, arrest them, return to the police station, and carry on with the Evidential Breath Test (EBT) procedure. Whatever the outcome of the test, the driver will face a charge of failing or refusing to accompany.

Search of arrested person

The person arrested for refusing to accompany will be subject to a section 85 search.

Do not forget to state the section 125 obligations.

Consulting a lawyer

If the person wants to speak to a lawyer, you can assist them to contact one. Use the Checkpoint Road Policing Tab to locate the Police Detention Legal Assistance Roster. This contains a list of lawyers who can assist.

It is essential that the person chooses the lawyer they want to speak to and is left to consult the lawyer in private.

If the person wishes to contact a lawyer of their choice, they may do so. There is no compulsion for the person to contact a local lawyer or one appearing on the police list.

If the chosen lawyer is unavailable, reasonable attempts should be made to contact an alternative one. If the person is given the opportunity to contact an available lawyer, their rights will not have been breached.

Conducting an Evidential Breath Test (EBT)

This test is called an ‘evidential breath test’ because the result of it can be given as evidence in any subsequent court hearing.

Say to the driver:

“I now require you to undergo an evidential breath test without delay.”

If the driver refuses to undergo an evidential breath test, request a blood test.

Procedure (Drager 7510NZ)

The Drager 7510NZ is an approved device under the Land Transport (Breath Tests) Notice 2009.

Step	Action	Explanation
1	Select evidential mode	Use the arrows on the device to select 'Evidential'
2	Record the test number	Note the test number in your notebook (the test number is the only link to the driver's details).
3	Follow the instructions that appear on the display panel	
4	Attach new mouthpieces when instructed by the device	Ensure you do not touch the end where the driver will place their mouth.
5	Instruct the driver to blow when the device instructs	"Please blow into the mouthpiece until the tone stops." Repeat the procedure as directed by the device.

EBT results can be printed at a later date /time (drivers do not need to be provided a copy at the time of testing), but it must be before calibration. There is no legal requirement for a printout to be provided to the driver if using a Drager 7510NZ.

If a fault occurs

If a fault occurs during the test, with the machine or the way the test was carried out, the machine will signal this with: "**TEST ABORTED**" or "**TEST INVALID**". If this happens, you can start the test again or go on to blood testing procedures, depending on the circumstances.

Examples of what can go wrong:

- If the person does not blow hard enough for long enough, or blows at the wrong time, the test may be aborted. You can start the procedure again if you believe the person will complete the test. If not go to the blood testing procedures.
- If the difference between the two samples taken during the test varies by more than 15%, the test is invalid. The machine calculates this and gives a result of "**INCOMPLETE TEST**". You may start the procedure again.
- Ensure if EBT is conducted in a vehicle the windows should be open. If closed alcohol fumes can build up in the space causing the device to fault in between the two tests.

Positive result

The readings for a positive result are as follows:

- For people 20 years and over: 251-400mcg of alcohol per litre of breath – infringement notice and demerit points (with no blood election option).
- For people 20 years and over: over 400mcg of alcohol per litre of breath.
- For people under 20 years: over 150mcg of alcohol per litre of breath.
- For people under 20 years; 1 - 150mcg of alcohol per litre of breath – infringement notice and demerit points (with option to elect a blood test).
- For people on a Zero Alcohol Licence (ZA), any alcohol is a positive result.

The driver must be formally advised of this result and the time of advice.

Negative result

If the reading is under the legal limit, the test is negative. The driver is free to go as long as there are no other outstanding charges to face, or they are under the influence of drugs so as to be incapable of proper control of a motor vehicle.

Remember you can still forbid a person to drive under section 121 if you have an honest belief, based on reasonable grounds, that the person is incapable of having proper control of the vehicle.

No EBT result

If the driver refuses or fails to complete an evidential breath test or the test result is incomplete, move on to blood testing procedures.

Advice of positive Evidential Breath Test

Read advice to the person

If a positive result is returned, the driver may have the right to have a blood sample taken. Read the "Advice of Positive Evidential Breath Test" to the driver as soon as possible after the result is ascertained.

Complete relevant areas and read it out aloud to the person. Explain its contents.

You **must** again advise the driver of the Rights / Caution.

Ten-minute period

Once you have explained the Advice of Positive Evidential Breath Test and the driver has spoken to a lawyer (or elected not to) you must give the driver ten minutes to decide whether to have a blood sample taken. It is now common practice to give 12 minutes, then it cannot be disputed that only nine and a half minutes were given.

Do not advise the driver on what to do. It is preferable that you do not talk to the person at all. However, on occasions, you may have to answer queries. If the person wants the procedure explained again, stop the clock, explain the procedure and then restart the clock from where you had it stopped.

Driver requests a blood test

As soon as the driver requests a blood sample to be taken, start the blood test procedure. The 10-minute period no longer applies.

Driver accepts the breath test reading

If the driver accepts the positive evidential breath test and does not want a blood sample taken, the procedure is complete. You may rely on the results of the evidential breath test.

Arrest policy

For an adult (20 years and older) over 400 EBT or a youth (17-20 years) over 150 EBT, these offences are punishable by imprisonment and the driver can be arrested. Police instructions give the following guidelines –

Alleged Drink-drivers will be arrested only:

- If this is necessary to complete breath/blood alcohol tests.
- If there are reasonable grounds to believe that they will be a risk to public safety by again driving while impaired by alcohol.
- If there is doubt about their identity.
- If there is doubt that they will be able to be located for serving a summons.
- To ensure that they will appear in court.

Issuing a summons

A summons is normally used when a person accepts the breath test reading and is not arrested. This section only applies to breath alcohol charges. It allows you to summons the driver to a date no more than two months from the time that the summons is served.

You should not issue a summons for excess breath or excess blood alcohol to a person under 18 years old. The file should be prepared and sent to your Youth Aid Section.

If summoning, consider section 33 of the Policing Act 2008 which relates to the obtaining the driver's photograph or fingerprint.

Note: Do not complete a summons until after the 12-minute period - as this can be classed as pre-judging.

Blood tests

Start the blood test procedure [require to provide blood specimen as below] if:

- An evidential breath test is unavailable.
- The driver refuses or fails to undergo the EBT.
- An “incomplete” test result is obtained.
- A positive result is returned and the driver elects to have a blood sample taken.

Note: A person 20 years or over whose EBT is 251-400 is NOT entitled to elect blood.

If a person has formally requested a blood test, they must have the test or face a charge of refusing to give a blood sample, in addition to a charge of excess breath alcohol.

In all cases, there are costs for taking and analysing blood and the suspect is liable for these costs.

In every case where a driver refuses the blood test, record full details and circumstances of the refusal including the medical practitioner’s details.

Remember: *the person may again want to speak to their lawyer and they have the right to do so.*

Procedure

The procedure is as follows:

1. Follow through the prompts on ON DUTY under ‘Blood Test 2’. If they consent to a blood test, call a medical practitioner / medical officer.
2. Complete Part A of the Blood Specimen Medical Certificate (POL 540).
3. On arrival, the medical practitioner will confirm the driver’s consent. The driver can change their mind.
4. The medical practitioner will now take the blood specimen using the Blood Collecting Specimen Kit.
5. Medical practitioner now completes Part C (and where appropriate Parts B and/or E of the POL 540).
6. The barcode from the collecting kit will be attached to both containers and Part F of the Blood Specimen Medical Certificate.
7. Police officer completes Part D of the POL540 and sends the blood specimens and the pink page of the Blood Specimen Medical Certificate to the ESR for analysis. A blood specimen must be received by the ESR **within SEVEN days**.
8. The courier receipt will be attached to Part G on the top file copy of the Blood Specimen Medical Certificate.

Letting the driver go

The driver cannot be charged until the results of the blood test are known. This takes between two and seven weeks. The driver is therefore free to go unless they face other charges.

A positive EBT or a driver who refused or failed to complete an EBT must be forbidden to drive under section 121.

Also consider forbidding any other driver who returns a lower result than a positive EBT.

Action on receipt of blood test results

As soon as ESR has analysed the blood, they will send a Certificate of Analysis giving the result.

If the result is below the legal limit, the driver is contacted and advised of the result.

If the result is over the legal limit, a copy of the certificate should be served on the driver as soon as possible. This would normally be done when the summons is served on the driver.

Sealing of blood specimen collecting kit and blood specimen containers



Mandatory suspension of licence and/or impounding vehicle

Land Transport Act 1998

Section 95: Mandatory 28-day suspension of driver licence in certain circumstances

Section 96: Vehicle seized and impounded for 28 days in certain circumstances

There is **mandatory** power to suspend a driver licence and/or impound vehicles respectively for 28 days in certain circumstances relating to alcohol-impaired drivers.

Relevant offences

This chapter talks about the suspension of license and/or impoundment of vehicle when specific relevant offences are apparent.

The 'relevant offences' are:

- section 56(1) excess breath alcohol >400
- section 56(2) excess blood alcohol >80
- section 57A(1) driving while impaired with blood that contains evidence of use of a qualifying drug
- section 57B(1) driving with 2 or more qualifying drugs in blood
- section 57C(1) driving with alcohol and one qualifying drug in blood
- section 58(1) incapable of proper control under the influence of drink or drug
- section 60(1) failed or refused to give blood
- section 61(1) caused death or injury with EBA
- section 61(2) caused death or injury while incapable

Youth-level convictions do not count as relevant offences.

Power to Suspend Licence (S95)

Mandatory 28-day suspension of driver licence in certain circumstances, if an enforcement officer believes on reasonable grounds that the person has:

1. The person has been found to have breath alcohol of over 650mcg of alcohol per litre of breath.
2. The person has been found to have blood alcohol of over 130mgm of alcohol per 100ml of blood.
3. The person has been found to have breath alcohol of over 400mcg of alcohol per litre of breath and has been convicted for any 'relevant offence' within the last four years.
4. The person has been found to have blood alcohol of over 80mgm of alcohol per 100ml of blood and has been convicted of any 'relevant offence' within the last four years.
5. The person has been found to have a blood concentration level of a listed qualifying drug exceeding the high-risk level for the drug and has been convicted of any 'relevant offence' within the last four years.
6. The person has been found to have an unlisted qualifying drug in their blood after they failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer who is trained to give the test and has been convicted of any 'relevant offence' within the last four years.
7. The person failed or refused a blood test under section 72 or section 73 of the Land Transport Act:
 - at the request of an enforcement officer/health practitioner/medical officer, or
 - at hospital or medical centre.
8. The person drove a vehicle more than 40kph over the permanent posted speed limit. (Does not apply to infringements caught on speed camera.)
9. The person drove a vehicle 50kph over any speed limit other than the permanent one; for example, temporary speed limit, towing speed limit. (Does not apply to infringements caught on speed camera.)

Note: This suspension applies even if the driver elects to supply a blood sample. Should the subsequent blood analysis show a reading of less than 130mg per 100ml of blood, the driver should be told that the suspension no longer applies and to contact the NZTA for re-issue of their driver licence.

Mandatory impoundment of vehicle

Power to impound vehicles: Section 96(1)

Vehicles must be seized and impounded for 28 days in certain circumstances.

There is a mandatory power to do this in certain circumstances relating to alcohol-impaired drivers.

Relevant circumstances

You must impound a person's car if you believe on reasonable grounds that they have:

1. Been found to have breath alcohol over 400mcg of alcohol per litre of breath **and** they have two previous convictions for any 'relevant offence' within the last four years.
2. Been found to have blood alcohol over 80mg of alcohol per 100ml of blood **and** they have two previous convictions for any 'relevant offence' within the last four years.
3. Failed or refused a blood test under section 72 or section 73 of this Act:
 - at the request of an enforcement officer or health practitioner/medical officer, or
 - at hospital or medical centre

and

- has two previous convictions for any ‘relevant offence’ within the last four years.

* For the definition of ‘relevant offence’, see above.

Comment

If the driver has blown >400mcg of alcohol per litre of breath and has the two previous relevant convictions, you should impound the vehicle based on this result. The driver can still request a blood test but this does not affect the impoundment.

If the result of the subsequent blood test is >80mg of alcohol per 100ml of blood, do not issue another notice or impound the car for a further 28 days.

If the result of the subsequent blood test is <80mg of alcohol per 100ml of blood, you must release the vehicle from impoundment immediately.

Arrestable EBA Offences

Introduction

Although the guidelines state when we should arrest a person for drink-driving offences, there are times throughout the EBA procedure when the driver could commit an offence and be arrested.

Power of arrest

You can arrest under section 120 of the Land Transport Act 1998 for the four offences below.

Fails of refuses to remain

The person commits an offence if they fail or refuse to remain at the place where the breath screening test was undertaken until the result of the test was known.

Examples:

- *The driver complies with the request to complete the breath screening test but then states “I’m not hanging around” and tries to go before you have time to check result.*
- *The driver completes BST and then runs off before you can check whether they are over the limit.*

Fails or refuses to accompany

The person fails or refuses to accompany you without delay for an EBT or blood test or both.

Examples:

- *The driver refuses to complete BST and refuses to accompany you after being required to do so.*
- *En route to the station, the driver jumps out of the car and tries to run away.*
- *Driver refuses to accompany having been required to do so whether or not BST completed.*

Fails or refuses to give blood when required by an Enforcement Officer

Having been required by an enforcement officer to permit a blood specimen to be taken, the driver fails or refuses to do so.

Examples:

- *The breath testing device is broken or unavailable and the driver refuses a blood test when required.*
- *The driver fails or refuses an EBT and then refuses a blood test when required.*
- *The driver requests a blood test in the 10-minute period, and when part M of the Blood Specimen Medical Certificate is read to them, they refuse to have a sample taken.*

Fails or refuses blood when requested by a medical practitioner:

Having been requested by a registered medical practitioner or authorised person to permit a blood specimen to be taken without delay, the driver fails or refuses to do so.

Example:

- *The driver initially consents to a blood test but refuses when asked by the doctor.*

Driving under the influence of drink or drugs

This is the final offence that relates to driving when intoxicated.

Sometimes you will come across a driver who will appear to be intoxicated but doesn't smell of liquor. The driver could be under the influence of a substance other than alcohol for which we have no test to assume intoxication.

Alternatively, a driver may be so intoxicated that they cannot be tested.

In both these cases, the EBA procedure cannot be used to determine the driver's ability to drive. Therefore, section 120 of the Land Transport Act 1998 is used.

Element	Explanation
Drives or attempts to drive a motor vehicle	A driver is stopped while driving or having started the vehicle before driving off or because they are too intoxicated to get the car started.
under the influence of	Intoxicated to such an extent that the driver does not have complete command of their faculties.
drink, or	Alcoholic drink.
drug, or both	Not only illegal drugs, such as cannabis and hard drugs, but also legally possessed prescription drugs and medicines, glue/solvents that are used for sniffing and island root drink Kava.
to such an extent as to be incapable of having proper control of the vehicle	So that drink or drug has affected the driver to such an extent that their bodily co-ordination or mental decision-making process has deteriorated to a degree where it is unsafe to drive.

Power of arrest

You can arrest under section 120 of the Land Transport Act 1998.

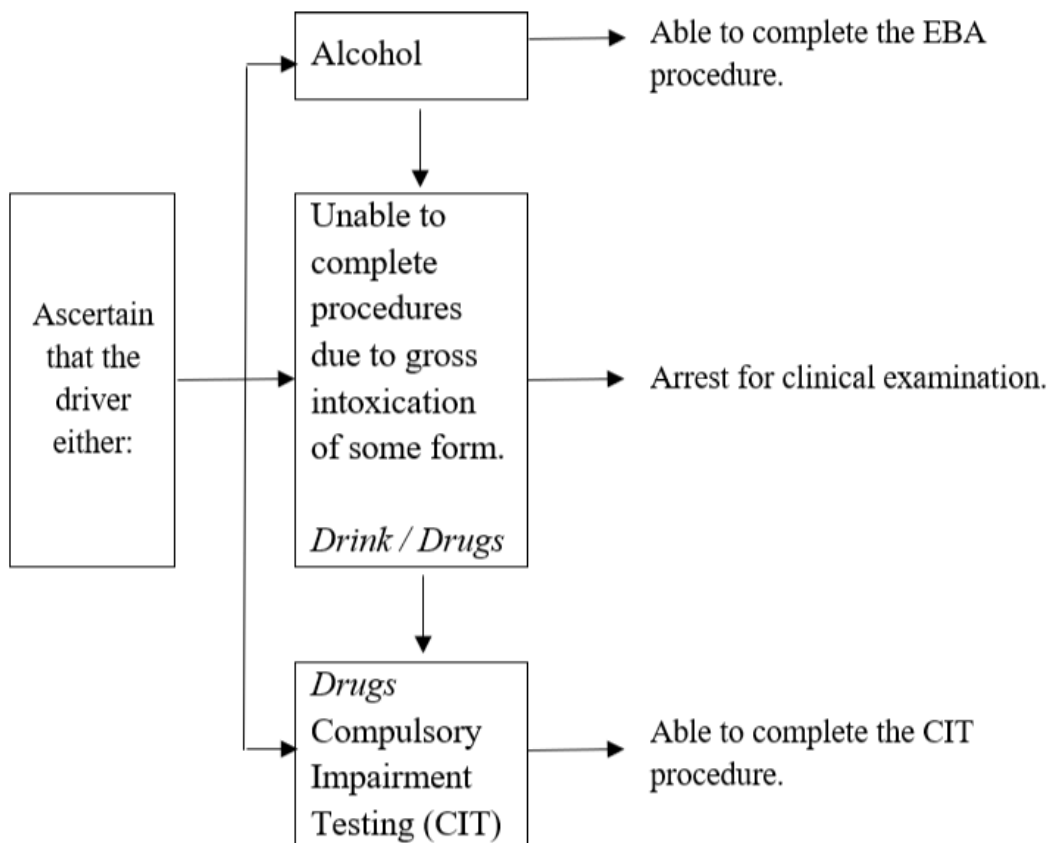
Clinical examination

Call a doctor to make a medical examination. If the driver refuses the examination, ask the doctor to note down observations on a Medical Practitioner's Clinical Report - Motor Vehicle (POL 525).

The enforcement officer can request blood after

- the driver has been examined by a medical practitioner who believes the driver is under the influence of a drug, **or should they refuse to undergo the examination,**
- use the Blood Specimen Medical Certificate (POL540) to request the blood test. Should the driver refuse the request for the blood test (constable's or doctor's), then charge the driver as normal with refusing the request for blood.

3T vehicle stop procedures



Hospital blood procedures

Powers under

The Land Transport Act 1998 gives an enforcement officer the power to require a breath screening test from a driver of a motor vehicle. In addition, it allows police to require a screening test when the driver is involved in a motor accident. If it is not known who the driver was, then a person suspected of being the driver can be tested.

Testing drivers who are injured in accidents

To be effective, the excess breath alcohol procedures must be commenced soon after the suspect is detected. If the driver, or suspected driver, is injured in the motor accident, medical aid is the first priority, not the lengthy procedure of gaining evidence of intoxication. At the same time, the driver should not be exempt from the provisions of the Land Transport Act merely because they were injured.

The following procedures give us the opportunity to gather evidence to support a charge of excess blood alcohol even though the driver is not available to be tested in the normal manner.

Power to have a Blood Sample Taken

Exemptions from BST

An enforcement officer cannot require a person who is in a hospital or medical centre as a result of an accident involving a motor vehicle to undergo a breath-screening test.

If you attend a crash and the driver is under the care of a health practitioner or medical officer as a result of that crash, only undertake BST procedures if it will not interfere with their treatment.

Power to obtain blood

However, you can have a blood sample taken from the person.

The sample can be taken by:

- the health practitioner or medical officer who is in immediate charge of the examination, care, or treatment of the person, *or*
- another registered health practitioner or a medical officer.

Consent of the driver

Blood may be taken without consent. A person who is under examination, care or treatment in a hospital or a doctor's surgery **must** permit a blood specimen to be taken by the health practitioner or a medical officer.

When a person is unconscious in the above situation, the health practitioner or a medical officer **may** take a blood specimen.

Notice required if the person is unconscious

If a person is unconscious, notice in writing must be given as soon as practicable by the person who took the sample that a blood specimen has been taken under the Land Transport Act 1998 for evidential purposes.

Drug impaired drivers - RP05

Compulsory impairment test (CIT)

Overview

Our role as Police is to make the roads safe. Both legal and illegal drugs can impair driving and negatively impact on crash rates. The role of alcohol is well understood and widely researched, while the impact of drugs on driving has been increasing.

Police undertake impaired driver testing for alcohol using breath testing devices, while the compulsory impairment test (CIT) is currently the primary option for testing a driver where there is good cause to suspect the driver is impaired due to drugs.

LEARNING OBJECTIVES

At completion of this workbook, Recruits will be able to:

1. Explain good cause to suspect driving while impaired.
2. Discuss how reporting observations needs to be clear and descriptive.
3. Identify and explain when compulsory impairment testing is required.
4. Explain the procedure for compulsory impairment testing (CIT).

After completing this training, you will be known as a CIT-trained officer.

In the Land Transport (Compulsory Impairment Test) Notice 2009, an officer means an enforcement officer who is trained to give the compulsory impairment test, while the testing officer means the officer who is giving the compulsory impairment test. The enforcement officer and the testing officer are usually the same person in the context of an actual test.

You may get requests for you to perform the Compulsory Impairment Test on drivers who have been stopped by officers who haven't completed the CIT training.

The role of the CIT-trained officer

You will need to:

- ensure the Initiating Officer has formed good cause to suspect that the driver has consumed drugs.
- give the Initiating Officer your recommendations for a suitable location to complete the Compulsory Impairment Test on the subject.
- arrange with the Initiating Officer what the ideal location for the test is, keeping in mind the provisions of *Land Transport Act 1998 (LTA) section 71F - Police may require the driver to accompany to another place for the purpose of the test.*
- arrange to "hand" the driver back over to the Initiating Officer to complete the procedure.
- ensure you can explain in court how the CIT process was followed.

Health and safety for officers and drivers

Safety on the road

Signalling a suspected impaired driver to stop presents a risk to your safety, as such drivers can be unpredictable.

Signal the vehicle to stop in accordance with LTA section 114.

1. Ensure your safety and the driver's safety when conducting a vehicle stop or checkpoint.
2. Check the driver's status and undertake any relevant enquiries.
3. If the vehicle fails to stop, respond in accordance with the **Fleeing Driver** chapter.

Notes:

- advise the Emergency Communication Centre (ECC) of your traffic stop, so they know your location.
- ensure you are wearing your high-visibility safety garment (day or night) to comply with the requirements under the High Visibility Safety Garments chapter.
- if you are double crewed, apply the contact and cover principles (in the **Traffic patrol techniques** chapter) during the vehicle stop.

Refer to the **Traffic patrol techniques** chapter for the procedures related to safe and effective vehicle stops.

Safety at the location of the CIT

The effects of some drugs can be sudden and severe on a person, be it on their behaviour or effects on their body. It is practical to ensure you can receive assistance quickly if a medical situation arises, such as an overdose, or the driver's behaviour changes.

Legislation

Bill of Rights

Requiring a driver to undergo a CIT, or to accompany an enforcement officer to a place for the purpose of undergoing a CIT, constitutes 'detention under an enactment' (section 23(1) of the New Zealand Bill of Rights Act 1990).

Accordingly, the driver must be advised of their rights pursuant to that detention.

Ensure the requirements in these documents are complied with:

- POL1115: Roadside assessment to determine good cause to suspect drug impaired driving (CIT Form)
- POL540: Blood specimen medical certificate form

What legislation is there for stopping a vehicle and conducting a CIT?

The Land Transport Act 1998 (LTA) provides the responsibilities, offences, penalties and enforcement procedures that can apply when stopping a driver and if the officer has good cause to suspect that the person has consumed drug(s). A summary of the legislative provisions is in **Appendix 2**.

The legislation for drug impairment sits alongside the alcohol impairment legislation, and sometimes both are required.

If a suspected driver does not complete the impairment test in a manner satisfactory to the trained officer, a blood test will be required.

Land Transport Act 1998 provides a list of qualifying drugs, tolerance and high-risk blood concentration levels which determine whether an infringement level offence or a charging offence, and tougher penalties for driving after consuming qualifying drugs and/or when taken with alcohol.

Establishing Good Cause to Suspect

Section 71F (1) of the LTA, provides that an enforcement officer may require any of the following persons to undergo a compulsory impairment test given by an enforcement officer trained to give the test if the enforcement officer has good cause to suspect that the person has consumed a drug or drugs:

- a) a driver of, or a person attempting to drive, a motor vehicle on a road:
- b) a person who the officer has good cause to suspect has recently committed an offence against this Act that involves the driving of a motor vehicle:
- c) if an accident has occurred involving a motor vehicle, —
 - i. the driver of the vehicle at the time of the accident; or
 - ii. if the enforcement officer is unable to ascertain who the driver of the motor vehicle was at the time of the accident, a person who the officer has good cause to suspect was in the motor vehicle at the time of the accident.

How do we establish good cause?

You need to determine good cause to suspect drug impaired driving before testing for impairment.

- Observe the vehicle
- Observe the driver

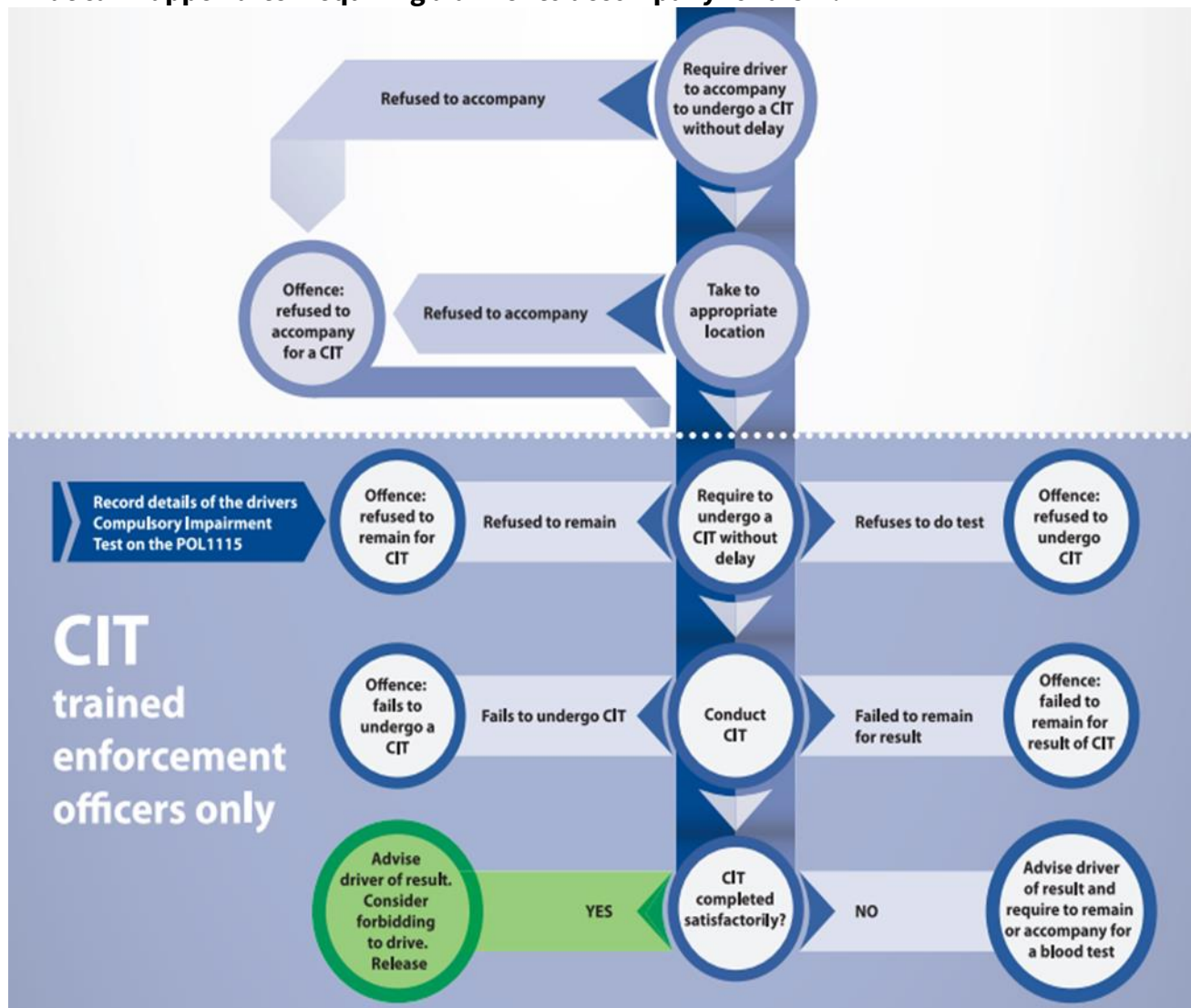
For roadside assessment to determine good cause to suspect drug impaired driving see POL1115 form.

Who should be required to undergo a CIT?

An enforcement officer should not require a person to undergo a CIT if the driver has failed the EBA process. If someone returns a positive result for alcohol, then they should not undertake a CIT unless there is a specific reason for doing so.

An example of a specific reason would include where the driver has returned a positive result for alcohol, but only at infringement level, but is clearly impaired by some drug.

What can happen after requiring a driver to accompany for a CIT?



Impaired Driving process overview

1. Driving and driver behaviour
 - a. Observing the driving manner before stopping the vehicle.
2. Stopping the vehicle
 - a. Observe the driver
3. Passive breath test
4. Establish your reasons for good cause to suspect is impaired by drug or drugs
5. Explain to the driver that they are detained and will be taken to the nearest police station or another place that provides a safe environment to conduct the CIT.
6. Establish best place to conduct the CIT
7. Conduct CIT
8. Completion of CIT and outcomes.

Where can you perform a CIT?

A CIT should be carried out at the nearest police station or another place that provides a safe environment to conduct the CIT and provides the necessary means for the driver to speak to a lawyer, if required.

When choosing the location to complete the CIT, consider the closeness to other people/bystanders, privacy from public observation, the surface on which the test will be conducted, and distractions which may affect the result of the CIT. The location of the CIT may have implications during a prosecution if it is thought that a driver has been unfairly dealt with.

Conducting the CIT

There are two parts to the impairment test:

- 1. *Assessing the eyes***
- 2. *Divided attention tasks:***
 - a. *Walk and turn assessment***
 - b. *One leg stand assessment.***

You will need to be able to demonstrate these assessments to become a CIT-trained officer.

Assessing the eyes

The eye test is to assess if any drugs are affecting the eyes.

Some drugs may make the pupils larger or smaller, affect how they react to a bright light, make the eyes shake when looking up/down or side-to-side (nystagmus), and affect the eyes' ability to follow an object and come together (converge).

Before starting the test, ask if the driver has any eye issues and note their reply in section M of POL 1115. If the driver is wearing glasses, ask them to remove them for the eye assessment part of this test. Make a note if the subject wears contact lenses, but they do not need to be removed.

The assessor is looking for:

1. Pupil size and response to light,
2. Horizontal gaze nystagmus,
3. Vertical gaze nystagmus,
4. Lack of convergence.

Pupil size

How to do the test?

Measure the person's pupils by comparing them with a gauge held beside the person's eyes in normal light. Then investigate the reaction of the person's eyes to light using torchlight.

Write down the approximate size of the pupils.

What am I looking for?

- What was the pupils reaction to the light?
- Were the pupils slow to react, non-reactive or normal?

Notes:

- Try to avoid the pupil exam in extreme light conditions (light or dark).
- Keep in mind that there may be a medical cause for unusual pupil size. Some examples of medical conditions that may affect the pupil include glaucoma, eye injury (probably one sided), or diabetes.

Tracking and Pursuing

How to do the test?

- You will instruct the subject to hold their head still and just follow the stimulus (tip of a pen or similar) with their eyes to the left and the right.
- Your stimulus (pen) must be held about 30-35cm away from the subject's face and slightly above eye height.

What am I looking for?

You need to look at each eye and note:

- Do the eyes track the object together or does one lag behind?
- Do they track the object smoothly or with a jerky motion?

Horizontal and vertical gaze nystagmus

How to do the test?

You will instruct the person to follow the stylus (a pen or similar) with only their eyes from side to side.

You need to move the stimulus to get the eyes to move as far to the side as possible.

- This is referred to as maximal deviation.
- This is about equal to moving your hand with the stimulus to the person's shoulder when you are about 30cm away from their face.
- For vertical testing, move the stimulus above the eye so the eyes are in their uppermost position.

What am I looking for?

You are looking for signs of nystagmus: pronounced jittering, fluttering, or bouncing of the eyes at maximal deviation and/or uppermost position.

Convergence test

Convergence is the ability to roll or move their eyes inward towards each other to look at an object up close. You will assess the ability of the eyes to coordinate or work together and focus on a near target.

How to do the test?

Complete the POL1115 Eye assessment section.

- You will instruct the person to look at the stylus held about 50cm from their nose.
- Slowly and smoothly move the stylus closer to their nose.
- Ask the person to let you know when they see double of the stimulus.

What am I looking for?

You are looking for the eyes to both move in towards the nose as the stimulus gets closer to the face.

Divided attention tasks

Divided attention assessment focuses on the person's ability to concentrate on more than one thing at a time. This is assessed by requiring someone focus on a physical and mental task at the same time.

Walk and Turn assessment

How to do the test?

Complete the POL1115 walk and turn assessment section.

You will read out the instructions on the POL1115 form and then demonstrate the test before the person completes the test.

- Stand and place your left foot on the line.
- Place your right foot on the line in front of your left foot, touching heel to toe.
- Place your arms by your sides. Remain in this position until I tell you to start.
- When I say start, take nine heel-to-toe steps along the line counting each step out loud.
- After nine heel-to-toe steps, turn around by pivoting your front foot on the line and taking a series of small steps with the other foot.
- After turning, take nine heel-to-toe steps back along the line.
- Leave your arms by your sides throughout the assessment, watch your feet at all times and count each step out loud.
- Once you start, do not stop until you have completed the assessment.

What am I looking for?

- Did they have poor balance during instructions?
- Did they start walking before directed to do so?
- Did they stop while walking?
- Did they walk off the line?
- Did they miss / not touch any heel to toe steps?
- Did they do the wrong number of steps?
- Were they using their arms to help balance?
- Did they turn incorrectly or lose their balance when they turned?
- Were they able to follow directions? If not describe their behaviour.
- Was the walk and turn completed?

One leg stand assessment

Complete the POL1115 one leg stand assessment section.

How to do the test?

You will read out the instructions on the POL1115 form and demonstrate the test before the person completes the test.

- Stand with your feet together and your arms by your sides.
- Maintain this position while I give you the remaining instructions. Do not begin the assessment until I tell you to start.
- When I tell you to start, you must stand on your left leg and raise your right leg approximately 15 to 20cm off the ground with the raised toes extended.
- Once you have raised your right leg, count out loud for 30 seconds (in the manner one-one thousand, two-one thousand ...) while watching your raised foot until directed to stop.
- Keep your arms by your sides and the leg raised for the duration of the assessment.
- Once you start do not stop until directed to stop (demonstrate the assessment).
- They will need to hold for 30 seconds.
- Repeat the assessment while standing on the right leg when directed to do so.

What am I looking for?

- Were they able to stand still during the instructions?
- Did they sway when on either leg?
- Did they drop their foot to the ground during the 30 seconds?
- Were they using their arms to help balance?
- Did they hop to maintain balance?
- Were they able to follow directions? If not describe their behaviour.
- Was the one leg stand completed?

Completion of the CIT

After you have completed the CIT test, you will need to document whether it has been completed in a satisfactory or unsatisfactory manner.

CIT completed in a satisfactory manner?

If the driver completes the test satisfactorily (i.e., they don't appear to be impaired in the test) you need to advise them of that result without delay and release them.

You may consider forbidding them to drive if you think it is necessary.

CIT completed in an unsatisfactory manner?

If the driver does not complete the CIT satisfactorily, you need to advise the driver of the results and require them to remain or accompany for a blood test. Depending on the location that the CIT was performed, you may first have to require the driver to accompany you to a place for a blood test.

NOTE: The CIT does not finish until the blood sample results come back. This can take a few weeks.

When would a blood test be taken?

A blood test can be taken when a compulsory impairment test (CIT) is not satisfactorily completed or following hospitalisation where a driver has been involved in a crash or an incident involving a motor vehicle, or when a driver is incapable of proper control of a motor vehicle.

Requirements of Blood Test

The *POL540: Blood specimen medical certificate* form is used for blood samples related to road policing. It can be used for EBA blood samples, CIT blood samples, and blood samples following crashes.

You need to inform the person of:

- their requirements for taking a blood sample; *and*
- that there are fees associated for the blood test (See details on fees in the *BLOOD TEST FEES Land Transport (Blood Test Fee) Notice 2023.*)
- *then* ask for consent for a blood specimen to be taken.

Follow the instructions on the POL540 form to ensure the process for sampling, labelling, handling, and posting are all followed. If the driver refuses to comply, once they have been required to undergo a blood test, they can be charged with refusing blood.

Once the blood sample is taken

Once a blood sample has been successfully taken from the driver, you may consider forbidding them to drive. The driver is free to go unless you follow up on other offending that may have occurred. Tell the driver you will advise them of the result.

You will not charge the driver with the drug driving offence until you have the result of the blood analysis.

Impaired driver who is injured and requires medical treatment

You may not be able to require a driver to undergo a CIT if they have been **injured**. In this case there is provision under The Land Transport Act 1998, section 73, that if the person is in hospital after an accident or incident involving a motor vehicle, then a blood sample can be taken for analysis.

For instance, if a driver is stopped for a minor traffic offence, but once you have the driver out of the vehicle and they fall and injure themselves, and require hospital treatment, you can then use section 73 to request blood.

Blood test results

A blood test is developed for identifying listed qualifying drugs that analyses the proportion of drug/s in a person's blood and provides a quantitative level as a result. Listed qualifying drugs each have a tolerance and high-risk blood concentration level that is used to determine the type of offence.

- If the blood test result is below the tolerance level, there is no offence.
- If it exceeds the tolerance level it will result in an infringement, and
- if it exceeds the high-risk level, it is a criminal charge.

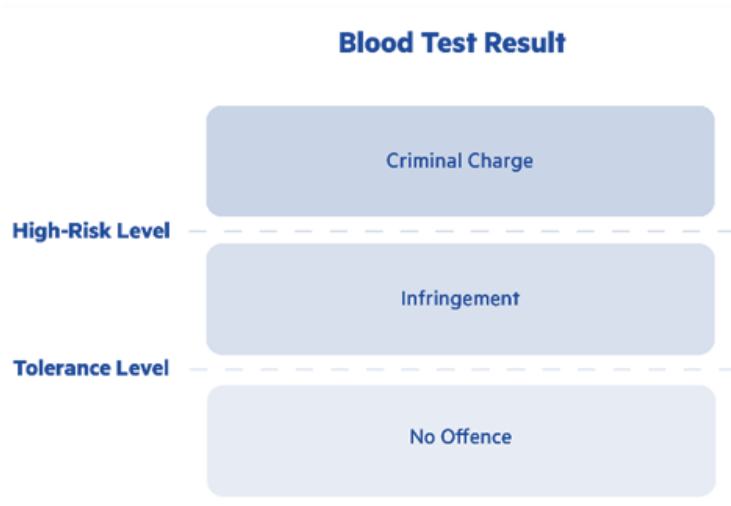
The blood test will also return results for any unlisted qualifying drugs. The analyst certificate will confirm the presence of drug/s.



Offence charges

What is different about the drug blood testing analysis?

Schedule 5 in the Land Transport Act 1998 lists 25 **qualifying** drugs with the highest risk of impairing the ability to drive safely (including 4 illicit and 21 prescription drugs). Qualifying drugs are defined as either 'listed' or 'unlisted'. Each drug in Schedule 5 has a tolerance level and a high-risk blood concentration enforcement level.

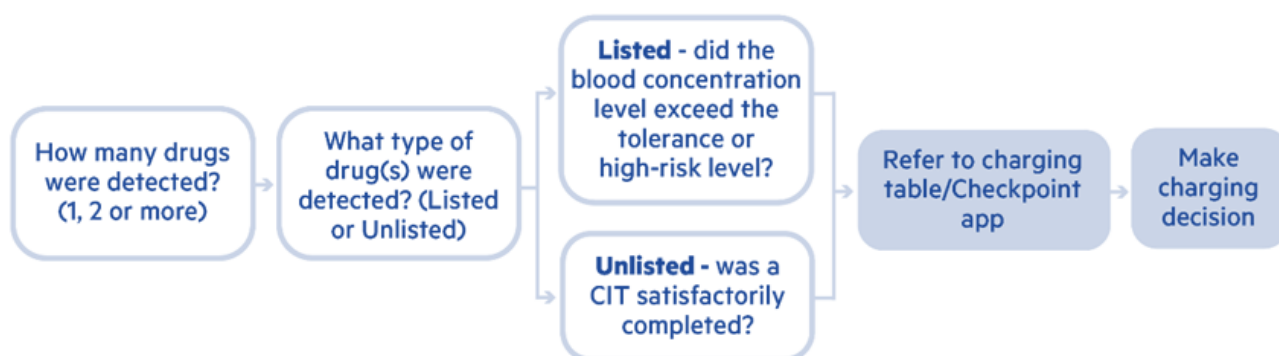


If the blood test result is below the tolerance level, there is no offence. If it exceeds the tolerance level, it will result in an infringement. If it exceeds the high-risk level, it is a criminal charge.

The level can also be called a 'limit' and for listed qualifying drugs, driving over the legal limits means blood concentration is above either the tolerance level or the high-risk level. Driving within the legal limit means blood concentration (if found) is below the tolerance level.

Key questions when considering the appropriate charge

Testing positive by a blood test for one or more listed or unlisted qualifying drug will result in either an infringement or criminal charge, depending on the confirmation of either the presence, tolerance, or high-risk level detected by the blood analysis.



Refer to the [Legislative Reference Table \(LRT - Code Book\)](#) for a full list of offences. The driver must be advised of their CIT result without delay.

Medical defence for prescription drugs

A medical defence will be available for **prescription medicines** where drivers can demonstrate they have taken the prescribed drug(s) in accordance with their current prescription, and any instructions from a health practitioner or from the manufacturer of the drug.

Uncooperative at the CIT

There are charges if the driver refuses to undergo the CIT.

The following are some offences the driver can be charged with at the point of the Compulsory Impairment Test:

Driver Action	Charge
Refuses to accompany	Arrest and charge with refused to accompany for a CIT
Refuses to do the CIT test	Arrest and charge with refusing to do the CIT
Refuses to remain for the test	Arrest and charge with failed to remain for a CIT
Fails to remain for CIT result	Arrest and charge with failed to remain for a CIT result
Refuses officers request for blood	Arrest and charge with refused officers request for blood.
Refuses to permit sample to be taken	Arrest and charge with refused to give a blood specimen to a doctor or medical officer

Assessment

To qualify as a trained officer, you must conduct a practical CIT while being assessed and complete a written assessment. Currently this qualification will be completed when you have started working in your district.

Practical

- You must complete all parts of the CIT while you are being assessed. Follow the CIT form and ensure that you complete all fields.

Appendix 1: Gazette Notice

Land Transport Act 1998

Land Transport (Compulsory Impairment Test) Notice 2009

Pursuant to section 2(1) of the Land Transport Act 1998, the Minister of Police gives the following notice.

Notice

1. *Title*

This notice is the Land Transport (Compulsory Impairment Test) Notice 2009.

2. *Commencement*

This notice comes into force on 1 November 2009.

3. *Interpretation*

In this notice:

officer means an enforcement officer who is trained to give the compulsory impairment test;

testing officer means the officer who is giving the compulsory impairment test.

4. *Compulsory impairment test*

The compulsory impairment test comprises all the activities described in clauses 5 to 8.

5. *Disclosure of medical condition or disability*

(1) At the start of the compulsory impairment test, the testing officer must advise the person being tested of that person's obligation under subclause (2).

(2) Before or at any time during the compulsory impairment test, the person being tested must disclose to the testing officer any medical condition or disability that he or she has that could affect:

- (a) the person's ability to complete the test; or
- (b) the outcome of the test.

6. *Eye assessment*

(1) **Step 1: Preliminary action**—

(a) If the person being tested is wearing any form of eyeglasses:

- (i) the testing officer must direct the person to remove his or her eyeglasses; and
- (ii) the person must then immediately remove his or her eyeglasses.

(b) The testing officer must ask the person being tested whether the person is wearing contact lenses and the person being tested must reply to that question.

(2) **Step 2: Eye assessment**—

(a) The testing officer must:

- (i) direct the person being tested to keep his or her head still; and
- (ii) when the person being tested has his or her head still:

(A) measure the person's pupils by comparing them with a gauge held beside the person's eyes; **and**

(B) investigate the reaction of the person's eyes to light using torchlight.

- (b) The testing officer must direct the person being tested to:
 - (i) keep his or her head still; and
 - (ii) track the movement of an object with his or her eyes until directed to stop.
- (c) The testing officer must ask the person being tested whether he or she has understood the directions given in paragraphs (a) and (b), and if necessary, repeat any direction.
- (d) The testing officer must observe the person's eyes to determine whether any of the following conditions are present:
 - (i) horizontal gaze nystagmus;
 - (ii) vertical gaze nystagmus;
 - (iii) lack of convergence.

(3) **Step 3: Matters to be recorded—**

- (a) The testing officer must record whether the person being tested:
 - (i) is wearing contact lenses;
 - (ii) is able to track a moving object with his or her eyes as directed in subclause (II)(b);
 - (iii) is observed to have any of the conditions referred to in subclause (II)(d);
 - (iv) is able to follow directions.
- (b) The testing officer must also record:
 - (i) the measurement referred to in subclause (II)(a)(ii)(A); and
 - (ii) the result of the investigation referred to in subclause (II)(a)(ii)(B).
- (c) If the eye assessment is not completed, or not completed satisfactorily, the testing officer must record that fact.

7. *Walk and turn assessment*

(1) **Step 1: Preliminary action—**

- (a) The testing officer must direct the person being tested:
 - (i) to stand and place his or her left foot on the ground, and place the right foot in front of the left foot, with the heel of the right foot against the toe of the left foot; and
 - (ii) to place his or her arms by his or her sides and to stay in that position until further directed.

- (b) The testing officer must then:
 - (i) explain and demonstrate to the person being tested the requirements of the walk and turn assessment in Step 2; and
 - (ii) ask the person being tested whether he or she has understood the explanation and demonstration and, if necessary, repeat either the explanation or the demonstration, or both; and
 - (iii) explain that once the assessment has commenced it must be continued until the completion of Step 2.

(2) **Step 2: Walk and turn assessment—**

- (a) The person must, when directed by the testing officer, take 9 heel-to-toe steps along the line.
- (b) When those steps are completed, and at the direction of the testing officer, the person must turn by keeping the toes of his or her front foot on the line and taking a series of small steps with the other foot.
- (c) When the person has turned 180 degrees, he or she must take 9 steps back along the line.
- (d) The person must, at the direction of the testing officer, count aloud each heel-to-toe step with the first step starting at 1 and the return heel to toe steps starting at 1.
- (e) The person must, throughout the assessment:
 - (i) keep his or her arms by his or her sides; and
 - (ii) watch his or her feet at all times.

(3) **Step 3: Matters to be recorded—**

- (a) The testing officer must record whether the person being tested:
 - (i) maintains balance;
 - (ii) starts to walk before being directed to do so;
 - (iii) stops while walking;
 - (iv) steps off the line;
 - (v) does not walk heel to toe;
 - (vi) takes an incorrect number of steps;
 - (vii) does not turn as directed;
 - (viii) uses 1 or both of his or her arms to maintain balance; and
 - (ix) is able to follow directions.
- (b) If the walk and turn assessment is not completed, or not completed satisfactorily, the testing officer must record that fact.

8. *One leg stand assessment*

(1) **Step 1: Preliminary action**—

- (a) The testing officer must direct the person being tested to:
 - (i) stand with his or her feet together with arms by his or her sides; and
 - (ii) remain in that position until further directed.
- (b) The testing officer must then:
 - (i) explain and demonstrate to the person being tested the requirements of the one leg stand assessment in Step 2 and, if necessary, repeat either the explanation or the demonstration, or both; **and**
 - (ii) ask the person being tested whether he or she has understood the explanation and demonstration and, if necessary, repeat either the explanation or the demonstration, or both; **and**
 - (iii) explain that once the assessment has commenced it must be continued until the completion of Step 2.

(2) **Step 2: The one leg stand assessment**—

- (a) The person must, when directed by the testing officer, stand on his or her left leg and raise his or her right leg approximately 15 to 20 centimetres off the ground with the raised toes extended.
- (b) The person must then count aloud while watching his or her raised foot for 30 seconds, or until the testing officer directs him or her to stop.
- (c) The person must then repeat the assessment while standing on the right leg.

(3) **Step 3: Matters to be recorded**—

- (a) The testing officer must record for each assessment undertaken at Step 2 whether the person being tested:
 - (i) sways while balancing;
 - (ii) puts his or her raised foot on the ground during the 30-second assessment period;
 - (iii) uses 1 or both of his or her arms to maintain balance;
 - (iv) hops;
 - (v) is able to follow directions.
- (b) If the one leg stand assessment is not completed, or not completed satisfactorily, the testing officer must record that fact.

Dated at Wellington this 28th day of October 2009. HON JUDITH COLLINS, Minister of Police.

Explanatory Note:

This note is not part of the notice but is intended to indicate its general effect. This notice, which comes into force on 1 November 2009 prescribes the manner in which the compulsory impairment test is to be carried out. This notice is administered by the New Zealand Police.

Appendix 2: Detailed legislation

Land Transport Act 1998

Part 2: Primary responsibilities of participant in land transport system

Section 11A

Section 11A of the Land Transport Act 1998 (LTA) makes it illegal for persons to drive or attempt to drive while impaired and their blood contains evidence of use of a controlled drug or greater than the prescribed tolerance of a prescription medicine.

11A – Persons not to drive or attempt to drive while blood contains evidence of, or oral fluid indicates, use of qualifying drug

- (1) A person may not drive or attempt to drive a motor vehicle while—
 - (a) the person’s blood contains evidence of use of a qualifying drug (see sections [57A\(1\) and \(2\)](#), [57B\(1\) and \(2\)](#), [57C\(1\) and \(2\)](#)); or
 - (b) the person’s oral fluid indicates use of a qualifying drug [section 57A\(3\)](#), [57B\(3\)](#), or [57C\(3\) or \(4\)](#).
- (2) A person’s blood contains evidence of use of a qualifying drug if—
 - (a) the blood concentration level of a listed qualifying drug exceeds the tolerance level for the drug; or
 - (b) the blood contains any level of an unlisted qualifying drug.
- (3) For the purposes of subsection (1)(b), a person’s oral fluid indicates use of a qualifying drug if the results of a first oral fluid test and a second oral fluid test subsequently undergone by the person are positive and indicate the use of the same qualifying drug.

12 – Persons not to drive while under influence of alcohol or drugs

A person may not drive or attempt to drive a motor vehicle while under the influence of drink or a drug, or both, to such an extent as to be incapable of having proper control of the vehicle.

13 Drivers and other road users to comply with directions of enforcement officers, etc.

- (1) A person must comply with [sections 68, 69, 70, 71A, 71B, 71C, 71E, 71F, 72](#), and [73](#) (which relate to the administration of breath screening tests, evidential breath tests, oral fluid tests, compulsory impairment tests, and blood tests).
- (2) A person must comply with all lawful requirements, directions, and requests made by an enforcement officer under any of sections [sections 68, 69, 70, 71A, 71B, 71C, 71E, 71F, 72](#), and [73](#).

Part 6 – Driving offences involving drink or drugs, and penalties and procedures

Key points to know:

- The person does not complete the compulsory impairment test satisfactorily. There is no Pass/Fail, the test is subjective, and the completion of the test must be to the satisfaction of the CIT officer administering the test. If they do not, they are deemed to be impaired.
- The officer is trained to give the test. This is a requirement of the legislation and the gazette. On completion of this training, you will be assessed in your ability to administer a CIT to a subject.

- The requirement to undergo the test was done in accordance with S.71A. This section outlines the circumstances that must exist before you can require a person to undergo a CIT – it is not a random procedure; you must suspect the driver has consumed drugs.
- And a blood analysis showed evidence of a drug (controlled or prescription). The offence is not complete until a blood analysis is performed, and the results show evidence of a drug. This means no charges will be laid until several weeks after the offence, when the blood result is obtained.

57A – Driving with blood that contains evidence of, or oral fluid that indicates, use of 1 qualifying drug

Offence: driving while blood contains evidence of use of 1 qualifying drug

(1) A person who drives or attempts to drive a motor vehicle on a road commits an offence if, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, the person’s blood—

- (a) contains evidence of use of a listed qualifying drug and the blood concentration level of the drug exceeds the high-risk level for the drug; or
- (b) contains evidence of use of an unlisted qualifying drug and the blood specimen was taken after the person failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer who is trained to give the test when the person was required to do so under section 71F.

Infringement offence: driving while blood contains evidence of use of 1 qualifying drug

(2) A person who drives or attempts to drive a motor vehicle on a road commits an infringement offence if, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, the person’s blood—

- (a) contains evidence of use of 1 listed qualifying drug and the blood concentration level of the drug equals or is less than the high-risk level (if any) for the drug; or
- (b) contains evidence of use of 1 unlisted qualifying drug and the person was not required to undergo a compulsory impairment test under section 71F before the blood specimen was taken.

57B – Driving while blood contains evidence of, or oral fluid indicates, use of 2 or more qualifying drugs.

Offence: driving while blood contains evidence of use of 2 or more qualifying drugs

(1) A person who drives or attempts to drive a motor vehicle on a road commits an offence if, as ascertained from an analysis of a blood specimen subsequently taken from the person under [section 72](#) or [73](#), the person’s blood contains evidence of use of 2 or more qualifying drugs and either or both of the following apply:

- (a) 1 or more of the drugs are listed qualifying drugs and the blood concentration level for 1 or more listed qualifying drugs exceeds the applicable high-risk level;
- (b) 1 or more of the drugs are unlisted qualifying drugs and the blood specimen was taken after the person failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer who is trained to give the test when the person was required to do so under section 71F.

Infringement offence: driving while blood contains evidence of use of 2 or more qualifying drugs

(2) A person who drives or attempts to drive a motor vehicle on a road commits an infringement offence if, as ascertained from an analysis of a blood specimen subsequently taken from the person under section 72 or 73, the person’s blood—

- (a) contains evidence of use of 2 or more listed qualifying drugs and the blood concentration level of each listed qualifying drug equals or is less than the high-risk level for the drug; or

- (b) contains evidence of use of 2 or more unlisted qualifying drugs and the person was not required to undergo a compulsory impairment test under [section 71F](#) before the blood specimen was taken; or
- (c) contains evidence of use of 1 or more listed qualifying drugs and 1 or more unlisted qualifying drugs and—
 - (i) the blood concentration level of each listed qualifying drug equals or is less than the high-risk level for the drug; and
 - (ii) the person was not required to undergo a compulsory impairment test under section 71F before the blood specimen was taken.

57C – Driving while blood or breath contains alcohol and blood contains evidence of, or oral fluid indicates, use of 1 qualifying drug

Offence: driving while blood contains alcohol and evidence of use of 1 qualifying drug

(1) A person who drives or attempts to drive a motor vehicle on a road commits an offence if, as ascertained from an analysis of a blood specimen subsequently taken from the person under [section 72](#) or [73](#), the person's blood contains alcohol and evidence of use of 1 qualifying drug and any or all of the following apply:

- (a) the proportion of alcohol in the person's blood—
 - (i) exceeds 80 milligrams of alcohol per 100 millilitres of blood; or
 - (ii) if the person is younger than 20, exceeds 30 milligrams of alcohol per 100 millilitres of blood;
 or
 - (iii) if the person holds an alcohol interlock licence or a zero alcohol licence, equals or is less than 50 milligrams of alcohol per 100 millilitres of blood:
- (b) the drug is a listed qualifying drug and the blood concentration level of the drug exceeds the high-risk level for the drug;
- (c) the drug is an unlisted qualifying drug and the blood specimen was taken after the person failed to complete a compulsory impairment test in a manner satisfactory to an enforcement officer who is trained to give the test when the person was required to do so under [section 71F](#).

57D – Penalties for offences against sections 57A(1), 57B(1), and 57C(1).

- (1) If a person is convicted of a first or second offence against [section 57A\(1\)](#),—
 - (a) the maximum penalty is imprisonment for a term not exceeding 3 months or a fine not exceeding \$4,500; and
 - (b) the court must order the person to be disqualified for 6 months or more from holding or obtaining a driver licence.
- (2) If a person is convicted of a first or second offence against [section 57B\(1\)](#) or [57C\(1\)](#),—
 - (a) the maximum penalty is imprisonment for a term not exceeding 6 months or a fine not exceeding \$4,500; and
 - (b) the court must order the person to be disqualified for 9 months or more from holding or obtaining a driver licence.
- (3) If a person is convicted of a third or subsequent offence against any of [sections 56\(1\)](#), [56\(2\)](#), [57A\(1\)](#), [57B\(1\)](#), [57C\(1\)](#), [58\(1\)](#), [60\(1\)](#), [61\(1\)](#), (whether or not that offence is of the same kind as the person's first or second offence against any of those provisions),—
 - (a) the maximum penalty is imprisonment for a term not exceeding 2 years or a fine not exceeding \$6,000; and

- (b) the court must order the person to be disqualified for more than 1 year from holding or obtaining a driver licence.

58 – Contravention of section 12

(1) A person **commits** an offence if the person drives or attempts to drive a motor vehicle on a road while under the influence of drink or a drug, or both, to such an extent as to be incapable of having proper control of the vehicle.

59 – Failure or refusal to remain at specified place or to accompany enforcement officer

- (1) A person commits an offence if the person—
- (a) fails or refuses to remain at the place where the person underwent a breath screening test under until [section 68](#) after the result of the test is ascertained; or
 - (b) fails or refuses to accompany without delay an enforcement officer to a place when required to do so under [section 69](#), [71A](#), [71B](#), [71E](#), [71F](#), or [72](#); or
 - (c) having accompanied an enforcement officer to a place under a requirement under [section 69](#), [71A](#), [71B](#), [71E](#), [71F](#), or [72](#), —
 - (i) fails or refuses to remain at that place until the person is required either to undergo an evidential breath test, an oral fluid test, a blood test, or a compulsory impairment test under this Act; or
 - (ii) fails or refuses to accompany an enforcement officer to another place under any of those sections; or
 - (d) having undergone an evidential breath test under a requirement under [section 69](#), an oral fluid test under a requirement under any of [sections 71A to 71C](#), or a compulsory impairment test under [section 71F](#), fails or refuses to remain at the place where the person underwent the test until after the result of the test is ascertained.

60 – Failure or refusal to permit blood specimen to be taken or to undergo compulsory impairment test

- (1) A person commits an offence if the person—
- (a) fails or refuses to permit a blood specimen to be taken after having been required to do so under [section 72](#) by an enforcement officer; or
 - (b) fails or refuses to permit a blood specimen to be taken without delay after having been requested to do so under [section 72](#) by a health practitioner or medical officer; or
 - (c) is a person from whom a health practitioner or medical officer may take a blood specimen under [section 73](#) and refuses or fails to permit such a person to take a blood specimen; or
 - (d) fails or refuses to undergo a compulsory impairment test under [section 71F](#).

61 – Person in charge of motor vehicle causing injury or death

(2) A person commits an offence if the person is in charge of a motor vehicle and causes bodily injury to, or the death of, a person—

- (a) while under the influence of drink or a drug, or both, to such an extent as to be incapable of having proper control of the vehicle.

62 – Causing injury or death in circumstances to which section 61 does not apply

- (1) A person commits an offence if the person causes bodily injury to or the death of a person by carelessly driving a motor vehicle (in a manner that is not an offence against [section 61](#))—
- (a) while under the influence of drink or a drug, or both; or

- (b) if, as ascertained from an analysis of a blood specimen subsequently taken from the person [section 72](#) or [73](#), the blood of the person driving contains evidence of use of a listed qualifying drug and the blood concentration level of the drug equals or is less than the high-risk level (if any) for the drug.

Enforcement procedures for offences involving use of qualifying drugs

71E – Person may be required to accompany enforcement officer to undergo blood test

(1) An enforcement officer may require the following persons to accompany an enforcement officer to a place where it is likely that the person can undergo an evidential blood test when required to do so by the officer:

- (d) a person who fails to complete a compulsory impairment test in a manner satisfactory to an enforcement officer who is trained to give the test when the person is required to do so by an enforcement officer under [section 71F](#).

71F – Who must undergo compulsory impairment test

(1) An enforcement officer may require any of the following persons to undergo a compulsory impairment test given by an enforcement officer trained to give the test if the enforcement officer has good cause to suspect that the person has consumed a drug or drugs:

- (a) a driver of, or a person attempting to drive, a motor vehicle on a road:
- (b) a person who the officer has good cause to suspect has recently committed an offence against this Act that involves the driving of a motor vehicle:
- (c) if an accident has occurred involving a motor vehicle,—
- (i) the driver of the vehicle at the time of the accident; or
- (ii) if the enforcement officer is unable to ascertain who the driver of the motor vehicle was at the time of the accident, a person who the officer has good cause to suspect was in the motor vehicle at the time of the accident.

Qualifying sections for 3rd and subsequent

56(4) If a person is convicted of a third or subsequent offence against subsection (1) or (2) or any of [sections 57A\(1\), 57B\(1\), 57C\(1\), 58\(1\), 60\(1\), or 61\(1\) or \(2\)](#) (whether or not that offence is of the same kind as the person's first or second offence against any of those provisions),—

- (a) the maximum penalty is imprisonment for a term not exceeding 2 years or a fine not exceeding \$6,000; and
- (b) the court must order the person to be disqualified from holding or obtaining a driver licence for more than 1 year.

Defences

S.64 lists the defences that relate to drug driving offences, as follows:

(1) It is a defence to proceedings for an offence against [section 60](#) (which relates to failing or refusing to supply a blood specimen) if the court is satisfied, on the evidence of a health practitioner, that the taking of a blood specimen from the defendant would have been prejudicial to the defendant's health.

(1AA) Subsection (1) is subject [section 60\(3B\) and \(3C\)](#).

(1A) It is a defence to proceedings for an offence against [section 57A\(1\) or \(2\), 57B\(1\) or \(2\), 57C\(1\) or \(2\) or 62\(1B\)](#) if the court is satisfied that the person has consumed the relevant qualifying drug—

- (a) in accordance with—
 - (i) a current and valid prescription written for that person by a health practitioner; and
 - (ii) any instructions from a health practitioner or from the manufacturer of the qualifying drug;
- or
- (b) because it was administered by a health practitioner, provided that the person complied with the instructions (if any) that the health practitioner has given.

(1AB) It is a defence to proceedings for an offence against [section 57A\(3\)](#), [57B\(3\)](#), or [57C\(3\) or \(4\)](#) if the person’s oral fluid indicates use of a qualifying drug and—

- (a) the person—
 - (i) has a current and valid prescription for the qualifying drug that was written for that person by a health practitioner; and
 - (ii) has complied with the instructions (if any) from a health practitioner or from the manufacturer of the qualifying drug about driving, consuming alcohol or other prescription medicines, or both, while consuming the qualifying drug; or
- (b) the drug was administered by a health practitioner, and the person complied with the instructions (if any) given by the health practitioner.

(1B) It is a defence to proceedings for an offence against [section 60\(1\)\(d\)](#) if the court is satisfied that the person’s failure or refusal to undergo a compulsory impairment test is because of—

- (a) a pre-existing medical condition or pre-existing disability that precludes undergoing the test;
- (b) an injury, sustained in a motor vehicle accident giving rise to an obligation to undergo the test, that precludes undergoing the test.

(2) It is no defence to proceedings for an offence that a provision forming part of [sections 68 to 75A](#), [77](#), and [77A](#) has not been strictly complied with or has not been complied with at all, provided there has been reasonable compliance with such of those provisions as apply.

Section 71F: Requirement to undergo a CIT

This section has been introduced to outline the circumstances that must exist before a driver can be required to complete an Impairment Test. Many parts of the section mirror section 71, which outlines the requirements for an evidential breath or blood test for detection of alcohol.

Section 71F(1)

Section 71 details the requirements that must be followed in order for Police to require a person to undergo a CIT as follows:

- (1) An enforcement officer may require any of the following persons to undergo a compulsory impairment test given by an enforcement officer trained to give the test if the enforcement officer has good cause to suspect that the person has consumed a drug or drugs:
 - (a) a driver of, or a person attempting to drive, a motor vehicle on a road;
 - (b) a person who the officer has good cause to suspect has recently committed an offence against this Act that involves the driving of a motor vehicle;
 - (c) if an accident has occurred involving a motor vehicle,-
 - (i) the driver of the vehicle at the time of the accident: or

- (ii) if the enforcement officer is unable to ascertain who the driver of the motor vehicle was at the time of the accident, a person who the officer has good cause to suspect was in the motor vehicle at the time of the accident.
- (2) An enforcement officer may require a person specified under subsection (1) to –
 - (a) remain in the place where stopped, for a period of time that is reasonable in the circumstances, to undergo the compulsory impairment test: or
 - (b) accompany an enforcement officer to another place to undergo the compulsory impairment test if it would enhance road safety, personal safety, the person’s privacy, or the giving or taking of the test.
- (3) A person who has undergone a compulsory impairment test must remain at the place where the person underwent the test until after the result of the test is ascertained.
- (4) An enforcement officer may arrest a person without warrant if the person refuses or fails to comply with subsection (2) or (3).
- (5) An enforcement officer may exercise the powers in subsections (1) and (2) in addition to any of the following:
 - (a) any breath screening test, regardless of the result of the test (or a failure of the test to produce a result):
 - (b) any evidential breath test, regardless of the result of the test (or a failure of the test to produce a result):
 - (c) a first oral fluid test that—
 - (i) does not produce a positive result; or
 - (ii) produces a positive result that indicates the use of more than 1 qualifying drug:
 - (d) a second oral fluid test that does not produce a positive result.

Circumstances when section 58 will still be used

Section 58 – drives while incapable was previously the only method Police had for prosecuting a driver for drug driving. The driver must be driving under the influence of drink or drug or both, to such an extent as to be incapable of proper control of the vehicle. So, if a crash has occurred, and the driver appears impaired, a CIT test may well be warranted as the “incapable of proper control” element is already present.

Circumstances where section 58 may still be used to prosecute a suspected Drug Driver include:

- Medical disability
- No CIT officer available
- Time delay may result in CIT being impractical.
- Crash, where driver injured.

Urgent duty driving (UDD) – RP06

LEARNING OBJECTIVES

At completion of this chapter, recruits will be able to:

1. Explain what urgent duty driving is and when it is used.
2. Recognise the legal defences officers may have whilst urgent duty driving.
3. Explain the Overriding Principles of urgent duty driving.

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 safety take 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 a risk-based assessment (e.g., 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 risk 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.

What is urgent duty driving?

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

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

What is a 'serious incident'?

A 'serious incident' includes situations where:

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

Factors to consider

Drivers must take all 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
- vehicle type.

Situations may change, meaning drivers and enforcement officers who are passengers must constantly re-assess the situation, considering all 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.

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	
any act or omission in breach of the Road User rules 2004	the act or omission was necessary in executing your duty. Note: Where a specific exemption applies (e.g., proceeding against a stop sign), that exemption and associated conditions override this section.
exceeding speed limits	you are either: <ul style="list-style-type: none">engaged in urgent duty and to comply with the speed limit would be likely to prevent the duty being executeddriving an emergency vehicle in an emergency and operating a red beacon or a siren, or both (see warning devices)
proceeding against a stop sign, give way sign or traffic signal	you are: <ul style="list-style-type: none">driving an emergency vehicle displaying blue or red beacon (or both) or sounding a sirennot exceeding 20 km/htaking due care to avoid collisions with pedestrians and other traffic.

	Note: All of these conditions must apply.
proceeding through an intersection	<p>you are:</p> <ul style="list-style-type: none"> • driving an emergency vehicle displaying blue or red beacon (or both) or sounding a siren • not exceeding 20 km/h • taking due care to avoid a collision with other traffic. <p>Note: All of these conditions must apply.</p>
The mandatory 28-day licence suspension for exceeding the speed limit by more than 40km/h (under section 95 (6)(b) LTA)	<ul style="list-style-type: none"> • 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.

Tyre deflation device (TDD) – RP07

LEARNING OBJECTIVES

At completion of this chapter, recruits will be able to:

1. Explain when a TDD can and can't be used.
2. Explain the importance of where and how TDD's are deployed.
3. Explain the methods of deployment and the preferred method.
4. Discuss the Overriding Principle.

Introduction

Tyre deflation devices (TDD) are often used as a tactical option to stop fleeing vehicles in the safest possible manner, with the minimum force necessary.

Overriding principle

Police and public safety takes precedence over the immediate apprehension of the offender.

Every deployment is inherently dangerous and Police deploying TDDs must take care to preserve the safety of themselves, their colleagues and members of the public. This must be the primary consideration at all times.

Authorised device: Stinger

The Stinger TDD is the only tyre deflation device approved by the National Manager: Road Policing to be used to stop a motor vehicle.

Authorisation and responsibilities

Legal authorisation

Section 39 Crimes Act 1961 permits the use of force in executing a process or arrest and protects from criminal responsibility a person who uses reasonable force to overcome resistance to that process or arrest.

Police are responsible for their actions and in accordance with Section 62 of the Crimes Act 1961, must not place themselves, colleagues or members of the public at unjustified risk.

When TDDs must not be used

TDDs must not be used:

- on motorcycles, trikes, mopeds or quad bikes
- if traffic conditions are heavy around the potential deployment site
- the potential deployment site has high pedestrian traffic or a lot of parked vehicles
- there is road construction around the potential deployment site
- if the device has to be deployed from a centre median on a multi-lane road
- there is a likelihood of injury to members of the public, Police, or the alleged offender(s).

When can TDDs be used?

Deployment staff who are fully certified as a primary or secondary responder may deploy a TDD:

- where no other less dangerous means of stopping the vehicle are reasonably available
- where the deployment can be effected without unjustified risk to any person

Staff must identify cover prior to TDD deployment. Communication must be made to Comms informing them of the cover that staff have found to deploy from.

AND

- on the authority of the Pursuit Controller, as per the 'Fleeing driver policy';

OR

- by deployment staff who self-authorise a deployment based on their TENR risk assessment, without approval from the Pursuit Controller – self-authorisation cannot be used to deploy a TDD against heavy vehicles (HMV).

Note: *Deployment on an HMV always requires Comms Shift Commander pre-approval.*

Seeking authorisation prior to deployment

Prior to deploying spikes, permission must be obtained from the Emergency Communications Centre (unless self-authorisation is appropriate. See **Self-authorisation without prior approval**). When asking for permission the unit/deployment officer must advise:

1. Unit call sign
2. They are certified to deploy spikes
3. Location of deployment
4. The type of cover being used

Self-authorisation without prior approval

Staff can deploy a TDD (except on heavy vehicles) at their own discretion but *only in accordance with their TENR risk assessment* if it indicates that an immediate response is justified **and** when they are unable to gain prior approval from a Pursuit Controller.

Potential situations are where non-deployment could have the gravest consequences, including immediate risk of serious injury/loss of life, risk of significant property damage or issues of national security.

If you self-authorise a TDD deployment, be aware that you may have to justify your decision. Notify the Pursuit Controller as soon as possible of a self-authorised deployment including the outcome.

Caution: *You have no power to self-authorise a TDD deployment where a Pursuit Controller has directed:*

- a pursuit of a fleeing driver, or
- another operation,
- for the deployment to be abandoned.

The deployment officer must continually assess all variables (not just those identified previously) that could impact on the TDD deployment – if the risks outweigh the benefits, the deployment of the TDD must be abandoned. The pursuit controller must be notified of this action.

Deployment sites

Prior to deployment

Deployment staff should:

- continually assess the risk
- choose a suitable deployment site (see **Site selection**)
- advise Comms of the intended deployment site
- conduct an ongoing risk assessment of the site - if the risk becomes too great, abandon deployment
- ensure your own safety and the safety of others at the deployment site
- gain approval from the Pursuit Controller, Comms Shift Commander or Operation Commander unless self-authorising – approval is mandatory for a heavy vehicle deployment.

Important: When the Stinger is out of the Police vehicle for deployment, never leave it unattended at any time.

Site selection

The site must:

- always provide cover and an escape route for deployment staff
- not be on or immediately before a bend in the road
- provide a clear view of the road in all directions, to allow you to observe the target vehicle and other traffic as it approaches
- provide cover to ensure your safety. Fixed objects such as overpass pillars, buildings, guardrails and bridge abutments provide the most solid protection
- not rely on the use of Police vehicles or any other vehicle to provide cover, unless operational circumstances require such in the interests of officer safety
- allow the safe deployment of the Stinger. Steep embankments, curves or hills can hinder this
- provide enough space to deploy the device but not enough that the offending vehicle can easily evade it
- be far enough away from the target vehicle to give time for selecting and assessing the site and deploying the device.

Note: Continually assess your area to identify suitable TDD deployment sites.

Cover is defined as any material that will stop or at least deflect a vehicle without causing harm to the deployment officer.

Deployment options and methods

Caution: When the device is in position, you must move to a position of cover, keeping clear of the rope to avoid it getting tangled around hands, wrists, feet or legs.

Deployment staff have the option of an overt or covert TDD deployment, depending on operational requirements. However, most TDD deployments will be to halt a fleeing driver. Due to the dynamic nature of incidents involving fleeing drivers, and the very short timeframes in which deployment officers operate, most TDD deployments will be overt.

Overt deployment

An overt deployment will occur when a marked patrol vehicle is visibly parked on the same road as the target vehicle. As part of their risk assessment, deployment staff should consider the location of their vehicle within the deployment zone, as it may impact on a successful deployment, e.g.: narrowing of the road to ensure the fleeing vehicle engages the Stinger.

Covert deployment

A covert deployment will require an unmarked car (or marked patrol vehicle hidden from the offender's line of sight) and an officer concealed prior to the TDD deployment. This is potentially the safest deployment as the target vehicle driver would have no indication that the deployment is about to occur, limiting any exit or evasive manoeuvres.

Pull deployment method

Pull deployment is the preferred deployment option. The Stinger can also be placed on the roadway and pulled across the lane(s) of traffic using the attached rope. However, this method requires staff to cross the road, so caution is required. This method does require additional time to set up however is the preferred method as you can potentially deploy from behind cover. If this deployment method is used, staff must wear a high visibility jacket and be mindful of all traffic, not just the fleeing driver. Follow the steps in the table below to pull deploy the Stinger:

Step	Action
1	Remove the Stinger from its case by picking it up by the rocker arms - not by the sides.
2	Remove the case from your immediate work area and unspool the rope in a safe manner.
3	Avoid tangling the rope.
4	Walk the Stinger across the roadway.
5	Place the Stinger on the roadside opposite to where you intend to stand during the deployment.
6	Ensure that the side of the Stinger with the rope attached is facing the roadway.
7	Locate the rope and holding it lightly, allow the rope to thread through your hand whilst crossing to the opposite side of the road to the deployment position.
8	Pull on the rope so it lies flat on the roadway. Other traffic will be able to travel unimpeded over the rope.
9	When roadway traffic is clear and before the target vehicle arrives, pull the Stinger across the roadway using the rope. Release the rope or spool handle, so that it lies on the ground, before the target vehicle passes.
10	Move to a position of cover.

Caution: Do not stand on the exit side of the site, because flying debris or the offender's vehicle may injure you.

Kerbside deployment method

Although not the preferred method, this method does not require staff to cross the road to deploy the TDD. Follow these steps when deploying the Stinger:

Step	Action
1	Remove the Stinger from its case by picking it up by the rocker arms - not by the sides.
2	Remove the case from your immediate work area and unspool the rope in a safe manner.
3	Avoid tangling the rope.
4	Use the inside hand to hold rope spool and the middle rocker arm (on the rope side of the Stinger).
5	Hold the rocker arm on the opposite side of the device using the outside hand.
6	Move to a position on the roadside from where the device is to be deployed.
7	When the target vehicle approaches, bend down while holding the Stinger at ankle height and with a swinging motion slide the Stinger across the roadway.
8	Pull on the rope or spool handle to fully extend the device across the roadway.
9	Release the rope or spool handle, so that it lies on the ground.
10	Move to a position of cover.

Caution: Do not stand on the exit side of the site, because flying debris or the offender's vehicle may injure you.

Maintenance

After the Stinger has been used, it should be carefully inspected for loose screws, damaged or missing spikes or debris interfering with the concertina mechanism. To do this, extend the system and if necessary, tighten the screws to prevent the washer from turning.

Note: Stingers are designed to operate without any form of lubrication.

Abandoning deployment

Who can abandon deployment?

These staff can abandon deployment:

- deployment staff; or
- the Pursuit Controller, or
- the Comms Shift Commander.

Note: If the deployment has been abandoned by the Pursuit Controller, deployment staff cannot self-authorise a TDD deployment.

When must deployment be abandoned?

Deployment must be abandoned:

- if injury is likely to occur to members of the public, Police and/or the offender(s); and/or
- if vehicular and/or pedestrian traffic increases at or near the deployment site.

What deployment staff must do

If deployment staff are directed, or make the decision to abandon the deployment, they must:

- acknowledge the Pursuit Controller's direction and/or inform the Pursuit Controller of the decision to abandon the deployment;
- make it clear to the lead pursuit driver that the deployment has been abandoned;
- retract the TDD immediately; *and*
- notify the Pursuit Controller that the device has been retracted, and pack it away correctly.

CIMS and traffic crash theory – RP08

LEARNING OBJECTIVES

At completion of this chapter, recruits will be able to:

1. Explain what CIMS is and its function.
2. Discuss what to do when attending a vehicle crash.
3. Identify what hazards may exist at a vehicle crash.
4. Explain how to mark a scene at a vehicle crash.
5. Identify the offences related to driver duties at a vehicle crash.

CIMS multi-agency response to incidents: Introduction

Many incidents, whether major emergencies such as earthquakes or localised incidents such as crashes or fires, require a response from more than one agency. To co-ordinate the effective use of all their resources, these agencies use a formalised management structure that promotes efficiency and provides consistency and direction: the Coordinated Incident Management System (CIMS). It provides the model for coordination and control in a multi-agency response. This section gives an overview of CIMS, however the full CIMS manual should be referenced for a complete understanding.

CIMS enables inter-agency co-ordination. It provides a common operating platform for inter-agency coordination and is required to be used in every incident requiring a multi-agency response, irrespective of whether Police is the lead or a supporting agency. By using CIMS, all agencies can work together to stabilise incidents and protect life, property and the environment.

Response objectives

Response aims to manage the consequences of hazards, support the affected communities, and establish the basis for recovery. Common response objectives that provide guidance to responders are listed below. These are not listed in priority order, and vary depending on the incident:

- preserve life (including ensuring responder safety)
- prevent escalation of the emergency
- maintain law and order
- care for the sick, injured, and dependant
- provide essential services
- preserve governance
- protect assets, including buildings and their contents
- protect natural and physical resources
- provide animal welfare, and
- preserve economic and social activity

Organisational structure and process

CIMS structure

The CIMS structure is built around these seven major components:

Function	Responsibilities
Control	Coordinates and controls the response.
Intelligence	Collects and analyses information and intelligence related to context, impact and consequences; also distributes intelligence outputs.
Planning	Leads planning for response activities and resource needs.
Operations	Provides detailed direction, coordination, and supervision of response elements on behalf of the Control function.
Logistics	Provides personnel, equipment, supplies, facilities, and services to support response activities.
Public Information Management	Develops and delivers messages to the public, directly and through the media, and liaises with the community if required.
Welfare	Coordinates the delivery of emergency welfare services and resources to affected individuals, families/whānau, and communities

At low-level incidents, one person may carry out all these functions, whereas at major incidents, appointments may be made to each functional area.

Lead agency

It is important that the senior 'first-responder' to arrive at the scene, regardless of agency, assumes the role of incident controller and, initially, carries out all management functions and responsibilities. As additional responders arrive, control may be transferred to another agency, depending on which has primary authority for controlling the incident. This agency becomes the lead agency.

Traffic crash attendance

Introduction

Attending the scene of a vehicle crash is an everyday part of your role as a police officer. The types of crashes you may attend are:

- **Non-injury** – No injury has occurred
- **Minor Injury** – A crash in which injuries are not 'serious' but require first aid or cause discomfort or pain to the person injured. Examples include minor bruising, soreness to the neck, and any minor cut or chest soreness from the restraining effect of a seat belt during a crash.
- **Serious Injury** – A crash in which a person suffers fractures, concussions, severe cuts or other injuries that require medical attention or admission to hospital.
- **Fatal** – A crash, on a public road, street or any other place, involving a vehicle where a person involved in the crash dies within 30 days of the crash.

We attend these incidents to protect life and property, keep the roads safe, investigate any offences committed and to minimise the disruption to the public. The information gathered from the OnDuty Traffic Crash Report (TCR) also goes to other agencies and is used for things like road improvements and identifying hot spots.

You will have to attend these vehicle crash scenes at any time while on patrol. You must therefore ensure that you always have the right equipment in your patrol vehicle.

Personal equipment includes:	This also extends to the equipment in your patrol vehicle:
• Reflectorised jacket	• Crayon/dazzle paint
• Torch and cone	• Crash signs
• Rubber gloves	• LED road markers
• Resuscitation mask	• Fire extinguisher
• Notebook	• First aid kit
• Police-issued mobility device	• Cones (minimum 6)

EACOM

To assist you to investigate and deal with these scenes confidently and efficiently, use the five-step procedure EACOM in conjunction with TENR and CIMS (Co-ordinated Incident Management Systems).

E – Eliminate Danger

A – Attend to Injured

C – Call for Assistance

O – Obtain Witnesses

M – Mobility

CIMS

Fire, Ambulance, Police and seven other government agencies have developed a response system for incidents that involve services working together.

C: Co-ordinated

I: Incident

M: Management

S: System

Under CIMS, the incident type will dictate the lead agency.

Priority	Description
1 – Safety	Usually Fire (FENZ) will take the lead for safety around crashed vehicles; Police will provide wider scene protection and traffic management.
2 – Life preservation	Usually, Ambulance will take the lead for medical assistance; Police will take the lead for protection against criminal acts.
3 – Evidence preservation	Police will take the lead for securing the scene, exhibits, witnesses and the like.

For serious traffic crashes that do not involve fire or hazardous chemicals, Police is the lead agency. The first Police officer to arrive at the scene acts as incident controller irrespective of their rank. A supervisor on arrival will assume the role of incident controller.

Where the incident is a serious traffic crash (i.e., involving fatalities, or injury(s) requiring medical treatment or hospitalization), the role of incident controller must not be allocated to a serious crash investigator collecting forensic evidence at the scene.

Where available, the Police incident controller should wear the fluorescent lime yellow Police safety vest that has the words "Incident Controller" across the back. Supervisors should carry these vests in their patrol cars.

Eliminate danger

It is essential that other road users are warned about the crash site and their access to the scene is controlled to make it safe for all people at the crash site.

It may be necessary to park your patrol car or place crash sign/cones well back or around the bend from the scene so that adequate warning of the crash scene can be given. It may also be necessary to control approaching traffic and bystanders moving through or around the scene as this may also pose a hazard.

Scene appreciation on arrival

Before rushing in, do a quick appreciation (TENR) of the crash and surrounding area to identify any major or potential hazards that may need to be dealt with to manage the situation. This is also a good time to give Comms an update and request other assistance that may be initially needed if not already on scene – e.g., traffic control, fire, ambulance.

Hazards to be looking for

Overhead wires: Are there power or other wires that may have been affected by the crash? Any scenes where live wires or lines are involved should be treated with extreme caution as exposure to these can be fatal.

TREAT ALL WIRES AS LIVE.

If power lines are down, contact the local power authority before entering the scene.

Fuel leaks: Any fuel leaks should be noted and dealt with to ensure the chance of ignition or inhalation is reduced. You should also ensure your fire extinguisher is accessible if needed.

Electric Vehicles: These vehicles can behave unpredictably in a crash and can move without warning. The battery in an EV can explode causing a fire. When on fire, the smoke is extremely toxic. If an EV is identified, advise FENZ immediately.

Vehicles with LPG (liquefied petroleum gas – also known as butane or propane) units have a diamond-shaped sticker on the front and rear of the vehicle. In all cases there is a cut-off valve inside the boot in a bag on one end of the LPG cylinder.

LPG is heavier than air and if there is a leak you may see a white gas haze on the ground around the vehicle. The haze will be LPG gas in a very volatile state. You should consider evacuating everyone within 150 metres.

Un-deployed airbags: An un-deployed air bag in a vehicle involved in a crash must be treated as potentially lethal. Statistics indicate that an increasing number of personnel are being seriously injured at crash scenes from exploding air bags that may deploy as a result of damage to electrical circuits or mechanical components. For this reason, officers should not enter a vehicle with un-deployed airbags until they have been secured or unless absolutely necessary and should keep their head well clear. Do not assume that disconnecting the battery will disable the system.

Dangerous goods: Vehicles transporting a hazardous substance present a special problem if the vehicle is involved in a crash or other incident as some of the dangers may not be visible. Dangers are mainly from explosion, fire, and poisoning or any combination of the three.

Vehicles carrying these substances are required to display a diamond-shaped label signifying the class of goods carried. These labels are displayed on the front and rear of the vehicle.

They also must be carrying the relevant documentation. This can be found in a clearly marked pouch inside the driver's door and should only be retrieved if safe to do so.

Remember some of the dangers may be unseen so unless you are sure of what you are dealing with, wait for FENZ who have the gear to safely deal with it.

Attend to injuries

After you have made the scene as safe as you can, move on and attend to the injured. Ascertain the number of injured and the severity of the injuries. Then put in an order of priority until assistance arrives.

If the injured are in danger of further injury due to their location move to a place of safety as soon as possible but be aware of neck and back injuries and only move these patients if their lives are in danger.

Remember: *don't enter a vehicle with an un-deployed airbag unless absolutely necessary.*

Obtain witnesses

Although a crash scene may be busy, you must not lose sight of the fact that you need to preserve evidence and interview witnesses.

Ensure that the drivers and passengers of the vehicles involved are identified early and advise them not to leave the scene unless necessary (if they are injured or accompanying an injured person) and only after providing their details, if possible, for later follow-up.

Breath/blood test procedures must be carried out on all drivers, if the identity of the driver is unknown then all persons in the vehicle are to be tested.

As soon as possible, identify all witnesses (call out "Did anybody see what happened?") and have the witnesses come to you. Ask them to remain until you can speak to them. If it is a busy scene, have them supply contact details so they can be interviewed later (rather than lose them because they leave).

Consider whether CCTV footage may have captured the incident or events leading up to it.

Depending on the seriousness of the crash, it may not be the appropriate time to take a statement from persons involved or those who witnesses the crash. At a minimum, their contact details are to be obtained.

Mobility

Use your Police-issued mobility device to aid in your initial investigation at the scene. Utilise your mobility device by:

- Photographing the scene.
- Conducting QP/QVR checks via Onduty app on persons involved and vehicles.
- Calling other parties and/or co-ordinating other services.
- Commence Traffic Crash Report via Onduty.
- SITREP/Result event to COMMS via Mobile responder.

Photographs taken on Police iPhones are being used for and accepted as evidence in court. A guide to assist in adhering to best practise and ensuring photographic quality and appropriateness is on Totara.

Scene photography

Whenever possible at a serious crash scene, have a Police forensic photographer attend to photograph the scene. This is the preferred method of photographing such a scene as opposed to using a cell phone camera (Police-issued mobility device). If a photographer is not available, call Serious Crash Investigation Unit, or SOCO.

Marking the scene

In the event of serious crash, it would be prudent for attending staff to mark positions at the scene in consultation with the Serious Crash Unit if available.

As the vehicles may need to be shifted to allow access by emergency vehicles or traffic to flow, the position of the victims, vehicles, area of impact and any other relevant evidence should be marked. This would be done with a crayon or dazzle spray paint, or a more permanent mark such as a surveyor's nail. **Remember: mark everything.** Some

evidence is very fragile and needs to be marked as soon as possible, e.g., location of hand-carried items in pedestrian crash, location of shoes, watches, flesh or clothing, abrasions on the road surface etc. Take a moment to have a good look at the scene itself and take in the 'bigger picture'.

If Serious Crash staff are attending, do not move anything, but items that may move should be marked as normal.

Establish if anything has been moved before your arrival. If so, find out by whom and approximately where from, and make a note of this.

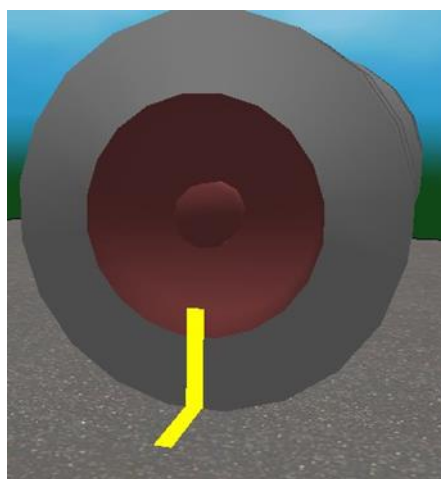
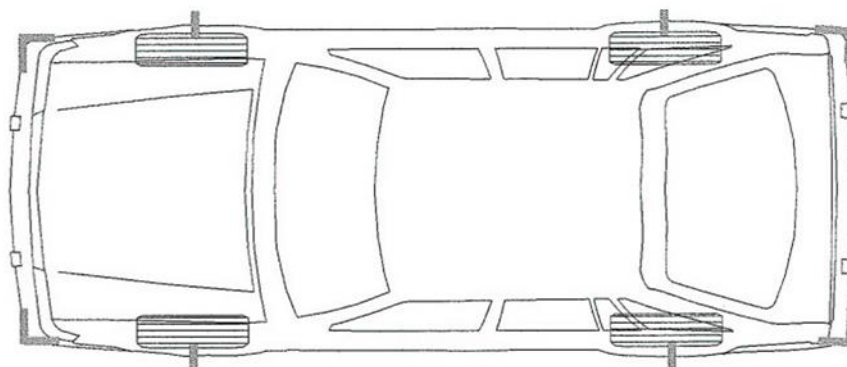
Do not move items back to 'original position' in an attempt to reconstruct scene.

Vehicle positions

Vehicles should be marked at each corner, and the centre of each wheel with spray paint or crayon

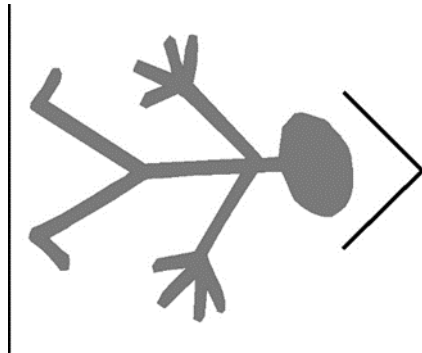
Mark wheels

Wheels are to be marked (with spray paint) by starting on the rim and running down through the tyre and out onto the road surface. Wheels are marked like this so if the tyre is removed it can be placed back on the rim in the same orientation.



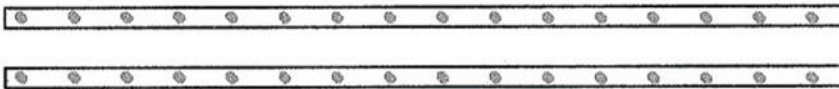
Victim's position

When marking victim/body position, do not outline the body. The feet can be marked with a single line (or each foot individually if relevant), and the head with a 'V', as per diagram:



Tyre marks

Mark tyre friction (skid) marks with a series of dots, and not sealed off at ends, as in better light marks may be found to have continued further than first thought.



Mark the skids

Mark the skid marks approximately every 2-3 metres unless the curve of the mark requires this to be closer. Note: you should get close-up photographs of the tyre marks using a standard Bic pen as a size reference.

Scene marks

All marks on the roadway (relevant to the crash) need to be marked with permanent marking. Circle (or mark the ends of) gouges and other damage to the road surface.



Crash investigation

- Be thorough and treat a crash investigation like you would any other investigation. You must obtain sufficient evidence to establish what happened and to prove any subsequent charges that you may eventually lay.
- Take in the BIG picture.
- Speak to witnesses. Look for evidence that will confirm what witnesses say or negate it.
- Consideration must be given to other road users when dealing with a vehicle crash. Minor crashes should be cleared as soon as possible so that normal traffic flows can be restored.

Other things to consider with your investigation

When attending a crash, always keep in mind possible causes, or conditions which may be used as a defence, such as:

- sun in eyes
- brake failure
- blind spot
- surface greasy
- fatigue
- lack of attention
- error in judgement
- poor visibility
- faulty tyres
- unknown roads to driver

If approached by media at the scene it is advisable to NOT make a statement other than “Police are investigating the cause of the crash”. Do not speculate. Leave any comments to your sergeant or other senior in rank.

Vehicle crash law

Introduction

During your career in the Police, you will attend many crash scenes. Some will be minor non-injury crashes while others will involve death and serious injury.

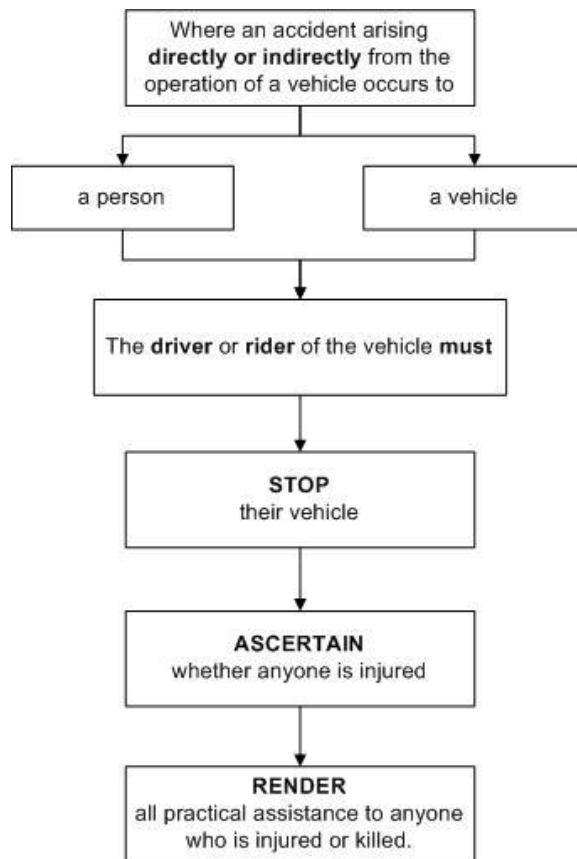
The following pages cover the duties of drivers in situations where a vehicle crash occurs, including:

1. Duties of drivers involved in a crash.
2. Duty to report injury.
3. Duty to report damage.

Note: Legislation uses the term 'accident'. Police policy uses the term 'crash'. Crash should be interpreted as having the same meaning as accident.

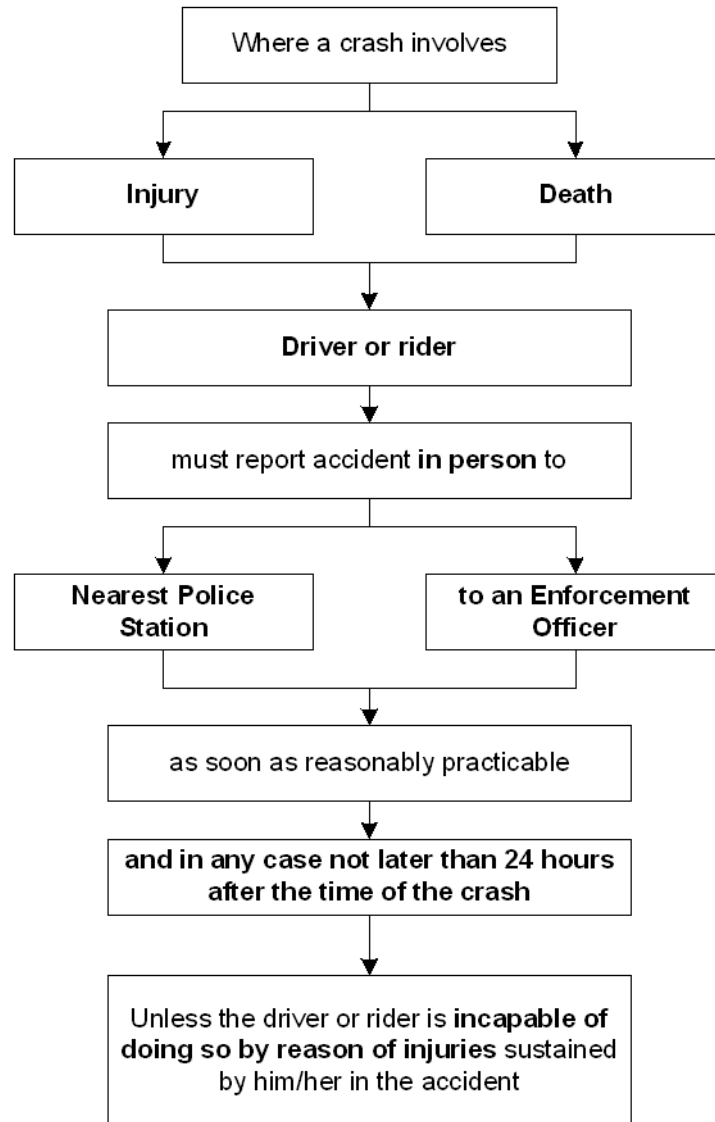
Police functions and powers: Land Transport Act 1998, section 22(1)

Initial driver responsibility

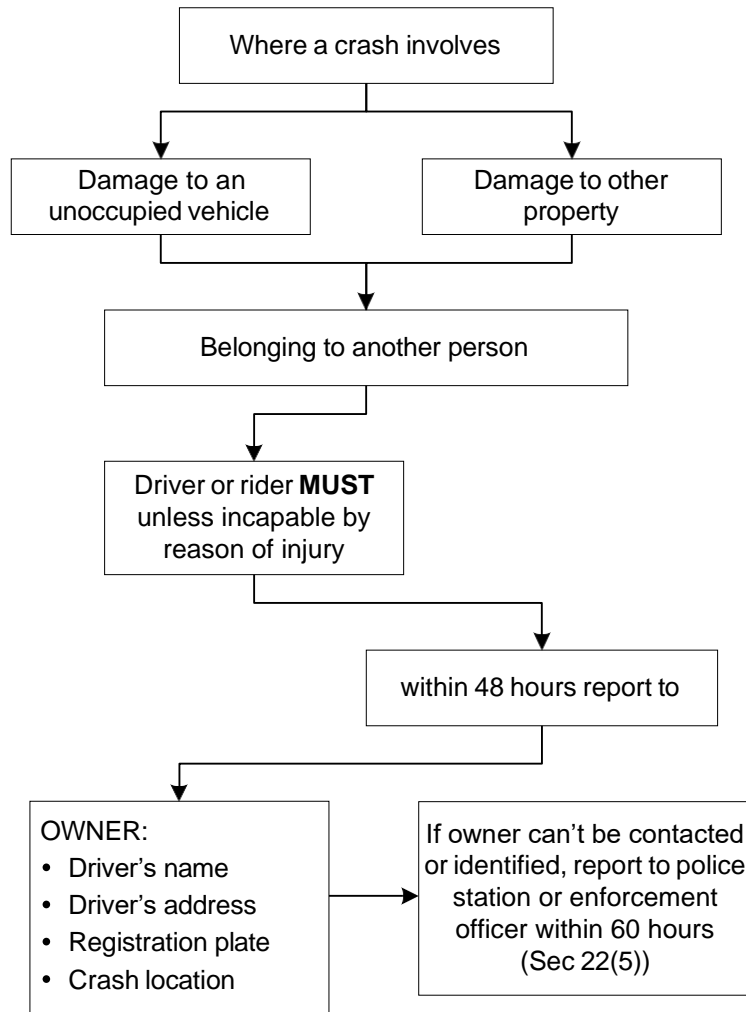


Power of arrest: Crimes Act 1961 Section 315(2)(b).

Duty to report injury: Land Transport Act 1998 Section 22 (3)



Duty to report damage: Land Transport Act 1998 Section 22(4)



Explanatory notes:

- If the driver is the only person injured and the property belongs to them, these obligations do not apply.
- The 60-hour requirement to report when the owner can't be contacted or identified is from the time of the crash.