Pursuit Policy

New Zealand POLICE
Nga Pirihimana O Aotearoa

Pursuit policy review

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The purpose of this report is to review the current New Zealand Police (Police) pursuit policy. Amendments were made to the policy as recently as January 2008. However, given that pursuits are a policing activity of significant risk, ongoing critical evaluations of the policy in light of specific incidents, technological advances and research, are necessary from time to time.

Background
There have been three internal pursuit reviews undertaken in the past six years; this is the fourth. In addition, the Independent Police Conduct Authority (IPCA) began a review of pursuits in 2007, with particular focus on those which resulted in serious injury or death. The report was released in October 2009.

This review takes into account the previous work undertaken in regard to pursuits and how they are managed, and examines international research and how it can be applied in a New Zealand context. The report also acknowledges where improvements can be made in the policy and assesses how other jurisdictions deal with this complex area of policing. From both the research analysis and assessment of the policies obtained for this report, a number of recommendations have been made, which, if adopted, will further enhance the policy, and ensure that the risks involved in a pursuit are mitigated as much as possible.

Police powers
Pursuits are initiated for one simple reason: a driver knowingly fails to comply with a Police officer's request to stop. Police exercise their power to stop a vehicle on a daily basis, and only a very small minority fail to comply. However, this small minority endanger the lives of members of the public, Police staff, themselves and their passengers.

Pursuits pose a complex policy problem for Police, who endeavour to balance the needs of law enforcement with public safety. The debate regarding the benefit of pursuits versus the risks pursuits pose is not unique to New Zealand. Overseas jurisdictions are also reviewing their policies to determine whether their pursuit practice is as robust and as safe as possible. This dichotomy creates a certain irony in wishing to stop a vehicle because of possible concerns for the safety of other road users, then engaging in a pursuit which increases the risks associated with the reason Police were attempting to stop the vehicle in the first place. This makes pursuits difficult to manage from an organisational viewpoint.

Should Police continue to pursue offenders?
There is insufficient evidence to support the banning of pursuits. It is not likely to improve or guarantee public safety, and it is questionable whether the community would support a policy that allows offenders to flee Police with little or no consequences. Banning pursuits has the potential to create a level of lawlessness within the community. If criminals know that Police will not pursue them, or have so many restrictions placed on them it renders pursuits futile, then the job of Police to uphold the law not only becomes difficult, but almost impossible. Police have a duty of care to all road users, and the policy needs to ensure that the risks involved in undertaking pursuits are balanced with the need to protect the public and staff members.

Low penalties imposed by the Courts on offenders who fail to stop for Police, has been a source of frustration for Police for some time. This lack of deterrence does not compel drivers to comply with Police instructions to stop, and as a result they risk the lives of all road users in the vicinity at the time. It is too early to know whether recent legislative changes, which have increased the penalties for failing to stop will have any effect on

pursuits. However, it is hoped these penalties will provide sufficient deterrence for those who have been so willing to get involved in a pursuits with Police - provided Police can apprehend them.

New Zealand's pursuit policy

The report has avoided making direct comparisons with other jurisdiction's policies. However, international research categorises pursuit policies into three main types: judgemental; restrictive; and discouragement. New Zealand's current policy is a restrictive one and has been since a policy change in 2004. Certain restrictions are placed on staff when initiating and continuing a pursuit, such as a risk assessment both before and during a pursuit, ensuring staff comply with the overriding principle that public and staff safety take precedence over the immediate apprehension of the offender, and having overall control lie with the pursuit controller in the Communication Centre (Comms). The current policy is not prescriptive, but provides a framework (which includes certain restrictions) for officers to work within and use their professional judgement to determine the most appropriate action.

There is little evidence to support the change to a prescriptive offence-based initiation policy. Not only is this type of policy difficult to implement, it also has the potential to curtail an officer's judgement and experience. These types of policies have swung the pendulum in the offender's favour, as they know they can take excessive risks that jeopardise the safety of all road users.

Pursuit management

That said there are enhancements that will improve the current policy. New Zealand's pursuit policy should remain a restrictive one, and provide a clear framework for staff to work within. The pursuit management section of the report identifies where enhancements should be made to ensure the framework is robust, clear and easily applicable to an operational environment. These include:

- amending the responsibilities of the Police passenger to abandon a pursuit if they are senior in rank or service, or have a higher Professional Police Driver Programme (PPDP) classification;
- including role specific training to all staff involved in pursuits, especially pursuit controllers;
- introducing primary and secondary units with specific roles and responsibilities during a pursuit, such as the secondary vehicle taking over the pursuit commentary if required;
- continuing with the introduction of hands-free radios in operational vehicles;
- introducing strategies to limit the number of vehicles in a pursuit, this includes encouraging units in the vicinity to head to key sites in the area that offenders may head to;
- amending the current wording regarding the use of force in the legislative section and how it relates to pursuit activity;
- extending the abandonment criteria;
- introducing a search phase into policy and procedure, post-abandonment or when a vehicle is lost;
- amending the current policy to reflect the procedure when the Aerial Surveillance Unit (ASU) is involved in a pursuit;
- amending the communication procedure to include a prompt regarding the activation of lights and sirens during a pursuit; and
- amending the policy to state that a pursuit is to be abandoned once an offender's identity becomes known and apprehension may be effected later, so long as there is no immediate threat to staff or public safety.

Risk assessment

Risk management is an important aspect of the pursuit policy, and risk assessments determine whether a pursuit can continue or should be abandoned. This must be a

continuous process. The information assessed at the time regarding the offender, the vehicles involved, and environmental conditions help form the basis of staff's decision making. Staff need to assess whether their actions are proportionate to the offence, suspected or actual, and whether their decisions and resulting actions are justified. This justification may be tested under the spotlight of legal proceedings long after the pursuit has ended.

A national threat assessment tool is being adopted across the organisation, and RPS is integrating the new tool within the current risk criteria. The new approach introduces new terminology for Police staff, but encompasses the overriding principle of pursuits; that the seriousness of the threat ultimately determines the Police response.

Training

The issue of training is an important aspect of the pursuit policy. The IPCA review stated that one of the factors that impacts on the safety of pursuits, is the level and quality of the training given to staff. Staff also need to know how the policy is applied in an operational setting and what the expectations of the organisation are, so when they make the decision to initiate a pursuit they can make the most appropriate and safest one.

Training needs to be delivered on a regular and ongoing basis, and cater for staff returning to frontline positions. Over 4,000 operational staff underwent training in 2009 on pursuits and urgent duty driving. The focus for the organisation should now be on maintaining that knowledge to ensure it remains current. Efficiencies can be created by ensuring the training is role specific, and consideration needs to be given as to the best method of delivering the training. Any policy amendments arising from this review must be accompanied by appropriate training and communication to operational staff.

Emerging issues

It is likely that technological advances and new operational procedures will play an important role in pursuits in the future. Hands-free radios have already proven to be a useful tool for the safety of officers, and this can only improve as more Police vehicles are fitted with the technology. The development of vehicle immobilisers and the introduction of in-car video and AVL will present more effective pursuit resolution strategies and management tools for Police. These will continue to be monitored.

Conclusion

The area of pursuits is complex and there are many issues that need to be considered. Those covered in this report are by no means exhaustive, but are considered to be the most significant in terms of potential risk or harm to staff and others. The recommendations made in this report are designed to enhance the policy, and provide assurance to the wider community that Police have mitigated the risks involved in pursuits as much as possible.

Introduction

Purpose

The purpose of this report is to review the current New Zealand Police (Police) pursuit policy. Amendments were made to the policy as recently as January 2008. However, given that pursuits are a policing activity of significant risk, ongoing critical evaluations of the policy in light of specific incidents, technological advances and research, are necessary from time to time.

There have been three internal pursuit reviews undertaken in the past six years; this is the fourth. In addition, the Independent Police Conduct Authority (IPCA) began a review of pursuits in 2007, with particular focus on those which resulted in serious injury or death. The report was released in October 2009. The key purpose of their review "was to determine whether Police policy and General Instructions (GIs) provide sufficient guidance for officers involved in pursuits, with a particular focus on reasons for commencing and continuing a pursuit."[1]

This review takes into account the previous work undertaken in regard to pursuits and how they are managed, and examines international research and how it can be applied in a New Zealand context. It also acknowledges where improvements can be made in the policy and assesses how other jurisdictions deal with this complex area of policing. From both the research analysis and assessment of the policies obtained for this report, a number of recommendations are made, which, if adopted, will further enhance the policy, and ensure that the risks involved in a pursuit are mitigated as much as possible.

Objectives

The objectives of this review are to:

- critically examine the current pursuit policy;
- assess policies from other jurisdictions, to identify their focus of risk mitigation and safety considerations; and
- recommend any enhancements as a result of the assessment.

The review will be considered successful if:

- Police are able to clearly identify best practice aspects of the current policy;
- a clear understanding is gained regarding risk mitigation and safety considerations;
- opportunities are identified regarding any gaps in the policy; and
- recommendations are made and adopted that will enhance New Zealand's policy.[2]

Constraints

This report is not intended to provide a profile of pursuits, or be an in-depth quantitative analysis of pursuit activity in New Zealand. Such a review has only recently been completed by Road Policing Support's (RPS) Research and Evaluation Unit.[3] This report serves as an evaluation of the current pursuit policy. It makes recommendations that are designed to enhance the current policy, with particular emphasis on how these policy changes can be applied in an operational environment. It will also highlight training issues and any improvements that can be made to the notification process post-pursuit.

This review is premised on the belief that information contained in the Pursuit Notification Database provides an accurate account of pursuit activity within an operational environment. It is also premised on the belief that any recommendations made regarding changes to the policy, will be accompanied by appropriate training and

[1] Independent Police Conduct Authority (2009). *Review of Police pursuits.* Wellington.
[2] Objective statement agreed to by RPS and Assistant Commissioner: Operations.
[3] For further information see New Zealand Police, RPS (2007 and 2008). *Pursuit review: review of pursuits April 2004 - May 2007 (parts 1 and 2)* (internal documents).

communication to operational staff, to ensure they are fully aware of the changes to the policy and understand how those changes should be applied in practice.

There has been some difficulty accessing pursuit policies from other jurisdictions within the allocated timeframe. However, every endeavour has been made to access as many as possible to assist with this review. It is problematic to make comparisons with only a small selection of policies; therefore comparisons have not been made within the scope of this review. Where there is a difference in practice among jurisdictions, this has been identified and discussed.

A complex policy such as this has many issues which need to be considered. Given the time constraints involved in completing this review, only those which RPS has been specifically tasked to consider, or those which pose a significant risk have been addressed in detail. It is acknowledged this is not an exhaustive list, and there may be further work required once the recommendations in this report are considered.

Method

In order to meet the objectives of the review, the following information has been utilised:

- the current pursuit policy and training package;
- raw data from the Pursuit Notification Database;
- previous internal pursuit reviews;
- IPCA reports and reviews;
- pursuit policies from other jurisdictions;
- discussions with stakeholder groups such as the Communication Centre (Comms) National Management Group, Auckland Metro Crime and Operations Support (AMCOS) including the Air Support Unit (ASU), National Tactical Group, and road policing staff; and
- international pursuit-related research reports.

As stated, due to the difficulties in obtaining other jurisdiction's policies, this review will not judge best practice by making comparisons. However, assessing other policies serves to provide an international context as to where other jurisdictions focus their attention, in order to minimise risk and enhance safety.

As an independent body, the IPCA provides oversight of Police conduct, including investigating pursuits which result in death or serious injury.[4] Their investigation findings are invaluable in highlighting where those outside of Police believe the risks lie and where they consider the organisation should focus their attention to mitigate those risks. However, their findings must be considered in the context of investigations of incidents where Police actions have caused, or appear to have caused death or serious bodily harm. In terms of all pursuit activity in New Zealand, this only portrays part of the picture.

International pursuit-related research reports have been important to establish whether all safety factors have been considered in the New Zealand policy. However, much of the research is American based, and care must be taken in drawing comparisons with New Zealand, as issues such as differences in our roading network, the American proclivity for litigation against both organisations and private individuals, the policing environment and operational context is markedly different. It is also important to remember that often the research does not take into account the "increased risk to the public if pursuits are discontinued and either serious criminals are allowed to escape or drunk drivers are not intercepted or arrested."[5]

[4] Section 12 Independent Police Conduct Authority Act 1988.
[5] Best, David (2002). *Investigation of road traffic incidents involving police vehicles, 1998-2001: identifying common factors and the lessons to be learned.* Police Complaints Authority, London, pp.2-3.

The report is divided into the following sections: an overview of the reasons for, and types of policies; pursuit management; risk assessment; offender management; training; the notification process; and emerging issues that need to be monitored by the organisation. Within each section, particular issues are identified and discussed, with examples of how other jurisdictions deal with these issues. In some instances particular recommendations are made, which relate to policy decisions or indicating where further research or work is required. A summary of the recommendations is made at the end of the report.

Background

> *Drivers have a choice when they hear a police siren. They can pull over to the side of the road as the majority do. Or they can try to escape police.*[6]

Police powers

Section 114 of the Land Transport Act 1998 and sections 314B and 317A of the Crimes Act 1961, empower a Police officer in uniform or in a vehicle displaying flashing lights and sounding a siren, to stop the driver of a vehicle:

- for traffic enforcement purposes;
- to conduct a statutory search; or
- for the purpose of arresting a person in the vehicle, if there are reasonable grounds to suspect that person is unlawfully at large or has committed an offence punishable by imprisonment.

When a driver has been signalled to stop under one of these sections, and knowingly fails to do so, a pursuit may be initiated. Police exercise their powers to stop a vehicle on a daily basis, and the majority of drivers comply with the request to stop.[7] However, there is a small proportion of drivers who do not comply with the law; who are prepared to engage in pursuits with Police and by doing so place themselves, their passengers, other road users and Police staff at risk.

Pursuits pose a complex policy problem for Police, who endeavour to balance the needs of law enforcement with public safety. The debate regarding the benefit of pursuits versus the risks pursuits pose is not unique to New Zealand. Overseas jurisdictions are also reviewing their policies to determine whether their pursuit practice is as robust and as safe as possible. There is an expectation from the community that Police will use whatever powers reasonable and necessary to enforce the law, including initiating pursuits for drivers who fail to stop. On the other hand though, initiating pursuits can create situations that are more of a risk to the public than the original offence, and there is an expectation from the community that Police actions will not endanger others.[8] This dichotomy creates a certain irony in wishing to stop a vehicle because of possible concerns for the safety of other road users, then engaging in a pursuit which increases the risks associated with the reason Police were attempting to stop the vehicle in the first place.[9] This has led to both researchers and Police managers acknowledging that pursuits are fraught with contradictions, making them difficult to manage from an organisational viewpoint.[10]

To make sense of this complex problem, one of the most important considerations is whether there is potential for a more serious incident to occur if Police do not intervene and stop a vehicle.[11] Whilst the practice of Police pursuits has drawn criticism over the last few years, it could be argued that the criticism would be worse if Police did not intervene when they had an opportunity to do so. As stated in an article in the Police Association magazine in 2007, "the cacophony of criticism will [...] be even louder the

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[6] *The Dominion Post*, Saturday October 17, 2009, p.B4.

[7] While the total number of contacts at the roadside is not recorded, Compulsory/Mobile Breath Tests and Commercial Vehicle Investigation Unit activity, give some indication of the minimum number of stops initiated by Police each year. For 2008, this was 3,321,267. However, as stated this figure does not include stops for speed, restraints, careless driving, licence infringements etc. The total number of recorded pursuits for 2008 was 2,146. Information provided by the Pursuit Notification Database and RPS Intel and Performance Group.

[8] Hoffman, Dr Gabbi (2003). *Police pursuits: a law enforcement and public safety issue for Queensland, Crime and Misconduct Commission.* Queensland, p.3.

[9] Best, p.25.

[10] Ashley, Steve (2004). *Reducing the risks of police pursuit.* Police Policy Studies Council, New Hampshire, p.2.

[11] Docking et al, p.26.

day Police do not pursue and some lunatic ploughs into a family enjoying their Sunday drive – and kills them all."[12]

What is a pursuit?

The New Zealand policy defines a pursuit as follows:

> *A pursuit occurs when the driver of a vehicle which has been signalled by a police officer to stop, fails to stop and attempts to evade apprehension, and police take action to apprehend the offender.*[13]

From this definition there are three key components that must be satisfied before an incident becomes a pursuit. Firstly, Police must signal the driver to stop; secondly, the driver understands that Police want them to stop yet they fail/refuse to do so; and lastly, they attempt to evade apprehension by use of their vehicle. Only once these three factors are satisfied is it considered a pursuit. What is clear is that pursuits occur because an offender knowingly fails to stop for Police.[14]

To take this point one step further, it could be argued that a fourth component must be satisfied before a pursuit is initiated: the Police officer consciously decides to pursue the offending vehicle. Once the other three components have been met and the level risk of assessed, a decision point is reached to engage in the pursuit. Even if the first three components are satisfied, if as a result of the risk assessment the officer believes that apprehension does not outweigh the benefits of an arrest, and does not initiate a pursuit, then a pursuit does not exist.

Defining a pursuit is an important part of the policy, as staff need to be clear as to what constitutes a pursuit, and what factors must be satisfied before it is deemed to be a pursuit. Most policies reviewed for the purpose of this report include a definition of some description; however, there are varying degrees of detail in the definitions seen.[15] Long and prescriptive definitions are difficult to comprehend and the meaning or intention is easily lost. There are similarities among them in terms of the driver failing to stop for Police, and indicating through their actions they have no intention of stopping. New Zealand's definition is clear and concise and can be easily understood by staff.

Whilst the definition of a pursuit is clear in the policy, there are instances when Police will have cause to travel behind another vehicle with the intention of stopping it, such as speed enforcement. These are usually referred to as intercepts. Until all four components are satisfied it should not be classified as a pursuit; however, some districts are encouraging staff to record them as such, due in part to the speed involved in catching up to the vehicle, which has led to an increase in the number of recorded pursuits. Whilst these are technically not pursuits, there is a belief in some quarters that it is better for staff to over-report these incidents than have the opposite occur. The ACPO guidelines state that a catch up for the purposes of a traffic stop does not fall within the definition of a pursuit, and is not affected by the pursuit policy.[16]

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[12] Plowman, Steve (2007). *Pursuits: putting the blame where it rightly lies - with speeding drivers*. Police News, vol.40, no.9, October, p.209.
[13] New Zealand Police (2009). *Pursuit policy* (internal document).
[14] New Zealand Police (2003). *Pursuits: the case for change.* Office of the Commissioner of Police, Wellington, p.14.
[15] Definitions sighted include: ACPO, Victoria, New Jersey, Queensland, San Antonio, San Diego and South Australia.
[16] Association of Chief Police Officer of England, Wales and Northern Ireland (2008). *The management of police pursuits guidance.* London, p.13.

Health and safety requirements

The Health and Safety in Employment Act 1992 places obligations on employers to provide a safe work environment for staff. This includes the identification and minimisation of hazards in the workplace, and ensuring staff have the ability, through training, knowledge and equipment, to do their job safely.

Policing is hazardous, and associated risks are continually being identified and work undertaken to minimise those risks. For example, staff are required to wear Stab Resistant Body Armour (SRBA) when on duty, to minimise the risk of stabs to the torso; road policing staff are required to wear high visibility jackets when stopping vehicles, to ensure other road users see them; staff undertake training to deal with potential needle stick injuries when handling drug paraphernalia; and all staff undergo driver training and assessment to ensure they have the knowledge and skills to handle the vehicle and can drive safely and defensively. This type of hazard management is the domain of the Wellness and Safety team within the organisation. Where complications occur, is in knowing how far this hazard management extends to addressing threats or risk that arise from operational policing activity, such as pursuits and urgent duty driving (UDD), executing warrants, roadside interactions, and responding to armed incidents.

The Police approach to risk has been identified as an area of improvement and importance across the organisation. The Organisational Assurance Group (OAG) is developing a threat assessment procedure that uses threat and vulnerability as key criteria for risk or threat assessments across the organisation. This threat assessment tool will be adopted by all work groups to enable them to assess and manage particular operational risks, and RPS has been working with OAG to determine how the new model can be applied in a pursuit situation. This will be discussed in further detail in the risk assessment section of this report.[17]

[17] Discussions with RPS and OAG.

Pursuit policy

Should Police continue to pursue offenders?

There is an inherent tension in balancing the benefits of pursuits against the risk they pose to all road users; in particular, the duty to apprehend offenders while ensuring public safety. This tension arises because of the complex nature of pursuits. On the one hand Police need to uphold the law and apprehend drivers who fail to stop; however, on the other hand this has the potential to create situations that are more dangerous than the original offence.[18] It is difficult to simplify this area of policing into areas of black and white, and attempting to do so does not serve the best interests of either Police or members of the public.[19]

Despite the risk involved, pursuits are an important procedural tactic to affect an arrest.[20] Therefore, a wholesale ban of pursuits is not the solution. The Australian Federal Police (AFP) considered a ban of pursuits in their review in 2007, but concluded that a ban was "unlikely to be conducive to public safety or generally acceptable to the community because of the apparent message it would send that one could offend and flee with impunity."[21] This is also the case for New Zealand. Whilst public safety is the number one priority for Police, in order to fulfil its role as a law enforcement agency, there are situations that will arise where Police need to pursue a vehicle in order to control and contain a threat to public safety.

Banning pursuits has the potential to create a level of lawlessness within the community. If criminals know that Police will not pursue them, or have so many restrictions placed on them it renders pursuits futile, then the job of Police to uphold the law not only becomes difficult, but almost impossible.[22] Care must be taken to ensure the message is not sent to offenders that Police will not pursue drivers who fail to stop.[23]

Police have a duty of care to all road users, and the policy needs to ensure that the risks involved in undertaking pursuits are balanced with the need to protect the public and staff members. As evident in the remaining sections of this chapter, there are many variations among jurisdiction's policies about the types of restrictions placed on staff to help keep that balance.

Why is a policy required?

Pursuits are a high risk form of operational policing and need to have adequate procedures in place to control them.[24] Those procedures take the form of a policy, which is backed by the training of staff who are involved in pursuits. The 2003 pursuit review stated that safe and effective pursuit management needs to include a clear policy to guide decision-making, show clear lines of responsibility, and highlight appropriate use of technology.[25] Overall, the current policy does this; however, it is always important to monitor progress and assess if changes are required.

The current policy is empowered by GI V001, Police Driving, which states that all Police driving poses a potential risk to Police staff and members of the public. It may also be subject to considerable scrutiny. As a result, employees must prioritise safety by driving

[18] Hoffman, p.3.
[19] New Jersey Police (2008). *New Jersey Police vehicular pursuit policy*, New Jersey, p.2.
[20] New Zealand Police (2003), p.14.
[21] Cameron, Alan (2007). *Independent review of the 'AFP urgent duty driving and police pursuit guideline review 2007.* Canberra, p.3.
[22] Timaru Herald, 4 November 2009, p.10.
[23] Plowman, p.207.
[24] New Zealand Police (2003), p.15.
[25] Ibid, p.15

with a high standard of care and professionalism, and in a manner appropriate to the situation.[26]

In the recent review by the IPCA, one of the points made was that the safety of pursuits is influenced by three factors: how the policy is applied to pursuits; the extent to which independent oversight is given by Comms to officers involved; and the level and quality of training given to staff involved in pursuits.[27] Given that both Comms and the training are guided by the content and intent of the policy, it is important that the policy sets the scene and provides the framework for the remaining factors. Staff need to be clear what a pursuit is, the procedure when one is initiated, and the responsibility this entails.[28]

A policy, backed by adequate training, is designed to give clear direction to operational staff to ensure appropriate decisions are made. There is limited research which suggests the policy needs to provide specific direction that is not open to individual interpretation.[29] Prescriptive policies of this type are problematic, as they need to cover every possible scenario, and also removes an officer's discretion and professional judgement. The 2003 review agreed with the need for a policy to provide clear guidelines on best practice for staff, but also stated it needed to incorporate opportunities for officer discretion.[30] A policy of this nature which frames decision-making within structured parameters, allows for application in all conceivable situations.

Types of policies

The international literature relating to Police pursuits identifies three types of policies:

- judgemental - this allows officers to make all major decisions relating to the initiation, tactics and termination of a pursuit. These policies rely heavily on the use of officer discretion;
- restrictive - these policies place certain restrictions on an officer's judgement and decision-making ability; and
- discouragement - these policies severely caution against or discourage any pursuit, except in extreme circumstances, or for certain types of offences.[31]

New Zealand's current policy is a restrictive one and has been since a policy change in 2004. Certain restrictions are placed on staff when initiating and continuing a pursuit, such as a risk assessment both before and during a pursuit, ensuring staff comply with the overriding principle that public and staff safety take precedence over the immediate apprehension of the offender, and having overall control lie with the pursuit controller in Comms.[32] The current policy is not prescriptive, but provides a framework (which includes certain restrictions) for officers to work within and use their professional judgement to determine the most appropriate action. This means that if the overriding principle is adhered to and a continuous risk assessment is carried out by all staff involved, a pursuit can be initiated and/or continued. The IPCA notes that "in these respects, New Zealand's policy is within the mainstream of international pursuit policies."[33]

Judgemental policies leave all of the decision-making to the pursuing officers, with very few guidelines or boundaries to work within. Without any objective oversight of the pursuit, staff directly involved on the ground determine whether to continue pursuing or to abandon. This type of policy has numerous risks involved. Research suggests that

[26] New Zealand Police, *GI V001 Police driving* (internal document).
[27] IPCA, *Review of police pursuits,* p.4.
[28] Docking et al, p.29.
[29] Hoffman, p.22.
[30] New Zealand Police (2003), p.11.
[31] Becknell, C., Mays, L.G., and Giever, D. (1999). *Policy restrictiveness and police pursuits.* Policing: an international journal of police strategies and management, vol.22, no.1, p.100.
[32] New Zealand Police, *Pursuit policy*.
[33] IPCA, *Review of police pursuits,* p.36.

some officers find it difficult to abandon a pursuit, and need to reassert their authority and win. The pursuit becomes so personal that their normally professional judgement becomes clouded, and consideration of their own and the public's safety is forgotten. This is known as 'red mist'.[34] Red mist is a sign of, and generally leads to, unprofessional behaviour, whereby staff ignore normal risk factors.[35] In addition, the IPCA review noted that physiological factors such as the adrenalin rush associated with 'fight or flight' situations, may affect officers' judgement.[36] There are very few of these types of policies still in effect.

On the other hand, discouragement or very restrictive policies that prescribe when staff can and cannot pursue, provide such a structured framework that staff are not able to use their professional judgement. If no further avenues of inquiry are available to Police, there is very little chance of apprehending the offender. These types of policies tend to list the individual offences serious enough to warrant pursuit, and do not rely on the judgement and decision making of individual officers.[37]

This is where some of the complexity around pursuits stems from; the dispute as to what constitutes a serious offence, how detailed or prescriptive the policy should be, and the levels of discretion permitted. The question is whether staff should be given autonomy in deciding whether to initiate the pursuit, or whether policies should explicitly restrict pursuits for certain offences.[38] The AFP review concluded that the former option was the best approach. New Jersey Police decided against the introduction of a discouragement policy, as it is difficult to anticipate all possible circumstances. As a result they adopted a restrictive policy which provides a guide for their officer's use of discretion.[39]

The issue of discretion is a challenge for pursuits. The 2003 review stated that "often those called on most often to exercise discretion are those with least experience and knowledge to do so."[40] However, the organisation does allow the same officers to exercise discretion in other areas of policing such as arrests, the use of oleoresin capsicum spray, tasers and firearms. All of these carry a degree of risk for both staff and members of the public, and the question is whether pursuits should be treated any differently.

Examples of very restrictive or discouraging policies in the United States of America include Miami-Dade Police in Florida, which limits pursuits to violent felons only. New Jersey, USA only allow pursuits if the officer reasonably believes that a first or second degree offence has been committed, or the offender poses an immediate threat to the safety of the Police or public. The criteria does not apply to motor vehicle offences, unless there is an immediate threat to others.[41] San Antonio do not allow pursuits for non-hazardous traffic violations, traffic violations where the danger has passed and where the individuals fleeing are suspects only and the actual crime has yet to be determined.[42]

Closer to home in Australia, Tasmania has a policy which specifies which offences justify a pursuit, and specifically forbids pursuits for traffic offences and stolen vehicles.[43] Queensland, has a very prescriptive and detailed policy which ranks pursuits in four different categories, depending on the nature of the offence or threat. How the pursuit

[34] Cameron, p.73.
[35] Kent Constabulary (2008). *Tactical pursuit, response and HOSTYDS policy* (internal document), p.5.
[36] IPCA, *Review of police pursuits, p.34.*
[37] Cameron, p.74.
[38] Ibid, p.64.
[39] New Jersey Police, p.3.
[40] New Zealand Police (2003), p.7.
[41] New Jersey Police, p.5.
[42] San Antonio Police Department (2008). *Procedure 609 emergency vehicle operations.* San Antonio, p.5.
[43] Hoffman, p.8.

is categorised determines whether the pursuit can continue.[44] South Australia Police generally do not permit pursuits for minor traffic offences.[45]

Whilst discouragement policies significantly reduce the number of pursuits and consequently the number of pursuit related crashes and injuries, it could be argued that these types of policies favour the offender. Offenders come to know they can take excessive risks with little consequences. Prescriptive restrictions such as a maximum allowable speed or automatic abandonment for certain driving manoeuvres mean that once offenders know what the threshold is, they will take those risks every time to ensure the pursuit is abandoned. This risks the safety of other road users in the vicinity of the pursuit at the time. It also removes an officer's discretion and is contrary to the essence of policing.[46]

In addition, research has suggested that placing too many restrictions on staff during pursuits can have the opposite of the intended effect and actually place the public at risk. Officers may be more inclined to concentrate solely on the nature or type of offence, rather than considering both the reason for the pursuit and the risk to all road users.[47] There is also conjecture over what makes a driver decide to flee from Police. The 2003 review was clear on this point, stating that pursuits are initiated by those who have good reason for wanting to evade Police.[48] However, this has been disputed by some researchers who argue that the flight itself does not solely justify the immediate apprehension of the offender.[49]

Restrictive policies

Internationally, the trend among jurisdictions is toward the use of restrictive policies. Similar to New Zealand's current policy, many rely on some type of risk assessment to determine whether a pursuit should be both initiated and continued, and have a clear set of guidelines in place to assist officers in making the most appropriate decision in the circumstances.[50]

In their guidelines for United Kingdom (UK) jurisdictions, the Association of Chief Police Officers (ACPO) recommends the use of two phases during pursuits. There is the initial phase, which occurs immediately the offending vehicle has failed to stop. If Comms authorise the pursuit to continue it then moves into the tactical phase, when appropriately trained drivers take over the pursuit, and the pursuit controller works with an appointed pursuit tactical advisor to determine options to safely resolve the pursuit.[51]

Restrictions noted in the assessment of other policies include, among others:

- prohibiting dog units from being directly involved in a pursuit, unless they meet specific criteria relating to response vehicles or advanced drivers (UK);
- not becoming involved in a pursuit if civilian staff are in the pursuit vehicle (South Australia and UK);

[44] Pursuits are ranks as follows: category 1 is imminent threat to life, unlawful homicide or attempt to murder; category 2 is knowledge or certainty of an indictable offence or use of vehicle offence identified prior to a pursuit; category 3 is reasonable suspicion of an indictable offence or use of vehicle offence based on known facts; and non pursuit category which prohibits pursuits as a result of licence, vehicle or street checks, random breath tests, suspected of offences based on an officer's instinct alone without supporting evidence and all simple offences (including traffic offences). This excludes drivers suspected to be under the influence of drugs/alcohol to such a degree that impairment has or will pose a threat to public safety. Queensland Police (2006). *Police pursuits: does policy permit? Do circumstances justify the risk?* Brisbane, p.3.

[45] South Australia Police (2009). *General order: operational safety – high risk driving* (internal document), p.8.

[46] Cameron, pp.76-7.

[47] Hill, John (2004). *High-speed police pursuits: dangers, dynamics and risk reduction.* Crime and Justice International, May/June, vol.20, no.80, p.27; Alpert, Geoffrey (1997). *Police pursuit: policies and training.* National Institute of Justice, May, p.7.

[48] New Zealand Police (2003), p.6.

[49] Sharp, Arthur (2003). *The dynamics of vehicle chases in real life.* Law and Order, vol.51, no.3, p.68.

[50] New Zealand Police (2003), p.11.

[51] Note that in the UK only advanced trained drivers are able to be involved in a pursuit. ACPO, p.12.

- not driving parallel on the same or adjacent streets in an attempt to overtake the pursued vehicle (AFP);
- a maximum allowable speed of 140 km/h (Queensland);
- the need to have two officers in the lead pursuit vehicle, unless the vehicle is fitted with a hands-free radio (Queensland);
- automatic termination if the offending vehicle turns out lights, or drives on the wrong side of the road (Queensland); and
- a motorcycle unit may initiate a pursuit, but must be replaced by a marked vehicle (New Jersey).

These restrictions are designed to minimise risk and will be analysed further in the risk assessment section later in this report.

Initiation versus continuation

As already discussed, discouraging or very restrictive policies restrict an officer's use of discretion and professional judgement. It also negates the instinct of experienced officers when out on patrol or responding to an incident. In their review, the IPCA stated that Police should consider making the risk from not stopping an offender, the principal determining factor to justify whether to commence and continue the pursuit.[52] Whilst this has merit, it has the potential to simplify a complex matter. As the risk assessment section in this report will show, staff need to take into account a number of factors, including the reason for attempting to stop the vehicle in the first place. On its own, the threshold for determining the risk of not stopping the vehicle is quite subjective.

Restricting initiation is problematic. Not only is it difficult to implement a policy that covers every potential scenario, it also has the potential to curtail an officer's judgement and experience, when for example, a vehicle is seen acting suspiciously late at night in an area where burglaries have been occurring. That is not to say that staff should act recklessly or without due care; the priority should always be public and staff safety. It means that the guidance operational staff receive should be based not solely on whether a pursuit should be initiated, but rather an assessment of the risks to determine whether continuance of the pursuit is justified in the circumstances.

In 2003, the review found little value in prescribing when pursuits can be initiated. "Rather than try to dictate which pursuits should be initiated or supply a course of action to be applied to every pursuit situation, [the] pursuit policy needs to provide a set of clear guidelines that assist police officers in making the most appropriate decision for the particular situation that confronts them."[53] Several years on, this approach continues to be the most balanced and appropriate for Police in an operational setting. This is not to say that some changes are not required to ensure guidelines to staff are the most robust they can be. However, emphasising the risks, assessing them, and determining whether the pursuit should continue, may be the best way of balancing the need to apprehend offenders, with the duty to protect staff and members of the public.

In summary, this review does not support a wholesale ban of pursuits. Nor does it support the removal of the current restrictions, or a move to a judgemental policy. A restrictive policy that provides clear guidelines for staff, including the promotion of public and staff safety, and a robust risk assessment can provide the balance between law enforcement and the duty of care Police has to protect all road users.

[52] IPCA, *Review of police pursuits,* p.55.
[53] New Zealand Police (2003), p.11.

Recommendation: The pursuit policy should remain a restrictive one; the policy and training should highlight the necessity to assess the risks at all stages of a pursuit to determine whether continuation of the pursuit is justified, and the emphasis should continue to be on public safety.

Pursuit management

The conduct and management of pursuits must balance the priority of stopping the offender and the maintenance of road safety at all times. This section of the report focuses on particular sections of the policy to identify best practice, as well as areas for improvement. As stated in the introduction, the sections have been restricted to those which RPS has been specifically tasked with reviewing, or those deemed to be the most significant after analysis and research.

Overriding principle

Research suggests that as part of an adequate pursuit policy an overall mission statement or a rationale for pursuits is required.[54] New Zealand's current policy successfully does this by including an overriding principle, which states that:

> *Public and staff safety takes precedence over the immediate apprehension of the offender.*

It is also backed by a statement that Police must prioritise safety by driving with a high standard of care and professionalism, and in a matter appropriate to the situation,[55] as well as the Police Driving GI.[56]

These types of statements appear in the majority of policies reviewed for this report. In the review of the AFP policy in 2007, there was support for the inclusion of a general policy statement or rationale for the policy. This was to ensure all employees subject to the policy were aware of the serious safety risks associated with pursuits. Their policy now states that "the sworn duty to protect life and property will always have primacy over the need to apprehend offenders, especially when the offence involved is relatively minor, or where there are safer options other than immediate apprehension."[57]

South Australia's overriding principle is very similar to New Zealand's. "A pursuit is not to take place when the risks outweigh the results to be achieved by such driving. In this situation, if a pursuit is occurring it must be immediately terminated."[58] The San Antonio jurisdiction (USA), simply states that officers are only to engage in a pursuit when the benefit of arrest outweighs the risk to staff and public safety."[59] In Kent (UK), Police drivers are instructed not to be indifferent to the safety of the public or themselves.[60]

Essentially, the mission statement needs to highlight that pursuits can endanger members of the public, and this is one of the most important issues of pursuit management. New Zealand's policy adequately covers this in the form of the overriding principle.

Roles and responsibilities

Pursuits are rapidly changing events that can have serious consequences. Staff need to make split-second decisions regarding the most appropriate action required in the circumstances. This usually occurs at speeds in excess of the posted speed limit. Staff must understand that those decisions need to be justifiable in law and recognise that they may be the subject of investigations and public scrutiny. This post-pursuit scrutiny of a split-second decision is often conducted over a long period of time. As McGrath

[54] Becknell et al, p.107.
[55] New Zealand Police, *Pursuit policy*.
[56] New Zealand Police, GI, *V001 Police Driving* (internal document).
[57] Cameron, p.1.
[58] South Australia Police General Order (2009). *High risk driving* (internal document), p.10.
[59] San Antonio Police Department (2008). *Procedure 609 Emergency Vehicle Operations*. San Antonio, p.1.
[60] Kent Constabulary, p.4.

pointed out in his research, "hindsight is a great thing, but officers only have a millisecond to make a decision that afterwards people have a long time to re-examine."[61] Therefore, it is important that all staff involved are aware of their roles both during and post-pursuit, and the responsibility that entails. The current policy tabulates most of this information in an easily understood manner; the advantage of this is that it clearly distinguishes each role.

Police driver - usually the lead pursuit driver, who in most cases has initiated the pursuit.[62] They are instructed to comply with relevant legislation, drive in a manner that prioritises public and staff safety, undertake a risk assessment, comply with the directions of the pursuit controller and those of a Police passenger, if senior in rank or service. There are also instructions for Police drivers under the risk assessment section of the policy. Following a pursuit, staff who initiate a pursuit must complete a notification form which records the details of the pursuit.

Police passenger - who is an employee with constabulary power, should assist the driver by operating the radio to update Comms and advise the driver of possible hazards. As previously stated, if they are senior in rank or service to the driver, they may also direct them to abandon pursuit, according to the risk assessment.

Other Police staff in vicinity - are not to get involved in the pursuit unless they are responding to an instruction, or have received permission from the pursuit controller.

Dispatcher - maintains radio communications with staff, gives the safety reminder, requests information from the Police driver, and communicates instructions from the pursuit controller in accordance with the communications procedure. They should also participate in a debrief, if required, at the end of a pursuit.

Pursuit controller - this role is fulfilled by a shift commander (usually the rank of Inspector). They are responsible for supervising the pursuit and coordinating the overall response, as well as selecting and implementing appropriate tactical options to resolve the pursuit. Specifically, their role includes constantly assessing the risks to determine whether the need to affect immediate apprehension is outweighed by the risks posed by the continuation of the pursuit. This is done through an assessment of the situation reports (sit-reps) from the Police driver, monitoring the number of vehicles in the pursuit, directing the pursuit be abandoned if the risk becomes too great, and replacing unmarked vehicles with marked vehicles as soon as possible.

Team leader - when a Comms shift commander is unavailable, a team leader may take over as pursuit controller. In exceptional circumstances, this may be an employee without constabulary power; however, these cases must be reported to the Commissioner of Police.

AOS/STG commander - the Armed Offender Squad (AOS)/Special Tactics Group (STG) commander may be authorised to act as pursuit controller during an AOS/STG deployment, where a pursuit commences involving an armed offender. If they are absent, the section leader has delegated authorisation.

Field supervisor - this role is usually performed by the section sergeant on duty at the time the pursuit is initiated. They advise the pursuit controller of any relevant information, may recommend to the pursuit controller that the pursuit be abandoned, and have supervisory duties following a pursuit. This includes taking appropriate action

[61] McGrath, Mike (2003). *Dangerous pursuits.* Police review, vol.111, no.5745, p.19.
[62] If the unit that initiates the pursuit is a category B vehicle, or the driver that initiates the pursuit is a silver-classified driver, the pursuit controller is required to replace with a higher classified vehicle or driver at the earliest opportunity.

for any non-compliance of the policy and ensuring and approving the pursuit notification form.

District Commander - whilst this position has no responsibility during a pursuit, post-pursuit the District Commander (or delegated district reviewer) ensures that the policy has been complied with, and monitors pursuit activity in order to identify and manage any health and safety risks. They do this by reviewing all the pursuit notification forms in their district.

The roles and responsibilities are very similar to other policies assessed for this review. One point of difference is that not all jurisdictions have objective oversight in the form of a pursuit controller based at Comms. For the most part New Zealand's policy provides a comprehensive breakdown of the various roles involved in all aspects of a pursuit. However, there are some modifications which need to be made in respect to these roles and the responsibilities they entail. These are outlined in detail below.

Police driver/Police passenger

As previously stated, a Police passenger who is senior in rank or service to the driver can direct the driver to abandon the pursuit. An internal recommendation has been made to amend this section of the policy, to include if senior in rank or service, or who holds a higher Professional Police Driver Programme (PPDP) classification.[63]

This is as the result of an investigation into a pursuit which occurred in 2009, which resulted in the serious injury of the driver of the pursued vehicle. In this incident, the Police driver was classified as a silver driver under the PPDP policy; the Police passenger was a gold classified driver. This is permissible under the PPDP policy in exceptional circumstances, or if a gold classified driver is directly supervising the silver driver. This allows silver drivers, many of which are probationary constables new to the job, to gain the valuable experience required in respect to UDD. If it is a single-crewed silver classified driver that initiates the pursuit, the pursuit controller must take steps to replace the lead pursuit vehicle being driven by the silver driver, with one driven by a gold classified driver as soon as possible.[64]

What is interesting about this particular incident is that although both crew members were of the same rank, the Police driver was more senior in terms of length of service, though not in terms of driving classification. It is unclear how often these types of situations arise, and whilst rank will always take precedent, it is worthwhile considering this addition to the policy.

Recommendation: Amend the responsibilities of the Police passenger to read: "If they are senior in rank or service or PPDP classification to the driver, they may also direct them to abandon pursuit, according to the risk assessment."

Pursuit controller

The pursuit controller plays a pivotal role in the management of pursuits: assessing the degree of risk involved, and balancing that risk against the need to apprehend the offender.[65] Usually the shift commander on duty at Comms, they provide independent oversight to the pursuit and use the information passed to them by the lead pursuit vehicle to assess what the risks are and whether the pursuit should continue. They have

[63] Internal Professional Standards Report, Counties-Manukau District, 1 August 2009 (internal document).
[64] The driving ability of constabulary staff is assessed on a regular basis. Gold drivers are able to undertake pursuits and UDD; silver drivers may not undertake a pursuit unless a gold driver provides direct supervision, or exceptional circumstances apply (the pursuit controller is to replace a silver driver with a gold driver as soon as possible); and bronze drivers may not undertake pursuits or UDD unless a gold driver provides supervision. As prescribed in New Zealand Police (2009). *Professional Police Driver Programme* (internal document).
[65] New Jersey Police (2001). *New Jersey Police vehicular pursuit policy.* New Jersey, p.1.

a responsibility to abandon a pursuit once the risk is identified as being disproportionate to the reason for initiating the pursuit. Ultimate control lies with Comms as it removes the subjectivity of an officer's decision making, and due to their location the shift inspector can make decisions "free from the emotions and adrenalin of the officer driving the vehicle."[66]

Where problems occur is in the breakdown in communication between the pursuit controller and staff involved in the pursuit. This was identified in the IPCA investigation into the death of Peter Kotsifakis, as the result of a pursuit in Palmerston North in 2008. Their report noted that the reason for the pursuit was not fully articulated to Comms, and there was insufficient detail provided on the speed and manner of the offender's driving, to allow the pursuit controller to fully consider the risks involved in continuing. Whilst the report went on to note that these failings should be considered in light of the short duration of the pursuit, it is an important consideration for any improvements to the policy.[67] In addition, the IPCA report into Rangi Wano's death noted that there was inadequate communication between the pursuing officer and Comms.[68] Wano was killed in 2005 when the vehicle he was a passenger in being pursued by Police, was involved in a head-on collision.

Communication between the lead pursuit vehicle and the pursuit controller has long been recognised as an issue during pursuits.[69] ACPO acknowledged that the flow of information between Comms and the pursuing vehicle is a challenge. The pursuit controller must continuously assess a rapid flow of incoming information, and probe for clarification "in order to elicit specific points relating to the pursuit criteria."[70] However, as the AFP review noted, the average pursuit is of such a short duration, pursuit controllers will "rarely have the chance to have any influence on the outcome; and until the pursuit is called in, they have no ability to influence its course at all."[71] In order to ensure radio traffic is kept to a minimum, some jurisdictions specifically include a prohibition on non-essential radio traffic in their policy.

Comms has indicated that often in post-pursuit analysis there has been sufficient time for a unit to advise they are in pursuit. When they do advise Comms, there is sometimes a reluctance to provide the critical information required by the pursuit controller to undertake a risk assessment. Their preference would be for the pursuit policy to reflect more strongly the risks associated with a sustained loss of communication with the pursuit controller, and the failure to provide critical information in a timely manner. In situations where this occurs the pursuit should be abandoned, unless there is an immediate threat to public or staff safety that outweighs the risks (see abandonment for further information).[72]

Not only is the pursuit controller trying to elicit information from the lead pursuit driver to make a robust risk assessment, they are also trying to communicate with other units in the area to determine if anyone is in a position to utilise tyre deflation devices (TDDs). If the unit that initiated the pursuit is an unmarked (category B) vehicle, then they also need to ensure the vehicle is replaced with a marked (category A) vehicle if able. In addition, if an officer is in a position to deploy TDDs, there is communication required between them and Comms to receive authorisation. This places significant pressure on the pursuit controller to make appropriate decisions in a timely manner. Pursuit controllers also need to ensure that if they are not receiving the information from the

[66] New Zealand Police (2003), p.51.
[67] Approximately 81 percent of pursuits have a duration of less than 4.59 minutes. Data taken from Pursuit Notification Database from 2 March 2009 - 10 November 2009.
[68] Independent Police Conduct Authority (2009). *Report on the fatal pursuit of Rangi Wano on 13 September 2005.* Wellington, p.8.
[69] See New Zealand Police (2003), pp.51 and 55.
[70] ACPO, p.18.
[71] Cameron, p.14.
[72] Internal communication between RPS and Comms National Management Group, 2 March 2010.

lead pursuit vehicle to make an adequate risk assessment that they ask for it. If the information is still not forthcoming, then the only alternative action left is to abandon the pursuit.

Recommendation: RPS, Training Service Centre and Comms work together to ensure all aspects of the pursuit controller role is covered in the training package, and that all Comms shift commanders receive regular training consistent with the PPDP.

AOS/STG commander

As evident in both the roles and responsibilities and the tactical options sections of the policy, there are pursuits which are of such a serious nature that intervention is required by the AOS/STG. The policy currently states that in these situations, the AOS/ or STG commander can act as the pursuit controller, once their team is in position.

This implies that when this occurs the AOS/STG commander takes responsibility for all aspects of the pursuit, including traffic control and utilisation of other tactical options such as TDDs; which this is not the intention of their role during pursuits. In serious pursuit situations they are tasked to complete a non-compliant vehicle stop as directed by the pursuit controller, in order to render the offending vehicle stationary. Once the vehicle has stopped, they are then utilised to affect an arrest and disarm the offender. Overall control of the incident lies with the pursuit controller, until such time as a formal handover is completed to a senior officer at the scene, who will take over as Incident Controller.

Recommendation: The role of the AOS/STG commanders acting as pursuit controllers is amended.

Single crewed units in pursuits

The current policy does not address the potential risks involved in a single crewed unit involved in a pursuit. It simply focuses on the driving ability of the lead pursuit vehicle, regardless of whether they are single or double crewed.[73] The issue of single crewed units involved in pursuits has been raised on several occasions. The Gibson Report and the 2003 pursuit review, both noted that using the Police radio while driving at high speed requires considerable concentration by the driver, in a situation which is already risky.[74]

Problems arising from single crewed units in pursuits were also raised in the Coroners findings relating to the inquest of Rangi Wano. In this case, the Coroner questioned the value of commencing a pursuit in the absence of a passenger in the lead pursuit vehicle who is able to identify hazards, assist with the risk assessment and provide the necessary sit-reps to the pursuit controller. The Coroner stated this was a disadvantage in managing the pursuit, as the driver was left to concentrate on driving as well as giving the commentary.[75]

This is a serious safety concern for staff, which could potentially endanger themselves and other road users. One solution to this problem is to introduce primary and secondary units in a pursuit. The primary unit would become the equivalent of the current lead pursuit vehicle, and would be subject to the same requirements in the current policy. These being: notifying Comms immediately that they are in pursuit, maintaining constant communication with Comms by way of regular sit-reps, and

[73] The driving ability of constabulary staff is assessed on a regular basis. As prescribed in New Zealand Police (2009). *Professional Police Driver Programme* (internal document).
[74] New Zealand Police (2003), p.72.
[75] Christchurch Coroner (2009). *Coroner's inquest: Rangi Awatea Sony Wano (COR09/0139).*

continually assessing the risks involved and balancing this with the reason the pursuit commenced in the first place.

On initiation of a pursuit, a secondary unit would be assigned by the pursuit controller to sit in behind the primary unit. Should the primary unit be single crewed, the secondary unit would then take over the commentary to the pursuit controller.

There are a couple of advantages to introducing primary and secondary units; the first is it has the potential to limit the number of vehicles actively pursuing the offending vehicle. The pursuit controller can assign the initiating vehicle as the primary unit, and a secondary unit to assist, and all other units fall under the role of 'other Police staff in vicinity' and should await direction from the pursuit controller. The second advantage is that in the absence of a passenger in the primary unit, the secondary unit can provide the commentary, allowing the primary unit to concentrate solely on driving.

Primary and secondary units are commonplace in other jurisdictions.[76] Taking over the commentary from a single crewed vehicle is common for those jurisdictions which have a secondary vehicle role. In the AFP policy the secondary unit, either the driver or passenger, notify Comms they have taken up the position of secondary unit; they maintain a position to the rear of the primary unit, take over the commentary if the primary unit is unable to do so or are requested to, and continually assess the risks involved recommending abandonment to the pursuit controller if appropriate.[77] Commentary being provided by ground units of course changes when aerial surveillance is utilised (see aerial surveillance).

Recommendation: Introduce primary and secondary units with specific roles and responsibilities, such as the secondary vehicle taking over commentary if required.

Hands-free radio technology

The use of specific technology, such as a hands-free radio can also assist with the difficulties of single crewed units initiating a pursuit. Hands-free radio technology allows officers in patrol vehicles to communicate on the Police radio network, without taking their hands off the steering wheel. Currently, when a single crewed unit undertakes UDD or initiates a pursuit, there is a risk of distraction by taking the hand off the wheel and/or eyes off the road, when reaching for the radio. There is also the added pressure of driving and holding the radio at the same time. The introduction of this technology was recommended in the 2003 review.[78] This technology was described as a necessity in the AFP review,[79] and a lot of the research promotes this type of technology.[80]

Successful trials of the hands-free radio have been completed by RPS, and approval has been given by the Assistant Commissioner: Operations for installation in operational vehicles. This will be implemented incrementally over the coming years, in conjunction with the migration to the new digital Police radio network.

Recommendation: Police continue with the implementation of hands free technology in operational vehicles, in conjunction with the migration to the new digital Police radio network.

[76] Victoria, AFP, San Antonio, South Australia, San Diego, most United Kingdom jurisdictions by way of the ACPO guidelines.
[77] Cameron, p.52.
[78] New Zealand Police (2003), p.72.
[79] Cameron, p.21.
[80] Best, p.8.

Limiting the number of vehicles in a pursuit

Limiting the number of vehicles in a pursuit is extremely important in managing the risks involved. In the state of California, their guidelines make specific reference to the need to limit the number of vehicles in a pursuit. "Research has shown that the more law enforcement units actively participating in a pursuit, increases the likelihood of a collision."[81] In developing their guidelines, they advised jurisdictions within the state to ensure their policies describe the number and types of Police vehicles authorised to participate in a pursuit. Most other jurisdictions expressly limit pursuits to no more than two vehicles unless the pursuit controller directs otherwise or indirectly through the use of primary and secondary units.[82]

Under the risk assessment section of New Zealand's current policy, the pursuit controller is instructed to "limit the number of Police vehicles following, to no more than two unless tactically appropriate."[83] However, it is not as clear in the policy as it could be, and there have been some pursuits in recent times where the number of Police vehicles in a pursuit has not been adequately managed. It is also recognised that units can join or leave the pursuit without any notification to Comms, making this difficult to control.

Assigning a primary and secondary unit may address some of these issues. The current instruction to other staff in the vicinity not to become involved in the pursuit, unless instructed by the pursuit controller, is an important aspect of the policy that should remain. The pursuit controller should also consider asking how many units are following the pursued vehicle, if they feel there are more than two units involved.

It may be that technology such as automatic vehicle locator (AVL) and mobile data terminals (MDT) can automatically track in real time how many units are involved in a pursuit. However, this technology is still being trialled by New Zealand Police, and whilst the technology has the potential to do this, it is not currently available (see the Emerging Issues section for further details).

Training staff to think and anticipate where an offender may head to, rather than simply joining in behind the pack is also important and could be improved in New Zealand. This may increase the chances of staff being in a position to deploy TDDs, than is currently the case. Instead of heading towards the action, other units in the vicinity should be encouraged to think strategically as to where the offending vehicle may go. For example, popular dumping grounds to torch stolen vehicles, or arterial routes into and out of an area. Victoria Police use back up units to restrict the routes available to the offender, and to isolate the offender from other road users.[84] This second guessing may not always result in the successful deployment of TDDs or locating the vehicle, but the ability to arrive at a scene from another direction may assist to cordon and contain, should an offender dump the vehicle and decamp on foot.

Recommendation: More emphasis placed in the policy and training package to limit the number of vehicles involved in a pursuit. This includes encouraging units in the vicinity to head to key sites in the area that offenders may try to go to.

[81] California Commission on Standards and Training (2006). *California law enforcement vehicle pursuit guidelines 2006* (internal document), p.3.
[82] South Australia Police, p.10; San Diego Police, p.7; Cameron, p.51; San Antonio Police, p.4; Victoria Police, p.2; ACPO, p.20.
[83] New Zealand Police, *Pursuit policy*.
[84] Victoria Police, p.8.

Tactical options

Under the current policy, the tactical options available to resolve a pursuit are listed as follows:

- abandon pursuit - if directed by the driver, Police passenger or pursuit controller;
- TDDs - if directed by the pursuit controller and the staff member is trained to use the device;
- aerial surveillance - which is initiated by the pursuit controller and takes over the commentary from the lead pursuit vehicle[85]; and
- AOS/STG non-compliant vehicle stop - initiated by the AOS/STG commander in response to a life threatening incident. AOS/STG staff must follow their procedures and be trained to use the tactic.[86]

Any tactical options used must be for the purpose of concluding a pursuit as quickly, safely and proportionately as possible.[87] The longer the pursuit runs the increased risk of harm to staff, occupants of the vehicle and members of the public, and the IPCC review recommended that tactical options be considered at the earliest possible opportunity.[88]

Abandoning a pursuit is the safest action to resolve a pursuit. However, in life or death situations it may not be the most appropriate course of action to take (see abandonment section). TDDs are now installed in most frontline vehicles, but are not always able to be deployed in a pursuit situation. The pursuit vehicle may not necessarily head to a location suitable for deployment, and because most pursuits are over very quickly there is often little time to deploy TDDs. RPS has recently completed a review of TDD deployments and work is continuing on both the TDD policy and training, in conjunction with this review.[89]

Some operational managers spoken to for this review, believe the current selection of tactical options is inadequate. For areas outside of the pan-Auckland area, other than abandonment and TDDs, there are no other tactical options available to conclude a pursuit where serious offences have been committed. In most cases the pursuit is not initiated for offences serious enough to warrant the deployment of AOS/STG.

Road blocks are permitted as a last resort in jurisdictions such as Victoria and New Jersey. However, there are restrictions around their use such as authorisation from a supervisor, and the need to ensure an avenue for escape. Previous policies allowed the use of road blocks and vehicle/stationary blocks[90] as tactical options to resolve a pursuit. Only staff trained in these blocks could implement them; however, there had been no training carried out for some time, nor was there a training package available. Nonetheless, it was recognised that staff were still carrying out these types of tactics in exceptional circumstances, and were effectively breaching internal policy.

When the policy was updated in January 2008, references to road and vehicle/stationery blocks were removed.[91] For road blocks in particular, it was recognised there were risks associated with barricading a road with vehicles or other objects. It was questionable as to what value the tactic presented, when it potentially created unsafe situations for both staff and members of the public, not to mention occupants of the pursued vehicle. Opinion at the time stated that the current definition and authorisation of a road block

[85] This tactical option is only available in the pan-Auckland area (see aerial surveillance section for further details).
[86] New Zealand Police, *Pursuit policy.*
[87] ACPO, p.7.
[88] IPCC, p.31.
[89] New Zealand Police (2009). *Tyre deflation devices: a strategic review* (internal document).
[90] A vehicle/stationary block involves positioning police vehicle(s) to prevent the offender's vehicle from driving off after it has slowed to less than 30 km/h or stopped.
[91] New Zealand Police, Police Executive Meeting (PEM) paper 08/08 (2008). *Pursuit policy: proposed tactical options* (internal document).

within the definition contained in the Crimes Act 1961 meant it was not entirely appropriate to be applied in a pursuit situation.[92]

Options considered by the Police Executive at the time were to remove reference to the road and vehicle/stationary blocks to prevent staff breaching the policy, or introducing a low speed block. The latter option would result in a very prescriptive policy, to outline when it could be used and the speed it could be used at. There was much debate about the low speed block and the definition of 'low speed' which would enable the tactic to be used. The Executive approved the former option to remove reference to all blocks in the pursuit policy. However, in agreeing to this change, it was accepted that situations would arise where a vehicle needed to be forcibly stopped or removed from the road. So long as staff adhered to the overriding principle and could justify their actions, this was deemed acceptable. In addition, guidance would be given to staff, including pursuit controllers in the new training package around this aspect of the policy. As evident in the training section of this report, the package was delivered to over 4,000 operational staff in 2009. Ongoing training is one of the recommendations made in this report.

Now that the current policy has been implemented and training delivered on changes to the policy, operational managers are seeking clarification on the organisation's position when incidents arise when a vehicle needs to be physically stopped, as well as seeking other tactical options to assist in resolving a pursuit. This leads into a discussion on the legislative provisions in the pursuit policy.

Legislative section

There is no specific legislative authority or positive power in New Zealand which authorises pursuits. There is a justification to use force when a person is fleeing from arrest, which is covered by section 39 of the Crimes Act 1961 and is referred to in the current policy. It states that "justification for an arrest extends to the use of such force as may be necessary to overcome any force used in resisting arrest, unless the arrest can be made by reasonable means in a less violent manner."[93]

This has led to confusion as to whether section 39 simply relates to the authority to pursue a vehicle, or if it empowers Police, in certain circumstances, to forcibly stop a vehicle. An example of this is a vehicle that has failed to stop, heading towards a school at 15:00 hours as school is finishing for the day; or when a hostage has been taken and is in the vehicle being pursued by Police. Under the current policy, once the offending vehicle has stopped, Police can ensure it remains stopped using reasonable force necessary.[94] However, the current policy is silent on whether there is justification in those types of situations to physically stop a mobile vehicle to prevent harm to others.

On this issue, RPS and Legal Services have agreed that trying to set out prescriptive measures for pursuits is not feasible, given that no two pursuits are ever the same. There is further agreement, that although it would not be promoted as normal practice, there are some instances that would be serious enough to warrant a vehicle being forcibly removed from the road. To this end, the following recommendation is made in reference to section 39:

[92] For the purposes of section 317B Crimes Act 1961, road block means any form of barrier or obstruction preventing or limiting the passage of vehicles. See *www.legislation.govt.nz.*
[93] New Zealand Police, *Pursuit policy*.
[94] Ibid.

Recommendation: The legislation section of the policy is amended to read as follows: "The justification for an arrest extends to the use of such force as may be necessary to overcome any force used in resisting arrest, unless the arrest can be made by reasonable means in a less violent manner. The use of force during a pursuit may be justified where a person is fleeing from arrest."

In addition, it is agreed that a further noting passage is required in the table dealing with the Land Transport (Road User) Rule 2004. This would ensure that regardless of the defence Police may have in legislation to exceed the posted speed limit; it does not permit careless, dangerous or reckless driving. Staff must be able to justify their actions during the course of a pursuit.

Recommendation: The legislation section of the policy which outlines defences under the Land Transport (Road User) Rule 2004 is amended to read as follows: "This Rule does not permit careless, dangerous or reckless driving."

Abandonment

The current policy has a robust abandonment procedure. The driver of the lead pursuit vehicle, a Police passenger in the same vehicle who is more senior in rank or service to the driver, and the pursuit controller can all decide to abandon the pursuit.[95] Abandonment is usually carried out when the risks to staff, members of the public and occupants of the pursued vehicle outweigh the benefits of apprehending the offender.

Police have been criticised in the past for not abandoning pursuits as quickly as they should. In the investigation into the death of Rangi Wano, the IPCA found that the pursuit should have been abandoned due to the dangerous driving involved, and the fact that the pursuit was heading toward a built up area on a weekday morning.[96]

The reluctance to abandon may be because it is seen by some staff as a measure of failure,[97] and it is an aspect of pursuits that has levels of non-compliance, not just in New Zealand but other jurisdictions. In the ACPO policy it states that pursuits should not be seen as a personal challenge. In many instances abandonment is the most appropriate action in the circumstances, and "discontinuance is always an option for consideration."[98] It is for this reason that New Zealand's policy lists abandonment as a tactical option that must be considered for all pursuits, rather than keeping it as a separate action. In addition, in the revised training package introduced in 2009, emphasis was placed on not viewing abandonment as a failure to catch the bad guy. When the continuation of a pursuit is too risky, abandonment is a pragmatic solution and the safest one for all concerned.[99]

Abandonment rates in the past have been identified as being somewhat ambiguous in many Police jurisdictions. In the Queensland pursuit review, they found that whilst 46% of all pursuits were recorded as being abandoned, on further examination this figure was overstated. Their research found that pursuits recorded as abandoned had really been resolved by other means, such as the offender decamping.[100] The AFP review stated that the proportion of pursuits abandoned by the pursuit driver appeared to be higher than was previously thought. However, they concluded in defence of this, there was no

[95] Ibid.
[96] IPCA, *Wano*, p.8.
[97] New Zealand Police, RPS (2008). *Pursuit review (part 2)*, p.24.
[98] ACPO, p.27.
[99] New Zealand Police, RPS (2008), p.24.
[100] Hoffman, p.15.

record when an officer chooses not to initiate a pursuit. This meant there was nothing to compare this figure to.[101]

The Queensland review recommended that a formal abandonment procedure be implemented, which included the requirement for staff to pull over to the side of the road and stop when a pursuit is terminated.[102] This has been a part of New Zealand's policy since 2004, when the 2003 review raised as an issue, the lack of clarity as to who could authorise abandonment. The current policy instructs staff to acknowledge the direction to abandon, immediately reduce speed to increase the distance between their vehicle and the offender's, deactivate warning devices once their speed is below the posted speed limit, stop as soon as it is safe to do so, and confirm to the pursuit controller they are stationary and their location.[103]

It is important that staff who elect to abandon a pursuit are supported. Victoria's policy states that "any decision to terminate a pursuit on the grounds of avoiding an unacceptable risk will be supported. Any action taken to limit the risks to public, including offender/s, and police will be viewed as a decision that displays sound professional judgement."[104] New Zealand has a similar approach in that "no driver can be directed to commence or continue a pursuit against their judgement," and their decision cannot be overridden.[105]

In Victoria, they refer to abandonment as termination and have very clear guidelines as to the criteria for termination. They are:

- when the risks outweigh the result to be achieved;
- on direction of the pursuit controller, or the driver or other occupant of the primary unit;
- whenever any Police vehicle or employee fails to comply with or does not meet any of the restrictions of the policy;
- whenever radio communications are not effective or lost, which leads to an increase in risks, includes the giving of regular sit-reps;
- whenever the siren and flashing red and blues fail to operate;
- where there is a reasonable belief that information from the primary or secondary units is incorrect or inaccurate; and
- when the identity of the driver is established to the point where there is a likelihood that later apprehension will be possible, and there is no immediate threat to public or police safety.[106]

This type of criteria for abandonment is an important aspect missing from New Zealand's current policy. The policy clearly defines who may abandon a pursuit; however, it is light on the circumstances as to when this should occur. Some aspects are covered, such as when the information received by Comms appears to be either insufficient or inaccurate, if there is any unjustified risk to any person, or the identity of the offender becomes known.[107] These are not grouped together to make it clear to staff what the criteria is, and it is questionable as to whether the circumstances listed are adequate.

The AFP lists 12 criteria for abandonment in their policy. Most of these are similar to New Zealand's risk assessment criteria, such as the volume of traffic, weather and road conditions, which would lead to abandonment if these risks become too high. They also list the following: when the distance between Police and the offending vehicle become so great that further pursuit is futile and dangerous; when their equivalent of the Road User

[101] Cameron, p.3.
[102] Hoffman, p.21.
[103] New Zealand Police, *Pursuit policy.*
[104] Victoria Police, p.12.
[105] New Zealand Police, *Pursuit policy.*
[106] Victoria Police, p.12.
[107] New Zealand Police, *Pursuit policy.*

Rule exemptions no longer apply; where there are malfunctions with Police equipment; and/or serious damage is sustained to the Police vehicle, which makes the continued operation of the pursuit hazardous. [108]

The New Jersey policy includes in its abandonment criteria: when the vehicle's location is no longer known or the distance between the pursuing vehicles and the offender becomes so great that further pursuit is futile; and if a person is injured during the pursuit and there are no other Police or medical personnel able to render assistance.[109] Both of these have merit and consideration should be given to their inclusion in New Zealand's policy.

Recommendation: The abandonment criteria is extended to include situations when the offending vehicle's location is no longer known, the distance between the pursuing vehicles and offender's vehicle is too great, if a person is injured during the pursuit and no other unit is available to render assistance, if there is a sustained loss of contact with Comms, and a failure to provide critical information in a timely manner. These will be grouped with the current critiera and made explicit in the policy.

Abandonment rates

Since the introduction of the Pursuit Notification Database in March 2009, there have been 1,818 recorded pursuits.[110] Of those, 518 (28%) were abandoned. Figure 1 highlights the rates of abandonment by district. Although this is only a partial year's data, it is tracking slightly higher from 2008's abandonment figure of 26%.[111] This may be in part, attributable to the introduction of the training package related to UDD and pursuits. This training encourages staff to look at all the risks involved and emphasises the importance of risk assessments and the concept of driver liability, which includes being able to justify their actions post-pursuit.[112]

Comparing the abandonment rate against the number of recorded pursuits is problematic. Factors such as the reason for stopping the vehicle, the time of day and location of the pursuit all play a part in the risk assessment and the justification for allowing a pursuit to continue. For this reason it is important that the circumstances of each pursuit are considered on its own merits. However, it does serve as an indication as to whether risk assessments and training are having any effect on officers decision making.

[108] Cameron, p.54.
[109] New Jersey Police, p.6.
[110] Total recorded since 2 March 2009 to 5 November 2009.
[111] Figures from the new Pursuit Notification Database introduced on 2 March 2009. See Pursuit Notification database section for further details. IPCA noted an abandonment rate of 20% for the 137 pursuits reviewed for their report. IPCA, *Review of police pursuits,* p.18.
[112] New Zealand Police, Training Service Centre, Royal New Zealand Police College (2009). *Police pursuits and urgent duty driving training package (DRV017)* (internal document).

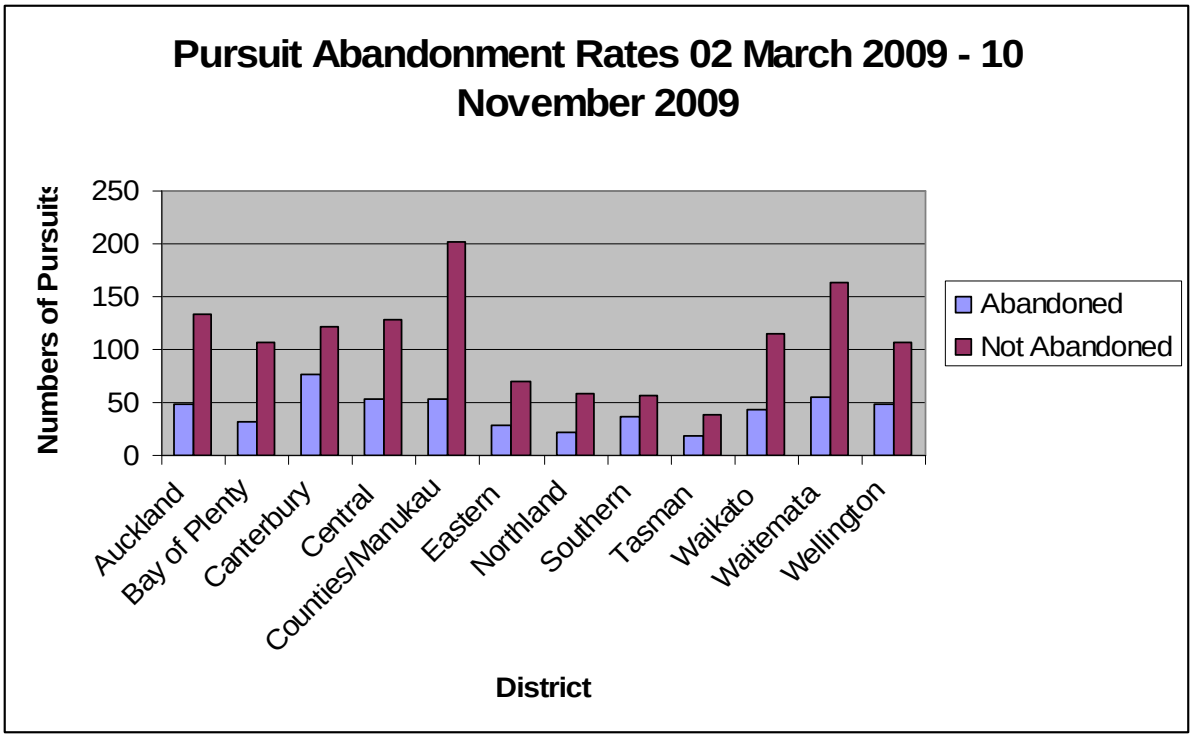

Figure 1 - Pursuit abandonment rates by district

Figure 2 shows who was responsible for abandoning the pursuit. The majority continue to be abandoned by Comms, who have objective oversight of the pursuit. Of interest though, is that the next highest rate of abandonment is by Police drivers themselves. This means that from their own assessment of the risks, the pursuit driver has determined that the need to effect immediate apprehension of the offender is not outweighed by the risk posed by continuing the pursuit. This is very encouraging and will continue to be monitored by RPS, as more data is recorded in the Pursuit Notification Database.

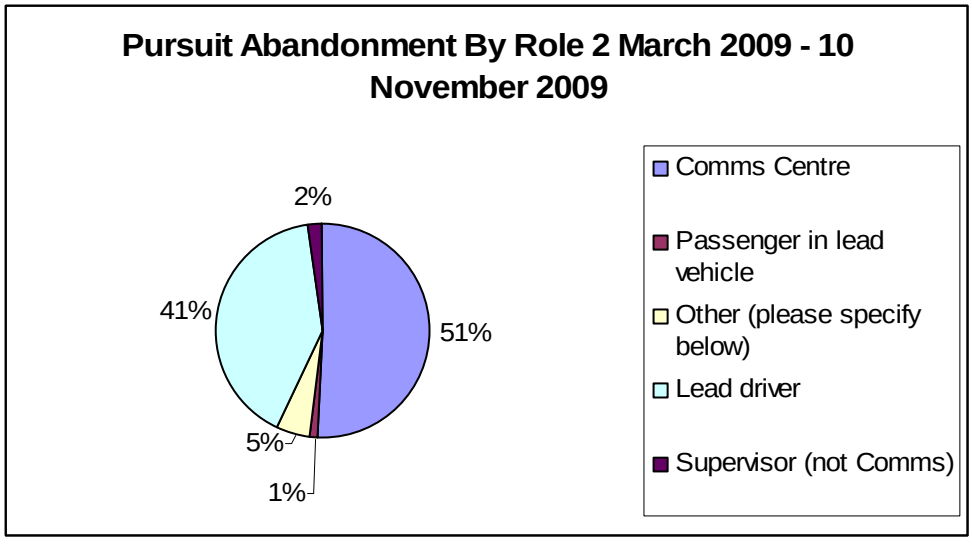

Figure 2 - Pursuit abandonment by role

Search phase

In February 2008, there was a pursuit near Timaru which resulted in the death of Vianne Shead. The vehicle left the road and crashed 15 metres down a bank. At the time of the crash, the lead pursuit vehicle was at least one kilometre behind the vehicle Shead was a passenger in. Due to the fact the vehicle had left the road, the lead pursuit vehicle was unaware of the crash and continued to drive at speed past the crash site. In investigating the pursuit, the IPCA concluded that when the unit lost sight of the vehicle, it should have advised Comms and abandoned the pursuit.[113] There is no clearly defined action in the policy when the lead pursuit vehicle has lost sight of the offending vehicle.

In these instances there is usually some type of unofficial search which takes place post-pursuit, to try and locate the vehicle. The IPCA in its findings highlighted the ambiguity in the current policy as to when a pursuit is formally concluded or abandoned, thereby removing any further justification for undertaking UDD by staff who have been involved in the pursuit.

The Southern Communication Centre (South Comms) was the first to identify this problem. They recognised that often a common response during a pursuit is for staff to inform Comms they have lost sight of the offending vehicle. Typically a short time later the vehicle is either found crashed, at which point staff advise they had abandoned the pursuit, or a unit spots the vehicle and recommences the pursuit without Comms knowledge, or they advise Comms they had only lost sight of the vehicle for a short time and continue the pursuit.[114] The current policy does not allow a pursuit to be recommenced without approval from the pursuit controller. In order to approve the recommencement, the pursuit controller needs to determine whether the situation has changed following abandonment, and whether the risk involved in the pursuit have reduced sufficiently to allow the pursuit to recommence.[115]

In order to make this aspect of a pursuit clearer to staff, Comms has introduced a search phase procedure. During a pursuit, when it is clear that units have lost sight of a vehicle, or the location of the vehicle is unknown, the pursuit is formally abandoned and staff must comply with the abandonment procedure. This time stamps an actual end point for the pursuit in terms of time and location of abandonment. At this point there is no justification for units to undertake UDD and exceed the posted speed limit. Units then enter a search phase in an attempt to locate the vehicle. It is made clear to units that the pursuit is not to be recommenced without the express authority of the pursuit controller.[116]

A benefit of introducing a search phase is it will clarify when the pursuit has been formally abandoned. That way, should a vehicle crash there will no longer be any confusion as to whether Police were in pursuit of the vehicle at the time. This will ensure that crashes during and post-pursuit are more accurately recorded than is currently the case (see Pursuit Notification Database section for further detail). Anecdotal evidence has highlighted a perception that Police do not follow through on actively locating vehicles involved in a pursuit, and further intensifies the belief that there are no serious consequences for failing to stop. If Police are more proactive in this area, it may reduce the number of pursuits. An active follow-up through a formalised search procedure may show offenders that this is a serious issue and there will be consequences if apprehended.

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[113] IPCA (2009). *Report on a fatal pursuit in Timaru on 9 February 2008*. Wellington.
[114] Email communication between RPS and South Comms.
[115] New Zealand Police, *Pursuit policy.*
[116] Memo from Superintendent Powell, Centre Manager Northern Communication Centre (North Comms) to District Commanders in North Comms jurisdiction (Northland, Waitemata, Auckland City, Counties Manukau, AMCOS, Waikato and Bay of Plenty), 24 September 2009.

The current policy clearly outlines the abandonment procedure and the criteria for recommencing a pursuit. However, the search phase is a grey area that needs to be clarified. Comms has taken the initiative by introducing a procedure which clearly demarcates the abandonment of a pursuit, and the move to a search phase for a short time post-pursuit to try and locate the vehicle. This procedure needs to be formalised within the pursuit policy, so all staff are aware of the expectations and criteria involved in this part of a pursuit, and the rules around recommencing the pursuit should the vehicle be located also needs to be made clear.

Recommendation: When a vehicle is lost sight of or its location is no longer known during a pursuit, the pursuit is abandoned and a formalised search phase is initiated. The policy is amended to incorporate the search phase post-pursuit and the rules pertaining to recommencing a pursuit are clarified.

Aerial surveillance

The presence of aerial surveillance during a pursuit is an effective tool which alleviates some of the pressure on ground staff, by monitoring the progress and location of offenders and their vehicles. They are able to take over the commentary of the pursuit, which enables ground units to fully concentrate on driving. Aerial surveillance also has the advantage of seeing the 'big picture' in terms of potential hazards ahead of the pursuit such as a school, major intersection, a sharp bend in the road or road works. It also reduces the risk associated with a pursuit in that their involvement:

- allows ground units to increase the distance between their vehicle and the offending vehicle, which reduces pressure in the mind of the offender/driver as they make decisions; and
- ensures ongoing monitoring of the vehicle, which reduces the driver's perception that continued risk taking will be successful.[117]

There is very little published research on the effectiveness of aerial surveillance in pursuits. In the USA, a case study was undertaken in the jurisdictions of Miami-Dade and Baltimore, which showed that the helicopter can assist ground units as a platform from which to observe, track, and illuminate people or places on the ground. Specifically, the Air Support Unit (ASU) serves as a backup to ground units, providing valuable information such as whether the occupants of the vehicle are carrying weapons and any impending hazards. This is important information for officer and public safety. Flight crews can provide a perspective that cannot be achieved on the ground. Data from the case study showed that when a helicopter is involved in a pursuit, the most likely outcome is an arrest. [118]

Although removed from the direct action below, aerial surveillance is effective in providing assistance based on their observation from an unseen position. Aerial surveillance can "remain in close proximity to the suspect while tracking the location and direction without being noticed, enabling officers on the ground to take action once the suspect has stopped or exited the vehicle.[119]

However, there are some limitations in the use of ASU in pursuits. The reported speed of the units is not exact, but in most cases is a very close estimation of the speed involved during a pursuit. In addition, they do not have first hand appreciation of the driving conditions faced by either the driver of the offending vehicle or the lead pursuit vehicle driver. There is also the risk that if ground units drop too far back from the offending vehicle: the offender could dump the vehicle, drive into a known 'no-fly zone'

[117] ACPO, p.32.
[118] Alpert, Geoffrey (1998). *Helicopters in pursuit operations.* National Institute of Justice, August. US Department of Justice, Washington, p.3.
[119] Alpert (1998). p.1.

such as an airport, or head into an underground car park. This may be sufficient time to either swap vehicles and/or take a hostage. Overall though, these limitations are in no way outweighed by the benefits of their involvement.

Aerial surveillance in other jurisdictions

Aerial surveillance plays a big part in other policies reviewed for this report. ACPO view aerial surveillance as a "fundamental part of the pursuit management strategy," and most jurisdictions take the view that their involvement is as an observation role only. They do not consider the aircraft to be in pursuit of the subject vehicle or occupants.[120]

Most policies reflect the observation role that aerial surveillance plays during a pursuit. In Victoria, they are not considered part of the pursuit as such, as they cannot fulfil the role of either a primary or secondary unit. Their role is to assist the pursuit controller to coordinate the pursuit, by relaying details of the pursuit to Comms. This includes advising the pursuit controller of any units not complying with instructions or the policy, continually assessing the risks of continuing the pursuit, recording the pursuit with the appropriate equipment, and monitoring and relaying information after a pursuit has been abandoned or if the offenders are decamping.[121] Once aerial surveillance is in place, resolution strategies and risks are reassessed once units have dropped back to determine whether the offender has moderated their driving. If they have not, this may mean the pursuit is abandoned. ASU commentary takes precedence on the radio, as they are considered to be in the best position to relay information involving all aspects of the pursuit.[122]

Like New Zealand, South Australia lists the Police helicopter as one of their resolution strategies or tactical options. The policy states that the helicopter is the safest means of monitoring the pursuit, and should be considered for every pursuit within metropolitan areas. When the helicopter is involved, the crew advises Comms they are in position and the pursuing vehicles are instructed to terminate the pursuit and await further instructions. With the assistance of the flight crew, the pursuit controller sets cordons when the vehicle stops or is abandoned.[123]

The guidelines in the state of California, do not consider the ASU as a pursuit vehicle, as it is not an authorised emergency vehicle as defined in the California Vehicle Code.[124] Jurisdictions within this state are encouraged to define the role of aerial surveillance, communication, intersection analysis, surveillance tactics and best practice in terms of illuminating the offending vehicle in their respective policies.[125] In San Diego, for example, the helicopter's role is to assist the primary unit. The policy states that in some cases, it may be better to discontinue the pursuit and have the helicopter track the vehicle until the suspect "can be taken into custody under more favourable conditions."[126]

In the Sussex constabulary, if air surveillance is assigned and can effectively monitor the vehicle and road conditions ahead, the crew seek permission to take over the commentary.[127] The decision to relocate ground crews to intercept the vehicle when it stops is one made by Comms. If the ASU are maintaining observations on the vehicle, it is the role of the ASU observer to direct ground units to suitable points to execute tactical options, when decided by and communicated by Comms.[128]

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[120] ACPO, p.32.
[121] Victoria Police, p.8.
[122] Ibid, p.9.
[123] South Australia Police, p.14.
[124] San Diego Police Department, p.7.
[125] California Commission on Standards and Training , p.6.
[126] San Diego Police Department, p.7.
[127] Sussex Constabulary, p.36.
[128] Ibid, p.47 and 57.

New Zealand situation

In New Zealand there is only one ASU, which is based in central Auckland and covers the three Police districts in the pan-Auckland area.[129] The ASU falls under the control of AMCOS, and has one helicopter with the call sign of Eagle. Aerial surveillance is listed as a tactical option in the current pursuit policy; however, due to its location, it is an option only available for pursuits in those three districts and usually only at times when ASU staff are on duty.

Since the introduction of the Pursuit Notification Database on 2 March 2009, the ASU has been involved in 95 of the 595 recorded pursuits in the pan-Auckland area.[130] This equates to 16 percent. Figure 3 compares the number of requests for ASU involvement, with the number of pursuits in which ASU is involved.

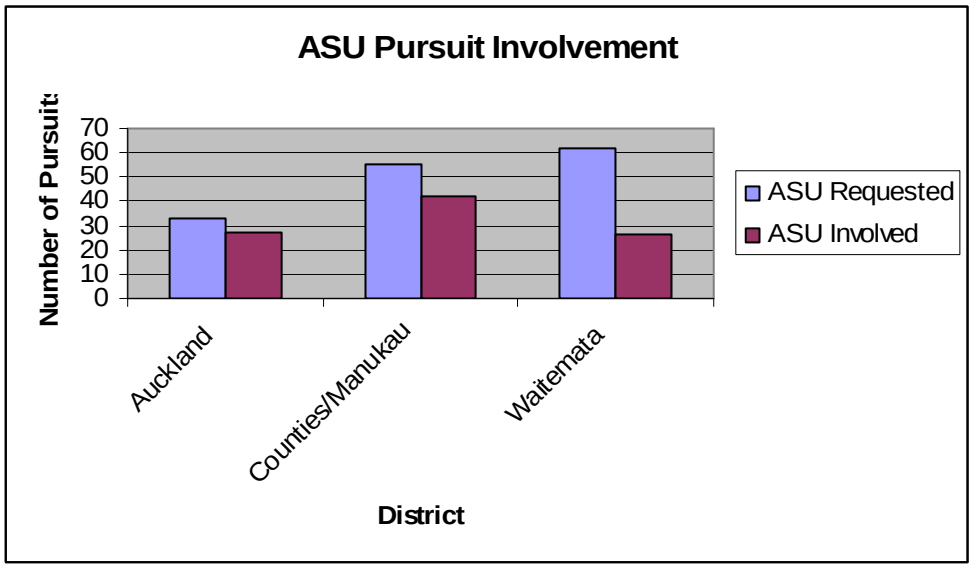

Figure 3: ASU pursuit involvement

New Zealand's current policy states that aerial surveillance must be utilised where available, and take over the primary responsibility for providing commentary to Comms, in order to reduce pressure on officers on the ground in a pursuit. In respect to other jurisdictions, this is considered to be best practice. When Eagle is in position, the pursuit controller must consider the most appropriate role of ground units, including whether they should remain in pursuit or back off. ASU crew and the pursuit controller must carry out a risk assessment and abandon the pursuit if appropriate. If this is the case, Eagle must leave the vicinity of the pursuit as rapidly and safely as possible. When ground units are instructed to abandon the pursuit, the pursuit controller must indicate whether abandonment also applies to Eagle. [131]

During a pursuit, Eagle is flying at an altitude of 1,000 feet or higher, and is positioned behind the offending vehicle. From this position, it is unlikely that the driver of the offending vehicle would even know that aerial surveillance was in place; in most cases their presence does not unduly influence the driver's behaviour. It allows the crew a viewing range of approximately three to five kilometres in an urban environment, making hazard identification possible in a more timely manner. If the pursuit occurs at night, the crew utilise the Forward Looking Infra Red (FLIR) camera which is mounted on

[129] These districts are Auckland City, Counties-Manukau and Waitematä.
[130] Details supplied from the Pursuit Notification Database for the period 2 March 2009 to 10 November 2009. There were also two instances in Eastern District and two in Waikato where ASU was used. This is not common and is usually reserved for offences of a serious nature.
[131] New Zealand Police, *Pursuit policy.*

Eagle. FLIR uses heat to create a picture for the crew, but does not illuminate the offending vehicle, nor is the nitesun used to light up the offending vehicle or its path.

The current procedure is that once Eagle is in position, patrol vehicles drop back out of sight behind the offending vehicle and the crew take over the commentary. Dropping units back has the advantage of letting the offending driver think they have evaded Police, and encourage them to reduce to normal road speed. In the majority of pursuits this is exactly what occurs and crew continue to give the commentary, including location updates, until such time as the vehicle stops voluntarily, or it is stopped with the use of TDDs. If Eagle's presence is influencing an offender's behaviour, the crew withdraw. However, this procedure is not strictly defined in the current policy and consideration should be given to do so.[132]

Recently the role of Eagle in pursuits and its level of involvement has been questioned. ASU crew and their managers believe their involvement is as an observation platform only, and their commentary allows the pursuit controller to fully assess the risks from the wider perspective that Eagle's perspective offers. It allows ground units to fall back and not place so much pressure on the driver of the offending vehicle. The objective is to remain unseen, assist with the coordination of ground units and report on offending activity.[133] From the information above, this appears to be consistent with other jurisdictions policies.

It is essential that ASU staff are aware of the risk assessment criteria when providing a commentary to Comms. This was highlighted in the IPCA investigation into the death of Ritchie Angell in 2008, who failed to stop for Police in Auckland and crashed at speed into a tree. The IPCA stated that throughout a pursuit, whether surveillance is on the ground or in the air, Police must continue to assess the risks involved, and abandon the pursuit if the risks to safety outweigh the immediate need to apprehend the offender.[134] One way of ensuring this may be to extend the safety warning given by Comms to ASU crew when they are in position.

However, under the current policy only the lead pursuit vehicle (on the ground) is given the warning at the commencement of a pursuit. In some circumstances the warning is given to other units, such as when a unit is exchanged for another as the lead pursuit vehicle. If the pursuit was to cross into a new dispatch area, then Comms may choose to give the warning again, or if the pursuit is extended in duration, consideration should be given to reiterate the warning as a reminder to staff. If the policy is amended to extend the safety warning to ASU, then it should be applied to all units involved, including the secondary unit and other ground units in the area. The risk of this is that precious time is taken in transmitting and acknowledging the warning several times over, rather than concentrating on the information coming in from the lead pursuit vehicle, to allow the pursuit controller to make a robust risk assessment. A solution may be that ASU are given a slightly modified warning to reflect their level of involvement in the pursuit. Whilst they are not directly pursuing the offending vehicle, they are involved in the pursuit by coordinating ground units and liasing with the pursuit controller. This will need to be worked through with AMCOS and Comms.

[132] Information provided to RPS by ASU crew.
[133] Email communication between RPS and AMCOS Commander.
[134] Independent Police Conduct Authority (2009). *Report on the fatal pursuit of Ritchie Angell on 6 March 2008.* Wellington, p.4.

Recommendation: In consultation with AMCOS and Comms, amend the current pursuit policy to reflect the procedure when ASU are involved in a pursuit: instructing ground units to drop back, assessing the risks and coordinating the use of other tactical options between ASU and the pursuit controller. This may also include introducing a modified safety warning for ASU crew.

Warning devices

The importance of warning devices, both lights and siren, being activated at all times during a pursuit is paramount. It is a way of signalling to other road users that Police are approaching at speed. However, staff should not assume that by activating the warning devices other road users will register a Police vehicle's presence.

The requirement to activate both lights and siren is emphasised in the current policy and training package. However, in recent times the IPCA has identified instances where officers have failed to adhere to this part of the policy. Farhat Buksh, was a 14 year old seriously injured when a light standard fell on him at a pedestrian crossing. A vehicle being pursued by Police, hit another vehicle which caused it to crash into the light standard. During the investigation it was found that only the Police vehicle's red and blue lights were activated, not the siren.[135] In addition, in the pursuit that resulted in the death of Jamie McElrea, the IPCA found that Officer A did not have the siren operating immediately prior to the fatal crash.[136]

Current legislation states that lights and/or siren are to be activated during UDD, which includes pursuits. However, both the internal pursuit and UDD policies state that staff must have lights and sirens activated.[137] Legislation provides the framework in which Police staff can operate. However, due to the risks involved in exceeding the posted speed limit, the internal policy is quite specific about the use of lights and sirens in order to mitigate the risks involved with driving at speed. Lights and siren give both a visual and audible warning to other road users.

Most jurisdictions studied for this review emphasise the use of lights and sirens. New Jersey, for example, include the need for the use of warning devices in their pursuit definition.[138] Hoffman's review of the Queensland policy, made it explicit that the use of warning devices was mandatory.[139] The ACPO guidelines state that where there is a primary and secondary vehicle pursuing, and if capability allows, each vehicle should use a different audible warning sound, to alert other road users to the presence of more than one Police vehicle.[140]

Whilst this review does not recommend major changes to either the policy or the pursuit definition, in light of the findings from the IPCA, staff need to be reminded on a regular basis, of the need to activate both lights and siren during UDD and pursuits. Consideration could also be given to including this in the key questions in the communication procedure.

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[135] The lack of siren may have contributed to the fact that the driver of the vehicle being pursued was not aware that Police had signalled the vehicle to stop. Therefore, it was not a pursuit as defined by the policy and the Police driver had no justification to exceed the speed limit. Independent Police Conduct Authority (2009). *Report on the fatal pursuit of Farhat Buksh on 3 August 2007.* Wellington, p.4.

[136] Independent Police Conduct Authority (2007). *Report on the fatal pursuit of Jamie McElrea on 9 April 2007.* Wellington, p.25.

[137] In the case of UDD, there is an exemption if a silent approach is deemed necessary. See New Zealand Police (2009). *Urgent duty driving policy* (internal document).

[138] New Jersey Police, p.4.

[139] Hoffman, p.22.

[140] ACPO, p.20.

Recommendation: The communication procedure is amended to include a prompt regarding the activation of lights and sirens during a pursuit, and staff are reminded regularly about the need for lights and sirens during UDD and pursuits.

Identity of offender

Police have attracted criticism regarding this area of the policy, in that staff should back off and apprehend an offender at a later date. There is a belief that having the registration plate of the offending vehicle is enough to identify the driver in a pursuit. The New Zealand Police Association disagrees with this view, as it is not always possible or necessarily the right course of action depending on the seriousness of events leading up to the pursuit, or if the vehicle involved is stolen.[141] However, it is an area of the current policy that does require clarification.

The policy currently states that a pursuit is to be abandoned if the identity of the offender becomes known and apprehension can be safely affected later.[142] This black and white approach leaves little consideration of the actions of the offender prior to or during the pursuit, or the offences they are wanted for or suspected of; once their identity is known the pursuit must be called off. This is not particularly helpful in incidents of a serious nature, nor does it necessarily guarantee that members of the community will be protected from potential harm if the apprehension of the offender is left to a later time. For example, if an offender is armed and fires at another person, either before or during a pursuit, as soon as Police become aware of who the offender is, the pursuit must be abandoned. Alternatively, if an offender has a hostage in a vehicle being pursued, then according to the current policy the pursuit must be abandoned if the identity of the offender becomes known during the pursuit. In these types of situations, abandoning the pursuit and attempting to apprehend the offender later, may result in serious harm, or even death, if the offender is allowed to remain at large. Police would be neglectful in their duty if this type of situation was allowed to occur.

In researching how other jurisdictions deal with this particular issue, New Jersey, appears to offer a solution to this problem. Their policy states that a pursuit shall be terminated if the offender's identity is established to the point where apprehension can be affected later, and where there is no immediate threat to staff or public safety.[143] Adoption of this type of wording will clarify this issue in New Zealand's policy and ensure that for the examples outlined above, Police are able to do their utmost to protect all members of the community.

Recommendation: The current policy is amended to state that a pursuit is to be abandoned once an offender's identity becomes known and apprehension may be effected later, so long as there is no immediate threat to staff or public safety.

Non-compliance of the policy

Breaches of policy by staff are not specifically covered in the current policy. Whilst non-compliance is more easily identified through the district review process, this was not the purpose of upgrading the Pursuit Notification Database earlier this year. Non-compliance of the policy does have an impact on the organisation, and it may also identify gaps in the current training or sections of the policy that require clarification.

Recommendation: RPS and Professional Standards undertake discussions regarding non-compliance with the policy.

[141] Plowman, p.207
[142] New Zealand Police, *Pursuit policy.*
[143] New Jersey Police, p.6.

Summary

In summary, there are issues associated with the management of pursuits, and many of these overlap within the pursuit policy, or are embedded in other internal policies such as UDD, TDDs and PPDP. The issues highlighted in this section have been those of most significance, but is by no means exhaustive. Overall, the policy promotes good practice and is in line with other jurisdictions. The adoption of the recommendations made in this section will further enhance New Zealand's policy.

Risk assessment

> *Those with the power to take the risk out of the equation are the individuals tempted to depress the accelerator pedal rather than the brake when they hear a police siren.*[144]

Importance of a risk assessment

In terms of pursuit management, a risk assessment is basically a plan of action to reduce crashes, injury and/or death.[145] The risk assessment, both prior to and during a pursuit is one of the most crucial elements. It is this assessment which determines whether a pursuit can continue or should be abandoned. To reflect its importance, it has been dealt with separately from other pursuit management factors in this report.

Just as Police have a legislative authority to apprehend offenders, they also have a duty to minimise emerging risks to any person during a pursuit.[146] The essence of any pursuit policy is that once the risk becomes disproportionate to the reason for initiating it, the pursuit must be abandoned.[147]

Risk assessments are a mechanism for staff to consider all the options available in the light of rapidly changing circumstances. This must be a continuous process. The information they assess at the time regarding the offender, the vehicles involved, environmental conditions and the like, help form the basis of their decision making. Staff then need to assess whether their actions are proportionate to the offence, suspected or actual, and whether their decisions and resulting actions are justified. This justification may be tested under the spotlight of legal proceedings long after the pursuit has ended.[148]

On the issue of risk assessments there has been some criticism levelled at Police in recent time, regarding specific pursuits investigated by the IPCA. In the findings of the McElrea investigation, it was found that Officer A did not communicate any risk assessment to Comms either prior to or during the pursuit.[149] The IPCA also found in the Wano investigation that there was insufficient consideration of the risks involved in continuing the pursuit, and it should have been abandoned given the escalating risks.[150]

This investigation raises a valid point that has been missing from previous versions of the pursuit policy, which is that more emphasis should be placed on the condition of the offender's vehicle as a risk factor for consideration. In this particular incident, the investigation highlighted that the right front tyre was bald, which would have affected the braking capability of the vehicle. It is not reasonable to criticise Police for not determining this at the time the pursuit was initiated; however, the general point about the condition of the offender's vehicle being taken into account during the risk assessment is valid, and not adequately addressed in the current policy. Often offenders are driving cars of poor quality or condition, or the power of the vehicle is disproportionate to the level of skill and experience of the driver of the offending vehicle.[151] Improperly maintained vehicles are more likely to experience mechanical failure;[152] therefore, the risk assessment criteria should be expanded to include the

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[144] *The Dominion Post,* editorial comment, 17 October 2009.
[145] Archbold, Carol, A. (2005). *Managing the bottom line: risk management in policing.* Policing: an international journal of police strategies and management, vol.28, no.1, Archbold, p.36.
[146] ACPO, p.6.
[147] Ibid, p.27.
[148] Ibid, pp.13-14.
[149] IPCA, *McElrea*, p.25.
[150] IPCA, *Wano*, p.7.
[151] Ibid, p.4.
[152] California Commission on Standards and Training, p.2.

condition of the offender's vehicle as a factor, but only in so far as a general observation of the vehicle.

The IPCA pursuit review recommended that the risk assessment should explicitly consider the presence of passengers, and the age of all occupants in the pursued vehicle.[153] Knowing the age of the occupants is problematic from an officer's observations, but the presence of passengers or 'vulnerable persons' is a valid point. Both the presence of passengers and the condition of the offending vehicle is covered in the proposal for an amended pursuit risk assessment.

An assessment of the risks ideally starts, or should start, as soon as the decision is made to stop the vehicle. Interestingly, the Kent Police policy is one of the few that urges staff to consider the timing and location chosen to stop a vehicle. If the timing and location is chosen correctly, it can reduce the chance of a pursuit. "It is essential that officers minimise the risk by choosing a suitable place to stop vehicles, taking account of the type of road, weather, behaviour of other road users, visibility and the operational policing area, making use of lay-bys where available."[154] This is an important point which is covered in a separate policy in New Zealand: the traffic patrol techniques policy. Consideration should be given to hyper-linking this policy to the pursuit policy, to show how the timing of a vehicle stop may increase the potential of a failing to stop.

Current policy

Risk assessment information is obtained by following the communication procedure in the policy; this format appears to be unique to New Zealand. Immediately following the initiation of a pursuit, the lead pursuit vehicle must notify Comms and relay the following information:

- the location and direction of travel of the offending vehicle;
- a description of the offending vehicle, which may or may not include the registration number; and
- reason for the pursuit.[155]

The dispatcher then notifies the duty shift inspector who acts as the pursuit controller. At the same time the dispatcher transmits the safety warning to the lead pursuit vehicle:

> *If there is any unjustified risk to any person, you are to abandon the pursuit immediately.*[156]

The warning serves as a reminder of the policy's overriding principle: that safety must take priority over apprehension of the offenders. Generally, by the time the warning has been acknowledged by the lead pursuit vehicle, the pursuit controller is in position to begin receiving and processing the information regarding events leading up to a pursuit, and the risk assessment criteria. However, this is not always the case. For this reason it is important that the lead pursuit driver is aware of the risk assessment process and abandons if required. Dispatchers may also direct a pursuit to be abandoned, if there is no shift commander or team leader available to step in as the pursuit controller, although this is not explicitly outlined in the policy.

In the current policy and training package, the risk assessment criteria is based on the mnemonic SOWETO. As evident in table 1, this covers pertinent information to help build a picture for the pursuit controller, and enable them to make a robust assessment of the risks and decide whether the pursuit should continue. Assessing the risks is not a one-off event; it is stressed in the policy and training that it is an ongoing process until the pursuit is resolved or abandoned. Neither, as already mentioned, is it the sole

[153] IPCA, *Review of police pursuits,* p.53.
[154] Kent Police, pp.2-3.
[155] New Zealand Police, *Pursuit policy*.
[156] Ibid.

responsibility of the pursuit controller. All staff involved in the pursuit must consider the risks involved.

Risk factors	**Including…**
Speed	• what is the speed limit? • what is the manner of driving of the offending vehicle?
Occupant characteristics	• is the offender known? • what offences have been committed or suspected of committing? • is it a stolen vehicle?
Weather conditions	• is it raining with slippery roads? • is it dawn or dusk and a chance of sun strike?
Environment	• what type of road is it? • is it a built up area?
Traffic conditions	• are there pedestrians around? • is it peak hour traffic?
Officer and vehicle capabilities	• experience of Police driver • type of Police vehicle • is it a single-crewed vehicle?

Table 1 - Outline of the current risk assessment contained in the policy

The risk factors are broadly categorised and appear standard to other policies. If the threat the offender poses is more than the sum of these risk factors, the pursuit may continue. If however, the risk criteria outweighs the threat posed by the offender, the pursuit must be abandoned. In other words, staff involved in the pursuit must determine "whether the need to immediately apprehend the offender is outweighed by the potential risks of pursuit to staff, occupants of the pursued vehicle, and members of the public."[157] To convey these factors to operational staff in a succinct way, the training package presents the risk assessment criteria diagrammatically as demonstrated in figure 4.

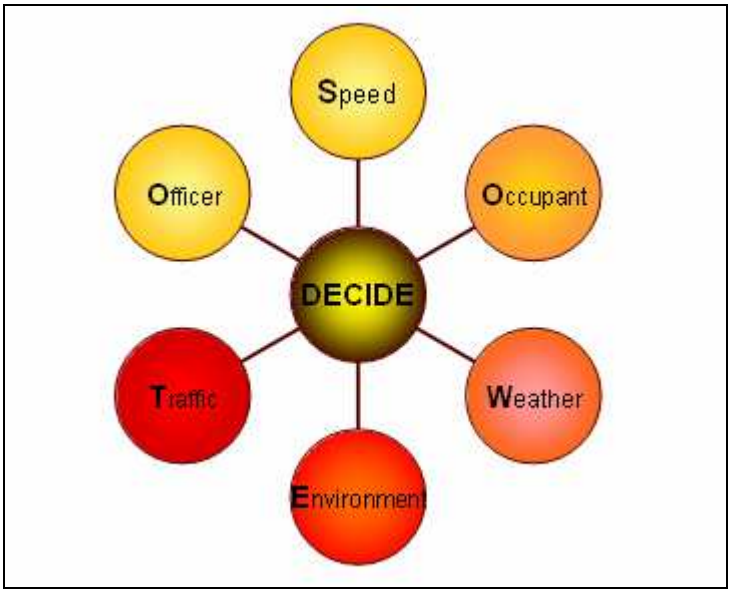

Figure 4 - Risk assessment factors

The pursuit controller elicits this information through a series of key questions, which is outlined in the communication procedure section of the pursuit policy. Depending on the length of the pursuit, these questions are asked repeatedly to allow the pursuit

[157] New Zealand Police, *Pursuit policy.*

controller to undertake the risk assessment and decide whether the pursuit should continue. With regard to the question on speed, often it is only the current speed of the Police vehicle, or estimated speed of the offending vehicle that is passed to Comms. Unless the pursuit controller is familiar with the area the pursuit is occurring in, there is not a lot of context in just providing the speed of the Police vehicle. For example, a speed of 110 km/h in an area with a posted speed of 100 km/h, is vastly different from that same speed in an area with a posted speed limit of 50 km/h.

To place the speed of the pursuit in more context, the communications procedure relating to pursuits should be updated to include the posted speed limit. Using the example above, this information could be provided as 110 over 100, or 110 over 50, as a succinct way of providing the information without taking up unnecessary air time on the radio.

Recommendation: The radio protocols in the pursuit policy are updated in relation to speed, and to reflect any other changes which occur as a result of this review.

International jurisdictions

As the IPCA highlighted in their recent review, the risk factors incorporated under SOWETO in the New Zealand policy are common to policies from other jurisdictions. However, there are some points of difference as to what other jurisdictions include in their risk assessment criteria. These include:

- real or potential danger to Police, public and people in offending vehicle (AFP);
- other reasonable means available to identify or apprehend the offender (AFP);
- whether TDDs can be utilised (AFP);
- whether there is a passenger in the officer's vehicle, such as a witness, prisoner, or civilian (California);
- other persons in or on the pursued vehicle (California);
- officer's familiarity with the location or area of the pursuit (California);
- lighting conditions (San Antonio);
- types of traffic control signals or devices (San Antonio);
- whether the offender is armed (UK);
- whether the offender is a juvenile or there are other vulnerable persons in the vehicle (UK);
- type of vehicle pursued (UK);
- current or anticipated route (UK); and
- whether warning devices have been activated (South Australia);[158]

Research has also raised the need to take into account the driving skill of the pursued driver.[159] In assessing this list, most, if not all, would fall under one of the headlines represented by SOWETO in the current New Zealand policy.

Rather than list specific risk factors, Kent Police, use the mnemonic JAPAN in their pursuit risk assessment and decision making. JAPAN stands for: justification; authorisation; proportionality; auditable; and necessary. The objective remains the same, if the risks or dangers become too great in comparison to the offence committed, or suspected of being committed, the pursuit must be abandoned.

Proportionality is an important factor stressed in the research. It is crucial in the decision making of both the officers in the pursuit vehicle, and the pursuit controller.[160] In the IPCC review that led to changes in the ACPO guidelines, it stated that pursuits should be in proportion to the incident.[161] UK Police must be able to justify their actions

[158] AFP policy; California policy; San Antonio policy; ACPO; see also IPCA, *Review of pursuits, pp.39-40*
[159] Best, p.iii.
[160] Ibid, p.8.
[161] Docking et al, p.viii.

during the course of the pursuit.[162] This is reiterated in the New Zealand training package, but is not as obvious in the current policy and may need to be emphasised. Although there may be difficulty in quantifying the concept of proportion, it is a worthwhile discussion point that could be included in the training package.

Recommendation: Consideration is given to the definition of proportion, and how the concept of proportion could be included in the pursuit training package.

Risk assessment and duration of pursuits

A less than robust assessment of the risks can occur due to the fact that so many pursuits are over in such a short period of time. This means there is often insufficient time to undertake a full risk assessment, a problem not unique to New Zealand. The IPCC review in the UK recognised the difficulties in covering a 13 point risk assessment and recommended that the risk assessment be made as practical as possible. The review also emphasised the need for staff, not just the pursuit controller to be fully aware of the risk criteria. "The shortness of many pursuits also emphasises the need for police drivers to be fully briefed about what they should do in various scenarios and how they should decide whether to pursue a vehicle."[163] This point has already been made in the report.

The importance of the need for all staff to consider the risks has been emphasised in the current training package. Whilst the pursuit controller provides independent oversight, they rely on the information given to them by the lead pursuit vehicle in order to make their risk assessment. However, the lead pursuit vehicle must also understand the importance of assessing the risks involved, right from the moment they signal a vehicle to stop. Given that the lead pursuit vehicle is choosing to abandon a pursuit more frequently without Comms intervention, is an encouraging sign. However, there is no room for complacency on this issue, and regular training is required to keep reiterating this message to operational staff involved in pursuits (see training section).

New proposal for risk assessment

As stated earlier in the report, a national threat assessment tool has been developed in order for the organisation to determine risk and levels of threat encountered during all types of policing activity. This includes the work of the Technical Support Unit (TSU), and the execution of search warrants. The new tool is outlined in figure 5. Note that it is a cut down version of the entire tool; there are further components which fall under each of the bottom boxes. However, these relate more to the known factors in other policing activity, such as the reliability of the intelligence information received, which may influence the decision making to proceed with a certain operation. In terms of pursuits, there is little purpose or relevance in getting into this level of detail, given that decisions need to be made immediately as to whether a pursuit is initiated or continued. OAG and RPS have determined that the top three levels of the tool hold the most relevance for pursuit activity. However, it is included in this report to provide context for the following discussion on how the new pursuit procedure has been developed.

[162] An example of this is found in Kent Police, pp.1-3.
[163] Docking et al, p.28.

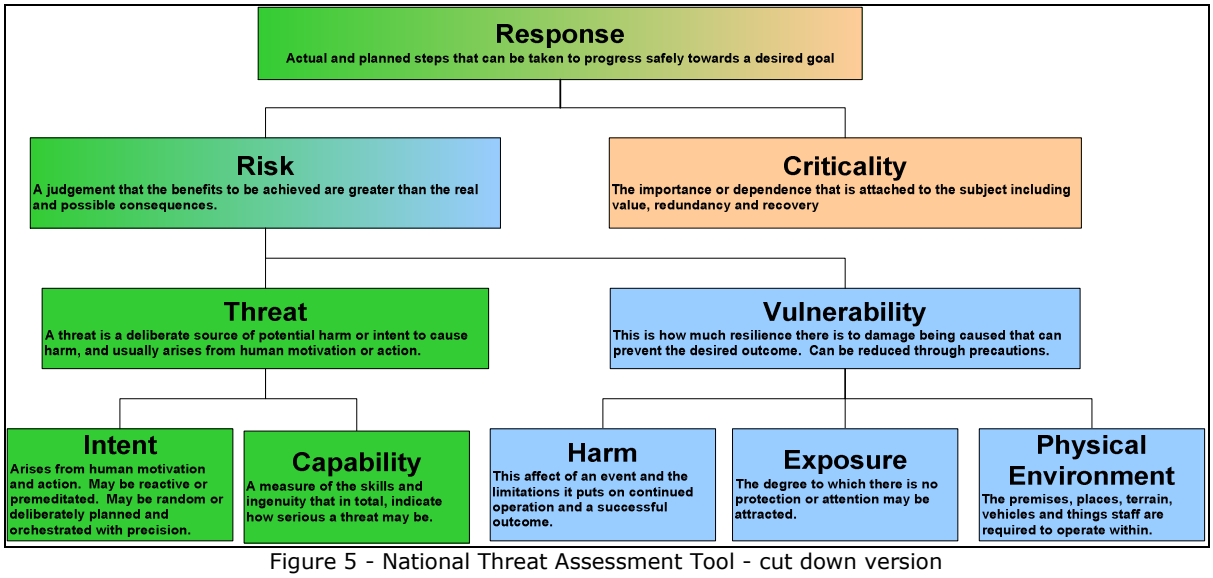

Figure 5 - National Threat Assessment Tool - cut down version

The new model introduces several new terms to the organisation. These include:
Threat - this includes the situation and the subject's behaviour that poses a threat to themselves, Police and other members of the community. Threat can come from sources other than people, and is not necessarily aimed at Police;
Vulnerability - occurs concurrently with threat, and addresses issues relating to the safety of victims, Police staff and other members of the community; and
Criticality - once determining the risk through assessing the threat and vulnerability factors, how critical is it that Police undertake the action in question, and what are the likely consequences. This informs the response required in proportion to the incident.

For a lot of policing activity, such as executing a search warrant, there is a degree of pre-planning involved to determine the risks involved and the most appropriate Police response. There is time to assess what factors can be controlled, and those which fall outside of Police control which could pose a risk to officers and others. For the TSU, an assessment of the criticality is covered by way of a criticality assessment. This plan is usually a formal operation order, either verbal or written, that is approved or declined by the officer in charge. If approved, the work is carried out; if not, there is no further action, or an alternative solution is found that has less risk involved, and poses less harm to staff.

However, not all policing activity has the luxury of time and pre-planning, and the threat assessment needs to be determined immediately and the appropriate decision made. Pursuits are just one such case. They are an immediate reaction to a vehicle that has failed to stop, and involve many unknown factors. At the time of initiation, all that Police staff may know is that a vehicle has failed to stop, and a description of the vehicle. Other times, the information may be more substantial, such as a vehicle has taken off from the scene of a crime. During a pursuit, it is difficult to anticipate how the threat (driver and/or occupants) will respond to Police actions or what they are capable of doing. Therefore, Police also need to consider the known factors that are involved in a pursuit, which may or may not, have an impact on both the risks involved and the outcome of the pursuit.

In speaking to operational staff for the purpose of this review, most expressed satisfaction with the current SOWETO model, particularly in its simplicity and ease of recall in covering the critical information during a pursuit. However, in the work RPS and OAG have undertaken, it is acknowledged there are some limitations with the current model. These include the fact that SOWETO does not place enough significance on the threat posed by the pursuit itself, or the driver and occupants of the vehicle. In

addition, the current model does not show how an assessment of these factors determines what the Police response will be.

On the other hand, the national approach does pose some problems for RPS, and how it is applied to pursuits. Significant time and resources have recently been spent developing and implementing pursuit and UDD training to just over 4,000 staff. This has been based on the SOWETO model. RPS supports the whole of organisation approach to threat and risk. However, given the investment in the current training, it seems a waste of resources to deviate too far from the current model, or to scrap it entirely. There is a risk that operational staff will be left confused, especially if the new model is not accompanied by adequate training. Therefore, the challenge has been two-fold: how to apply the new tool to a specific and immediate incident such as a pursuit; and how SOWETO could be integrated into the new risk assessment procedure.

RPS and OAG have spent the last few months assessing and analysing how the three main points of the national tool apply to pursuits, and how the current SOWETO model can be used. This is explained in the following table:

New criteria	Current criteria	Detail
Threat	Occupants	What is the reason for stopping/what offences have been committed? What is the manner of driving? Is the offender known? How many passengers are in the offender's vehicle? Is it a stolen vehicle? Are the occupants armed with weapons? What is the offending vehicle's description and/or registration number? What is the condition of the offender's vehicle (observation only)?
Vulnerability	Traffic conditions	What are the traffic conditions? What is the volume of traffic? Is it peak hour? What time of day is the pursuit occurring?
	Weather	What are driving conditions like? Is it raining with slippery roads? Is it dawn or dusk with a chance of sun strike?
	Officer capability	Is the driver an experienced officer? What is their PPDP classification? What type of Police vehicle is involved? What is its vehicle classification? Is it a single-crewed unit? Do they have a hands-free radio? Is a secondary unit available?
Criticality	Speed	This is not just the speed of the vehicles but also how fast the pursuit is escalating in terms of offender behaviour. What are the possible consequences if the pursuit continues? What tactical options can be utilised to resolve the pursuit?
	Environment	What potential hazards are there in the area? What is the location of the pursuit? Is it a built up area, or near a school? What type of road is it?
Response		Initiate Consider tactical options Continue Abandon

Table 2 - Integration of new threat assessment tool with SOWETO

As this table shows, there is the possibility of integrating the two. Whilst this is a new approach, it is very much in keeping with the overriding principle of pursuits. The seriousness of the threat will ultimately determine the Police response. The risk or threat assessment is a continuous process, until the pursuit is resolved.

There are some changes in terms of where the SOWETO factors now sit in relation to the national tool. It has also introduced new terminology which operational staff may not necessarily be familiar with. However, this tool may soon be applied to all policing activity, and both RPS and OAG are confident that these terms, backed by communication and training to all operational staff, will soon become second nature.

There are a number of ways this new approach to pursuit risk assessment could be presented to staff. The first option is simply to present and train on the contents of

table 2. However, this is both static and one dimensional, and does not show the linkages between threat, vulnerability and criticality which determine the Police response. Diagrams, similar to the one shown in figure 4, highlight this connectivity and the continuous nature of the assessment; however, is not comprehensive enough. Below is an option for consideration.

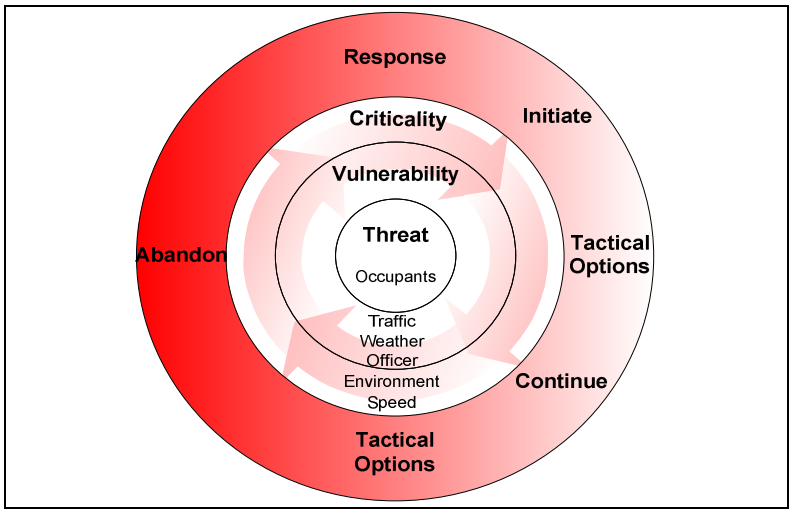

Figure 6 - Option 1 Pursuit Threat Assessment Procedure

Figure 6 depicts how SOWETO can be incorporated into the new Threat Assessment Tool. Being circular in nature, shows how a continuous process required. The SOWETO components are divided into the relevant sections of the new tool, based on the breakdown in table 2. Occupants represent the threat to Police, passengers in the vehicle and other road users (note this has changed from all occupants, as per the IPCA recommendation, rather than just focussing on the driver); traffic conditions and/or volume, the weather and the skills and experience of the officer can influence the vulnerability of both staff and members of the public during the pursuit; and the speed of the pursuit's escalation, and the location or environment where the pursuit takes place can affect the criticality of the pursuit.

Assessing these factors, Police then decide on the most appropriate response, and this is represented in the outer ring. At the time of initiation there might not be a lot of risk; however, the longer a pursuit goes for the more risks are involved. Hence the reason why the outer ring starts at light red and moves into solid red, when the risks outweigh the benefits of the pursuit, and is abandoned. Tactical options are to be considered at all stages of the response.

Recommendation: In accordance with the organisation's adoption of the new threat assessment tool, approve figure 6 as the Pursuit Threat Assessment Procedure.

Offender management

Offender management has been discussed in several of the last pursuit reviews. In 2003, the review concluded that failing to stop should be made punishable by imprisonment.[164] This is because the true cause of pursuits comes from a driver failing to stop when signalled to do so by Police. Internationally, the AFP review concluded that there was a need for more severe penalties for those who failed to stop. There is also general consensus amongst the research that failing to stop needs to be taken more seriously by both offenders and the judiciary. However, it is commonplace both in New Zealand and other countries, for this charge to be dropped if the offender pleads guilty to more serious charges.[165]

The Police Powers and Responsibilities Act 2000, created an evasion offence in Queensland, Australia. Vehicles can be impounded or forfeited after the court finds the driver guilty of this charge. In 2007, Victoria introduced similar provisions with penalties which include impoundment of vehicles, forfeiture of vehicles for third time offences, mandatory loss of licence, fines and imprisonment.[166] Creating such a serious offence for failing to stop was intended to "deter offenders and thereby reduce the number of pursuits."[167] Alternatively, it can be argued that it leads to a type of self-fulfilling prophecy, in that failing to stop becomes the focus to justify the continuation of the pursuit, rather than assessing the risks involved in continuing.

Staff spoken to during this review expressed frustration regarding the lack of deterrence for drivers who flee from Police. The same offenders continually come to Police attention for failing to stop, many treating it like a game of cat and mouse that ultimately risks the lives of all road users. Anecdotal evidence suggests that these offenders are deliberately taking action to ensure that Police are left with no other option but to abandon the pursuit, such as crossing the centre line into oncoming traffic. Due to the fact that they or their friends have been involved in pursuits on previous occasions, they are aware of the thresholds to ensure a pursuit is abandoned. If Police have the opportunity to apprehend the offender, they question Police staff as to why they did not stop pursuing when these serious driving manoeuvres were undertaken. This group of offenders are endangering public safety, yet are often charged with minor offences. There are no real consequences or incentives to encourage offenders to change their behaviour. It could be argued that if the punishment was more severe, for example imprisonment, this may provide some deterrence for those determined to engage Police in pursuits at any opportunity: provided of course, Police can apprehend them.

This lack of deterrence is backed by figures provided by the Police Prosecution Service. For the period January 2006 to December 2008, the average number of failing to stop offences per year was 2,521. However, the number of these that went through the court process yet had no sentence imposed was very high: 2006, 73.5%; 2007, 74.2%; and 2008, 73.8%. A court disqualification was imposed on average over the three years, for only 5.4% of convictions. This is incredibly low for an offence that can have such serious consequences.

In cases where a charge of failing to stop did result in conviction, the penalty for the majority of them was dealt with by way of fine. In 2006, the average fine imposed was $316.00; 2007, $328.00; and 2008, $331.00. In most cases failing to stop is accompanied by other serious offences, such as driving while disqualified, dangerous/reckless driving and drink driving. Therefore, these fines are not just for the failing to stop charge. Often, the failing to stop charge is withdrawn, dismissed, or

[164] New Zealand Police (2003), p.73.
[165] Cameron, p.77.
[166] Ibid, p.25.
[167] Ibid, p.2.

convicted and discharged following a guilty plea, or a conviction being entered for the other more serious offences.

The lack of sanctions imposed on drivers who fail to stop for Police, and subsequently risk the lives of all road users in the vicinity at the time, means there has been very little deterrence for this group of offenders. With this in mind, Government has recently introduced legislation in an attempt to alleviate the problems associated with anti-social driving behiviour.

New legislation

The Land Transport (Enforcement Powers) Amendment Act 2009, which took affect from 1 December 2009, is designed to enhance the powers of Police, courts and road controlling authorities to tackle illegal street racing and associated vehicular anti-social behaviour. Part one of the legislation amends the Land Transport Act 1988. In relation to section 52, the amendments include:

- disqualification for a period of three months, if a person is convicted of an offence under section 114 and has previous convictions for the same offence, or while failing to comply with section 114 exceeded the posted speed limit or drove in a dangerous manner;
- imprisonment for a term not exceeding three months and licence disqualification for a period of one year, for a third or subsequent offence under section 114; and
- a disqualification ordered for any of the first two points, is cumulative on, and not concurrent with any other disqualification that may be imposed in respect of the incident and subsequent conviction under section 114.

In relation to section 96, one of the amendments allows an enforcement officer to seize or impound a vehicle for 28 days, if a driver has failed to stop under section 114 of the Land Transport Act 1988. This includes after the pursuit has been ended, and the search phase has been implemented post-pursuit. However, this power is discretionary, as many offenders who engage in a pursuit with Police, do so in a stolen vehicle.[168]

It is too early to know what effect this legislation will have on pursuits. Whilst it is hoped that it will provide sufficient deterrence for those previously willing to engage in a pursuit, there is a possibility that the harsher penalties will have the opposite effect, and encourage offenders to keep driving to avoid apprehension, especially if they are facing their third or subsequent offence. RPS, in association with the Ministry of Transport, will continue to monitor this.

[168] Land Transport (Enforcement Powers) Amendment Act 2009, see *www.legislation.govt.nz*.

Training

> ***Who are you chasing?***
> *The person you are chasing is very likely to be:*
> *a young inexperienced driver*
> *with a terrible driving record to who red lights mean nothing*
> *who is probably intoxicated, or under the influence of drugs*
> *and simply does not care about you or other road users.*
> ***He is worth stopping, but he is not worth dying for.***[169]

The issue of training is an important one, and one that has consensus amongst the research. Training needs to be delivered on a regular and ongoing basis; some suggest at least once a year. Their rationale is that if more thorough training is given to officers there should be a decrease in pursuits. This is because officers are able to make better decisions regarding the timing and location of undertaking a vehicle stop, as well as initiating or abandoning a pursuit, or seeking alternatives to apprehend offenders, without endangering lives.[170]

Any training needs to have operational relevance and focus on issues such as pursuit commentaries, the risk assessment criteria, and improve an officer's ability to make appropriate decisions based on the risks identified.[171] Without this training, it has been suggested that staff may be "affected by psychological and physiological influences and may fail to recognise their limitations."[172]

Overseas jurisdictions

In the Queensland review, it was recommended that all operational staff be given regular refresher training regarding the pursuit policy and practice. It stated that one time training is insufficient, and training often lacks any pre-incident decision making process. The review concluded that "policy changes alone will not have a sufficient effect on police pursuit practices unless the changes are also accompanied by officer training, appropriate supervision and a change in police attitudes."[173]

Following on from the AFP review, the statement at the beginning of this chapter was included in their training, along with recommendations to improve ongoing training to include judgement and decision making. The review also concluded that policy changes have little effect if it is not accompanied by training.[174]

In New Jersey, staff attend in-service pursuit training twice a year.[175] Sussex Police in the UK require staff to undergo refresher training on a yearly basis.[176] In South Australia staff must complete Incident Management and Operational Safety Training each year, and staff have to successfully complete all components of this training, which includes a section on high risk driving.[177]

Current training package

A new training package covering UDD and pursuits was introduced for all operational staff, including Comms, in 2009.[178] The training package included recent changes to the Land Transport (Road User) Rule 2004 and amendments to the pursuit policy. Within

[169] This statement was a recommendation to be included in training in the AFP Review, Archbold, p.39.
[170] Becknell, p.108.
[171] New Zealand Police (2003), p,13; Best, p.v.
[172] New Zealand Police (2003), p.13.
[173] Hoffman, p.23.
[174] Cameron, p.27.
[175] New Jersey Police, p.14.
[176] Sussex Police, p.44.
[177] South Australia Police, p.6.
[178] New Zealand Police, TSC, *DRV017*.

this training greater emphasis was placed on driver responsibilities and liability, adherence to the policy and reminders that the safety of all Police staff and members of the public must take priority at all times.

The purpose of the training was to develop an operational member's knowledge about the policy and changes to legislation. In particular:

- the rationale for, and principles of, the policies;
- how risk assessment and decision making, the Police Code of Conduct, core values and ethics, apply to pursuits and UDD; and
- functional roles and responsibilities for command and control of pursuits and UDD.

Knowledge was gained through the use of scenarios and group discussion to outline how the policies should be applied in a practical operational setting. The training ran for two and a half hours and was delivered by operational staff that underwent the Train the Trainers course at the Royal New Zealand Police College in February 2009. These trainers then ran a number of training sessions in their district to cover the numbers of operational staff required to undergo the training. There was a written assessment at the end and attendance was recorded in PeopleSoft, as a permanent record that the training had been completed.[179]

UDD and pursuits are a crucial aspect of policing with significant risk for both Police staff and members of the public. However, attendance at this training was not mandatory for operational staff. Instead there was a reliance on districts to recognise the importance of the training and encourage attendance within the district. By and large the training was well supported at a district level, with just over 4,000 operational staff trained. However, not making this training mandatory has meant relying on the goodwill of districts to make room available in an already crowded training schedule. Below is a breakdown of operational staff trained in the new pursuits and UDD training package for 2009.

District	**Completed**	**District**	**Completed**
Northland District	96	Training Service Centre	38
Waitematä District	312	Police National Headquarters	3
Auckland City District	632	National Prosecutions	9
Counties/Manukau District	241	National Communications	94
Waikato District	68	Police Infringement Bureau	1
Bay Of Plenty District	552	CVIU	66
Central District	532	Crime Group	1
Eastern District	254	Tactical Groups	16
Wellington District	84	Corporate Service Centre	1
Tasman District	234	AMCOS	29
Canterbury District	345	International Service Group	29
Southern District	435	**Grand Total**	**4,072**

Table 2 - Training figures for the pursuits and UDD training package 2009

The Training Service Centre (TSC) has advised that feedback from the training survey forms indicates that the training was well received, seen as timely and relevant, and that the video scenarios and commentaries were worthwhile. There were also positive comments in relation to understanding the need for a continuous and accurate pursuit commentary, a better understanding of the detailed procedures required during a

[179] The training is classroom based. Practical driving assessments are covered by the PPDP. Staff are required to undergo a driving assessment with a PPDP assessor at different times, depending on the operational role they are currently in. For example, a General Duties Branch or Highway Patrol officer must have a PPDP assessment every three years.

pursuit, SOWETO, and how Comms is involved in the pursuit.[180] Interestingly, in 2009 the number of recorded pursuit-related crashes reduced from 27 percent in 2008, to 16 percent.[181] Although there are a number of factors at play, the fact that this reduction coincided with the introduction of the first updated Pursuit and UDD training package in a number of years, supports the need for regular refresher training.

Another issue to arise is that recruits and current staff still requiring their initial PPDP assessment currently receive a combination of the new package (DRV017) and the Police pursuit training package (DRV002). However, staff in this group are signed off as having completed DRV002 only. This is because under PPDP, part of the prerequisite to be classified as a gold driver is to have completed DRV002. DRV002 is not current in that it does not reflect recent changes to the pursuit policy or the Road User Rule; hence the reason for combining parts of both packages. There is a risk that with two packages there may be an inconsistency in training material delivered; therefore, it is recommended that DRV002 is removed, and DRV017 is recognised as the only nationally approved training package for pursuits and UDD.

Recommendation: From 1 July 2010, DRV002 is removed as a recognised pursuit theory package and replaced with DRV017. RPS will work with the TSC to enable this to occur.

Future considerations

Now that the organisation has an updated training package and a significant number of operational staff trained, the focus should be on how the organisation can maintain and build on this base, to ensure the knowledge and skills remain current. This will ensure the organisation meets its obligations under health and safety in employment legislation, to ensure staff are fully trained in all aspects of their duty. This is particularly important for the risk assessment, criteria for abandoning a pursuit and any policy changes. It also has the potential to improve general Police driving.

This could be done in a number of ways. When considering the purpose of this training, it is clear that not every staff member requires it. Therefore, making this training role-specific will ensure efficiencies and make certain that those who need the training receive it in a timely manner. Frontline staff who respond to incidents will certainly require this training more regularly than others. These roles could be defined and aligned with PPDP assessments.[182] It is also essential for Comms staff to receive regular role-specific training. The training of pursuit controllers is extremely important, as it is the best opportunity available for the organisation to apply a consistent level of management, coordination, and control of pursuits, and UDD across the country.

Having created efficiencies by making the training role specific, consideration should be given to the type of delivery mode required to ensure maximum learning capacity. This training could be delivered in a number of ways:

- classroom sessions with a trainer, similar to how the recent training was delivered. This has the advantage of group discussion, the use of videos and scenarios, and the sharing of 'war stories' to build context and relevance;
- use of the electronic learning (e-learning) environment; or
- line-up training.

[180] Email communication between RPS and TSC

[181] Pursuit related crashes for the years 2004 to 2005 (as a percentage) are as follows: 2004 = 24%; 2005 = 25%; 2006 = 24%; 2007 = 24%; 2008 = 27%; and 2009 = 16%. Data obtained from the Pursuit Notification Databases.

[182] PPDP assessments are undertaken on either a three or five year cycle depending on the role. The following groups fall into the three year assessment cycle: General Duties Branch, Rural Policing, Team Policing, Dog Section, Commercial Vehicle Investigation Unit, Highway Patrol, Motorways Group, Strategic Traffic Unit and Traffic Alcohol Group.

Whatever mode is determined to be the most appropriate to maintain the current knowledge, TSC has advised that activities to support the learning are an important factor. Given that the national threat assessment tool is, or at least in time will be, an organisation-wide approach for risk identification across a variety of policing activities, there may well be other types of training or forums where pursuit training, particularly in relation to threat and risk, could be incorporated. RPS will continue to work with other business groups to identify opportunities where this could occur.

Consideration should also be given as to how any changes arising from this and other reviews, is communicated to operational staff.

Recommendation: Ongoing refresher training is developed and made mandatory to cover subsequent changes to the pursuit policy, particularly for those returning to frontline positions.

Comms has also indicated they would like to see more command and control training included in pursuit training. Learning to appreciate the different roles within a pursuit, and the different pressures faced by each role, especially that of the pursuit controller may bring about an enhanced understanding between the two. As mentioned previously, training on communication and succinct commentaries is an issue identified in the research as lacking in operational training. Finding a way to include more of the Comms role into operational training may have long-term benefits for the organisation, not just for pursuits.

Recommendation: RPS, Comms and the TSC review the current training package and incorporate the communication procedure and pursuit commentary into the training.

Pursuit notification database

The purpose of the Pursuit Notification Database is to record all pursuit activity to assist in monitoring trends and build a profile of pursuits and their characteristics. From the 2008 internal review of pursuits, a number of problems were raised in relation to the recording of pursuits. These included the following:

- the process was fragmented with essentially four pursuit databases (each Comms centre held their own, and there was a Lotus Notes database which initiating officers entered information, none of which were linked together);
- information was duplicated, with Comms entering information into their database which was re-entered by the initiating officer into the Lotus Notes database;
- some of the data being entered was not required, and other data, which could be useful for analysis was missing; and
- there was no accountability to ensure the information was recorded in the database and/or the District Commander (or their nominated representative) had reviewed the pursuit, as per the pursuit policy. [183]

As a result of this review, a new national pursuit database and review process was introduced on 2 March 2009. Key changes included:

- the introduction of an enhanced national database, resulting in one repository for all pursuit data;
- modification to the notification form, to ensure more accuracy in recorded pursuit information;
- an accountability process to ensure reporting occurs, through the use of district reviewers; and
- categorising the notifications by district, to enable districts to track their pursuit activity more easily.

Comms now initiate the notification form with the details taken from the event.[184] A link is sent via email to the staff members listed as being in the lead pursuit vehicle; one of the staff members uses the link to complete the second half of the form. From here, the form is reviewed and approved by their supervisor for that particular shift, before it goes to the district reviewer for final approval. A tracking system is in place for those forms which have not completed any of the stages in the time required. Senior managers in RPS, Professional Standards and Comms also receive notifications for any recorded pursuits which result in crash, injury and/or death.

Further enhancements

Since the Pursuit Notification Database was introduced, Comms and RPS have been encouraging feedback from users. As a result there are a small number of changes required. These are discussed below.

Reported speed

The form currently requests the maximum Police speed during the pursuit, which is the only question related to speed in the pursuit notification form. However, it is questionable what value this has, if for example, staff record a speed forty-fifty kilometres over the posted speed limit for a period of seconds for the entire pursuit. In order to place this recorded figure into context, the form also needs to record what the posted speed limit was when the maximum speed was reached. A maximum speed on its own has no meaning.

[183] New Zealand Police, RPS (2008), pp.2-5.

[184] This information includes: CARD number, initiating crew QID(s), date, pursuit start time, pursuit end time, dispatcher, Comms supervisor, whether the warning was given, compliance by the unit, whether there was a crash or injury, is a debrief required and a free text box to enable the Comms Inspector to add comments.

Offender's details
The current phrasing is ambiguous and can be misinterpreted. Managers have reported difficulty in determining exactly at what point during a pursuit the offender's identity became known. As highlighted earlier in the report, if the offender's identity becomes known (and there are no imminent threats to public safety) the pursuit must be abandoned.

Through rephrasing the questions and adding specific drop down answers, this issue is easy to resolve. When asked whether the offender's identity was known when the pursuit was initiated, staff can only answer yes or no on the form. The question would then be asked, at what point the offender's identity was known. Staff could only answer before, during or after the pursuit. If it was before or during, staff would then be asked to explain the mitigating circumstances that led to the pursuit continuing.

Since the introduction of the database, there are a number of forms with a breath alcohol level recorded for the offender, but no details of the offender's name and/or Police Record Number. This is resulting in incomplete information, which may be crucial for district intelligence analysts. Essentially this is a training issue, and could be easily covered in refresher training and instructions to district reviewers. However, the form could be modified to ensure that if the alcohol level is recorded, the offender's name has to be recorded also.

Supervisors/district reviewers
A free text box is required for supervisors and reviewers to add comments during the approval process. This would allow them to record what action they have taken, including whether the staff member has been spoken to, and if serious enough, whether for remedial action has been recommended. Information contained in this box would be helpful for future evaluation and research.

Future considerations

One of the recommendations from the TDD policy review undertaken by RPS in 2009 was to incorporate the current TDD notification form into the Pursuit Notification Database. This was because a lot of the information recorded in the TDD notification was replicated in the pursuit notification form. Given that the district review process is now in place and working well for pursuits, it is considered both efficient and pragmatic to also include TDD deployments, which are usually associated with pursuits in the one notification. However, it is recognised that there would be resource implications associated with this.

An opportunity has arisen for these changes to be incorporated as part of the migration from the current Lotus Notes databases to a web-based format. Discussions with Information Technology and Information Service Centre (ICTSC) have been positive, and they are confident these changes are minor and can be completed within the scope and resources of the migration project. RPS and ICTSC are working through this process, with a deadline of 1 July 2010.

Recommendation: RPS and ICTSC continue making the identified changes to the Pursuit Notification Database and form, as part of the migration project to be completed by 1 July 2010.

RPS will ensure that active monitoring of the Pursuit Notification Database continues on a regular basis. The purpose of this is not only to analyse any trends relating to pursuits, but also to ensure that information contained in the notification forms are accurate and complete.

Recommendation: RPS, assisted by Comms, actively monitors the Pursuit Notification Database for trend analysis and data integrity.

Emerging issues

There are a number of emerging issues that may, or may not, have an impact on Police pursuits. Some of these include developments are being managed by groups other than RPS, and include both operational practice such as operational response models, or technological advances. These will be briefly discussed within this section.

Differential response model

This is a project currently being undertaken by the Operations Group. It introduces a three tier operational response model to critical incidents. If approved, one component of this model is the introduction of critical response vehicles (CRVs) in metropolitan areas. CRVs are based on the Armed Response Vehicle concept used in the UK; they will comprise of two officers and be equipped with firearms and ballistic body armour, and their primary purpose will be to respond immediately to calls for service where weapons are believed to be involved. As the number of incidents involving weapons increases in New Zealand, there is a likelihood that the number of pursuits involving armed occupants may increase. CRVs may provide crucial assistance in these incidents and their place in the pursuit policy will need to be addressed in due course, depending on the outcome of the project. RPS will continue to work closely with the Operations Group on this issue.

Immobiliser technology

Over the last 10 years the use of Global Positioning System (GPS) technology has progressed significantly. Around the world GPS is widely used commercially in areas such as couriers, freight forwarding and passenger transport. Companies use GPS to track their vehicle fleets. Real time information allows them to direct resources to where they are most needed, as well as monitor speeds, routes and expected arrival times. GPS is also becoming increasingly popular with private individuals to track their vehicles, in the event it is stolen.

In addition to GPS technology, engine immobilisers are becoming increasingly popular with vehicle manufacturers. These devices have the ability, if a vehicle is stolen, to stop the vehicle. In many cases, this is done by simply sending a text message which activates the immobiliser when the vehicle is next stationary, or has reduced its speed to 5 km/h or less. An activation of the immobiliser at high speeds has the potential to result in a loss of control crash.

The ability to track and recover stolen vehicles is an emerging issue that may have an impact on pursuits in the future, and any resulting procedures may need to be included in the pursuit policy. South Australia Police have recently updated their policy to make provision for the use of satellite-tracking technology to locate and immobilise a vehicle, when it can be authorised and the procedures around when the authorisation can be given.[185] Again, RPS will continue to monitor this technology and how other jurisdictions are responding to its use.

Automatic vehicle locator (AVL)/Mobile data terminal (MDT)

This technology is designed to increase the effective and efficient utilisation of resources. AVL is a system installed in a Police vehicle, and reports on its location, speed and whether the lights and/or siren are activated at any given time. It is used in tandem with MDT, by providing frontline staff with the ability to self-generate a number of events, such as a roadside check. By doing this, a job is created in the CARD system; AVL reports the vehicle's position via latitude and longitude coordinates, which is transmitted back to Comms. The initial pilot of this technology occurred in 2004, and there are now approximately 120 vehicles in the pan-Auckland area.

[185] South Australia Police, p.14.

Vehicles are fitted with a ruggedised computer, which enables both the AVL GPS, and the vehicle based MDT e-query functionality. There are considerable benefits associated with this technology, including:

- dispatcher efficiency;
- better vehicle utilisation;
- improved response times for priority one events;
- effective pursuit management; and
- effective management of risk targeted patrol plans.

Information from AVL may assist with pursuit management, through more effective monitoring and reporting, as this technology has the potential to visually show in real time how many vehicles are involved in a pursuit. Currently though, the technology can only show the updated location of one vehicle in real time, assuming they have logged into the system with the correct call sign and the registration number of the Police vehicle. Reports can be run retrospectively for incidents such as pursuits; this includes speed and whether the lights and sirens were activated. However, it is important to note that AVL data will only be collected and used in investigations of staff, to back-up other supporting evidence. The approval process to extract AVL data is strictly enforced, with final approval given by the General Manager: Human Resources or National Manager: Professional Standards.

Summary

There are a number of other emerging technologies that could be relevant to pursuits in the future, in terms of both resolution strategies and management tools. This includes in-car video and the use of electromagnetic immobilisers. RPS will continue to monitor developments in this area and update the policy and training as required.

Conclusion

Pursuits are initiated for one simple reason: a driver knowingly fails to comply with a Police officer's request to stop. Police exercise their power to stop a vehicle on a daily basis, and only a very small minority fail to comply. However, this small minority can endanger the lives of members of the public, Police staff, themselves and their passengers.

The purpose of this report has been to review the current pursuit policy. Pursuits pose a significant risk to staff, offenders and members of the public and ongoing critical evaluations are necessary from time to time. Although this review has avoided making direct comparisons, it has shown that New Zealand sits within the mainstream of international policies. It is a restrictive policy that relies on a risk assessment to determine whether a pursuit should be both initiated and continued, staff must comply with the overriding principle, and overall control sits with the pursuit controller to ensure the most appropriate decisions are made in the circumstances.

From this review, there is insufficient evidence to support the banning of pursuits. It is not likely to improve or guarantee public safety, and it is questionable whether the community would support a policy that allows offenders to flee Police with little or no consequences. In addition, there is little evidence to support the change to a prescriptive offence-based initiation policy. Not only is this type of policy difficult to implement, it also has the potential to curtail an officer's judgement and experience. These types of policies have swung the pendulum in the offender's favour, as they know they can take excessive risks that jeopardise the safety of all road users.

New Zealand's pursuit policy should remain a restrictive one, and provide a clear framework for staff to work within. The pursuit management section of the report has identified some areas for improvement to ensure the framework is robust, clear and easily applicable to an operational environment. The most significant changes include:

- the introduction of primary and secondary units;
- continuing with the introduction of hands-free radios in Police vehicles;
- more emphasis on limiting the number of Police vehicles in a pursuit;
- amending the legislative section of the policy;
- clarifying the abandonment criteria;
- introducing a formalised search procedure post-pursuit;
- clarifying the procedure for ASU involvement;
- reminding staff regarding the use of lights and sirens during UDD and pursuits; and
- introducing a new risk assessment procedure, based on the new organisation-wide threat assessment tool.

Risk management is an important aspect of the pursuit policy. It is this assessment which determines whether a pursuit can continue or should be abandoned. A national threat assessment tool is being adopted across the organisation, and OAG and RPS have been developing a procedure to integrate the new and current risk assessment criteria. The new approach introduces new terminology for Police staff, but encompasses the overriding principle of the pursuit policy; that the seriousness of the threat ultimately determines the Police response.

The low penalties imposed by the Courts on offenders who fail to stop for Police, has been a source of frustration for Police staff for some time. This lack of deterrence does not compel drivers to comply with Police instructions to stop, and as a result they risk the lives of all road users in the vicinity at that time. New legislation introduced in late 2009 increased the penalties for failing to stop. Whilst it is too early to know what effect this will have on pursuits, it is hoped it will provide sufficient deterrence for those who

have been so willing to get involved in a pursuit with Police, provided Police can apprehend them.

The issue of training is an important aspect of the pursuit policy. The IPCA review stated that one of the factors that impacts on the safety of pursuits, is the level and quality of the training given to staff. Staff also need to know how the policy is applied in an operational setting and what the expectations of the organisation are, so when they make the decision to initiate a pursuit they can make the most appropriate and safest one.

Training needs to be delivered on a regular and ongoing basis, and cater for staff returning to frontline positions. Over 4,000 operational staff underwent training in 2009 on pursuits and UDD. The focus for the organisation should now be on maintaining that knowledge to ensure it remains current. Efficiencies can be created by ensuring the training is role specific, and consideration needs to be given as to the best method of delivering the training. This review is also premised on the belief that the recommendations made regarding changes to the policy, will be accompanied by appropriate training and communication to operational staff.

The introduction of the Pursuit Notification Database in March 2009 saw the creation of a single repository of pursuit data, capturing combined Comms and initiating officer data for the first time. It also introduced a more robust district review process, to ensure districts track their pursuit activity and identify any potential training or health and safety issues. This review has identified potential areas of improvement to the form, to ensure more accurate information is recorded which is not ambiguous or open to interpretation. It is important that the organisation actively monitors pursuit activity and trends.

It is likely that technological advances and new operational response models will play an important role in pursuits in the future. Hands-free radios have already proven to be a useful tool for the safety of officers, and this can only improve as more vehicles are fitted with the technology. The development of vehicle immobilisers and the introduction of in-car video and AVL will present more effective pursuit resolution strategies and management tools for Police. RPS will monitor these developments and make the necessary changes to the pursuit policy and training when required.

As evident in this report, the area of pursuits is complex and there are many factors or issues that need to be considered. The issues discussed in this report are by no means exhaustive, but are the most significant in terms of potential risk or harm to staff and others. The recommendations made in this report are designed to enhance the policy, and provide assurance to the wider community that Police have mitigated the risks involved in pursuits as much as possible.

Recommendations

This review has made a number of recommendations for consideration by the Project Sponsor and Business Owner. To summarise, it is recommended that:

1. The pursuit policy should remain a restrictive one; the policy and training should highlight the necessity to assess the risks at all stages of a pursuit to determine whether continuation of the pursuit is justified, and the emphasis should continue to be on public safety.
2. Amend the responsibilities of the Police passenger to read: "If they are senior in rank or service or PPDP classification to the driver, they may also direct them to abandon pursuit, according to the risk assessment."
3. Road Policing Support, Training Service Centre and Comms work together to ensure all aspects of the pursuit controller role is covered in the training package, and that all Comms shift commanders receive regular training consistent with the PPDP.
4. The role of the AOS/STG commanders acting as pursuit controllers is amended.
5. Introduce primary and secondary units with specific roles and responsibilities, such as the secondary vehicle taking over commentary if required.
6. Police continue with the implementation of hands-free technology in operational vehicles, in conjunction with the migration to the new digital Police radio network.
7. More emphasis placed in the policy and training package to limit the number of vehicles involved in a pursuit. This includes encouraging units in the vicinity to head to key sites in the area that offenders may try to go to.
8. The legislation section of the policy is amended to read as follows: "The justification for an arrest extends to the use of such force as may be necessary to overcome any force used in resisting arrest, unless the arrest can be made by reasonable means in a less violent manner. The use of force during a pursuit may be justified where a person is fleeing from arrest."
9. The legislation section of the policy which outlines defences under the Land Transport (Road User) Rule 2004 is amended as follows: "This Rule does not permit careless, dangerous or reckless driving."
10. The abandonment criteria is extended to include situations when the offending vehicle's location is no longer known, the distance between the pursuing vehicles and offender's vehicle is too great, if a person is injured during the pursuit and no other unit is available to render assistance, if there is a sustained loss of contact with Comms, and a failure to provide critical information in a timely manner. These will be grouped with the current criteria and made explicit in the policy.
11. When a vehicle is lost sight of or its location is no longer known during a pursuit, the pursuit is abandoned and a formalised search phase is initiated. The policy is amended to incorporate the search phase post-pursuit, and the rules pertaining to recommencing a pursuit are clarified.
12. In consultation with AMCOS and Comms, amend the current pursuit policy to reflect the procedure when ASU are involved in a pursuit: instructing ground units to drop back, assessing the risks and coordinating the use of other tactical options between ASU and the pursuit controller. This may also include introducing a modified safety warning for ASU crew.
13. The communication procedure is amended to include a prompt regarding the activation of lights and sirens during a pursuit, and staff are reminded regularly about the need for lights and sirens during UDD and pursuits.

14. The current policy is amended to state that a pursuit is to be abandoned once an offender's identity becomes known and apprehension may be affected later, so long as there is no immediate threat to staff or public safety.
15. Road Policing Support and Professional Standards undertake discussions regarding non-compliance of the policy.
16. The radio protocols in the pursuit policy are updated in relation to speed, and to reflect any other changes which occur as a result of this review.
17. Consideration is given on how the concept of proportion could be included in the pursuit training package.
18. In accordance with the organisation's adoption of the new threat assessment tool, approve figure 6 as the Pursuit Threat Assessment Procedure.
19. From 1 July 2010, DRV002 is removed as a recognised pursuit theory package and replaced with DRV017. Road Policing Support will work with the Training Service Centre to enable this to occur.
20. Ongoing refresher training is developed and made mandatory to cover subsequent changes to the pursuit policy, particularly for those returning to frontline positions.
21. Road Policing Support, Comms and the Training Service Centre review the current training package and incorporate the communication procedure and pursuit commentary into the training.
22. Road Policing Support and the Information and Communications Technology Service Centre continue making the identified changes to the Pursuit Notification Database and form, as part of the migration project to be completed by 1 July 2010.
23. Road Policing Support, assisted by Comms, actively monitors the Pursuit Notification Database for trend analysis and data integrity.

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