

Organisational Capability Governance Group Cover Sheet

Reference	OCGG/20/33 <i>[Obtained from the Executive Services team]</i>
Paper title	Fleeing driver events: Cross-jurisdictional comparison of effectiveness of post-event investigations
Sponsor	Deputy Commissioner Glenn Dunbier
Presenter/s	Assistant Commissioner Sandra Venables
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Meeting date	Tuesday 17 November 2020 <i>[Paper is due with ES six working days before scheduled meeting date]</i>

Consultation required

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

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

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

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

Tick	Group / individual	Specify, if required
<input type="checkbox"/>	Assistant Commissioners	
<input type="checkbox"/>	Executive Directors	
<input type="checkbox"/>	Consultation Group (SLB Papers)	
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Organisational Capability Governance Group

Reference
Title

OCGG/20/33
Fleeing driver events: Cross-jurisdictional comparison of effectiveness of post-event investigations

10 November 2020

Purpose

1. The purpose of this paper is to provide the Organisational Capability Governance Group (OCGG) with a cross-jurisdictional comparison of the effectiveness of investigations following fleeing driver events.
2. This information will assist the OCGG in considering and endorsing proposed revisions to the Fleeing Driver Policy (the Policy), specifically the requirement for mandatory post-event investigations to ensure driver accountability.

Executive Summary

3. The Executive Leadership Board (ELB) considered proposed revisions to the Policy on 18 May 2020 [refer ELB/20/35].
4. Arising from this discussion, the ELB requested additional information about whether post-event investigations are a credible and effective mechanism to identify and hold fleeing drivers to account, and recommended obtaining comparable information from international jurisdictions.
5. The National Road Policing Centre (NRPC) approached all Australian jurisdictions to identify whether they have fleeing driver investigation policies, and specifically the proportion of fleeing drivers who are identified and apprehended through post-event investigations.
6. Most Australian jurisdictions have some form of policy for investigating fleeing driver events. Some jurisdictions, such as [REDACTED] have detailed guidance about conducting investigations, whereas other jurisdictions, such as [REDACTED] rely on more general investigation procedures.
7. To ensure greater oversight and compliance with policies, some jurisdictions have implemented specific review processes for fleeing driver events. For example, in [REDACTED] all pursuits are reviewed by the Driving Incident Review Committee, and [REDACTED] Police established a specific position to review all fleeing driver events.
8. Table 1 provides a cross-jurisdictional snapshot of fleeing driver events by outcome. Due to data variability and quality, some jurisdictions have been excluded.
9. New Zealand appears to have a significantly higher resolution rate overall for fleeing driver events when compared with Australian jurisdictions, especially at the pursuit stage.
10. The Australian jurisdictions all have a higher proportion of events where either police were unable to identify the driver or, due to data quality issues, the outcome is unknown. In [REDACTED], this is likely to be attributable to a restrictive pursuit policy. In other jurisdictions, this may be attributable to data recording issues, or investigation processes.

Table 1. Cross-jurisdictional comparison of proportion of fleeing driver events by outcome (average across period 2015 to 2019)

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

* Only total arrest data available for these jurisdictions.

11. Due to considerable variability in the quality and detail of data from each jurisdiction, it is not possible to get a completely accurate picture of whether investigations are an effective mechanism for resolving fleeing driver events in Australian jurisdictions.
12. Besides [REDACTED], New Zealand appears to have a higher apprehension rate through post-event investigations than Australian jurisdictions and a higher apprehension rate overall. While New Zealand Police currently apprehends a lower proportion of drivers through post-event investigations (30%) compared with the pursuit stage (40%), this does not necessarily indicate that investigations are ineffective.
13. An increased emphasis on using investigations rather than pursuits to identify and hold fleeing drivers to account will have safety benefits. There is a higher likelihood of death and serious injuries occurring during pursuits compared with other Police responses (besides firearms) with, on average, six and 41 per 1,000 events resulting in fatal and serious injuries respectively.¹ Therefore, it is likely that fewer pursuits will result in fewer injuries and deaths from fleeing driver events.
14. This aligns with our vision and our purpose, as well as our goals of safe roads and safe communities. While there is a risk that fewer pursuits may lead to a decrease in the overall apprehension rate, this is outweighed by the safety benefits and the comparatively high apprehension rate currently achieved through post-event investigations.
15. It is recommended the OCGG notes this information when considering and endorsing the proposed revisions to the Policy, specifically the requirement for mandatory post-event investigations.

Revised Fleeing Driver Policy – mandatory post-event investigations

16. Proposed revisions to the Fleeing Driver Policy give effect to the agreed recommendations detailed in the joint Independent Police Conduct Authority and New Zealand Police thematic review; *Fleeing Drivers in New Zealand: A collaborative review of events, practices, and procedures* (the Review).
17. The Review recommends Police strengthens accountability mechanisms for fleeing driver events (Recommendation 5). This includes introducing a requirement for officers to record a fleeing driver event as either resulting in an arrest (K9), or requiring further investigation (K6) where it has not been possible to identify or apprehend the driver. This would arise in situations where Police signal a driver to stop, the driver fails to stop or remain stopped, and:

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

- Officers elect not to initiate a pursuit
 - Officers initiate, but then abandon a pursuit
 - Officers initiate a pursuit, but the driver subsequently abandons the vehicle and is unable to be located.
18. The proposed Policy revisions emphasise that where a fleeing driver event does not result in an apprehension, there must be a robust investigation to identify the driver and hold them to account. Where immediate follow up is required, the Pursuit Controller will direct an available supervisor to lead these enquiries. Follow-up enquiries may include obtaining vehicle registration details (e.g. using CCTV), locating the vehicle, or speaking with the owner or hirer of the vehicle.
19. The rationale for this change is that by requiring officers to undertake robust investigations, rather than initiating or continuing pursuits Police will manage high-risk drivers in a way that:
- reduces the number of pursuits;
 - increases public and staff safety;
 - increases fleeing driver accountability; and
 - enhances public trust and confidence.
20. The following case studies demonstrate this change in approach to identifying and apprehending fleeing drivers and what good practice will be going forward

Case study 1

Police observed a vehicle with fully blacked out windows with tints on both sides, which appeared to have two male passengers. After running relevant checks through NIA, Police determined the plates did not match the vehicle. There were also alerts for petrol drive-offs over the last couple of days. For a brief period, Police followed the vehicle at road speed (50 km/h). Police then signalled the driver to stop with red and blue lights because of the alerts and plates. The driver failed to stop, accelerated heavily, and began driving in a dangerous manner in excess of 150 km/h. In response, Police immediately turned off lights and did not initiate a pursuit. Prior to signalling the driver to stop, staff applied TENR and correctly identified the risk of pursuing including to public and Police safety, was very high due to the time of day. This risk outweighed the need to immediately apprehend the driver for the petrol drive-off alerts. Police determined the best approach in this situation was to not engage further, and to undertake follow-up enquiries to identify and apprehend the driver.

Case study 2

At approximately 4:10am, Police stopped at a petrol station and observed a white Subaru station wagon in the car park near the night-pay window and a Caucasian male standing at the night-pay window. Due to the Police presence, the individual became nervous and quickly got into the vehicle. Police noted the NIA description of the vehicle did not completely match the observed vehicle. The vehicle exited the petrol station. Police followed at road speed and signalled the vehicle to stop with red and blue flashing lights. The driver of the vehicle began to slowly accelerate. Staff advised Police Communications and considered whether it was appropriate to initiate a pursuit. As a result of their TENR risk assessment, Police decided not to pursue the vehicle due to there being lines of enquiry which could be used to identify and apprehend the driver. This included the availability of CCTV footage from the petrol station to enable identification. Police commenced follow-up enquiries including compiling identifying information on the vehicle and driver and placing an alert on the vehicle.

Effectiveness of post-fleeing driver event investigations

21. The ELB had sought further information to determine whether post-event investigations are a credible and effective mechanism for responding to fleeing driver events.

22. The ELB expressed concerns that Police may not hold reliable data about the success rate of post-event investigations.
23. A key data limitation is how information is recorded in the Fleeing Driver Database (FDD). For example, where Police identifies and charges a fleeing driver after a post-event investigation, the FDD is unlikely to be updated with identification information. This means the number of successful post-event investigations is likely to be under-reported.
24. To assist in determining the effectiveness of post-event investigations, the ELB recommended undertaking an international evidence scan of other jurisdictions (specifically Australia) that have existing fleeing driver policies and potentially more robust data.

New Zealand data

25. While there are some limitations with Police data, it is still possible to extrapolate information about the stage of a fleeing driver event where Police identifies the driver.
26. Due to potential under-reporting in the FDD, the National Road Policing Centre (NRPC) also considered separate data on 'failing to stop' prosecutions. This was to determine whether any events coded as 'driver not identified' or 'outcome unknown' could be recoded as driver identified and apprehended through pursuit or investigation. The combined data sets are detailed in Table 2.
27. The average resolution rate for fleeing driver events is 70% over the last five years. On average, Police resolves 40% of events by apprehending the driver at the end of a pursuit and 30% of events by identifying and apprehending drivers through post-event investigations.
28. While New Zealand Police currently identifies and apprehends a lower proportion of drivers through post-event investigations compared with the pursuit stage, this does not necessarily indicate that investigations are ineffective.
29. An increased emphasis on using investigations rather than pursuits to identify and hold fleeing drivers to account will have safety benefits. It is likely that fewer pursuits will result in fewer injuries and deaths from fleeing driver events.
30. While there is a risk that fewer pursuits may lead to a decrease in the overall apprehension rate, this is outweighed by potential safety benefits and the relatively high apprehension rate already achieved through post-event investigations.

Table 2. Number and proportion of fleeing driver events by outcome between 2015 and 2019

Fleeing driver event outcome	2015		2016		2017		2018		2019	
	Driver apprehended at end of pursuit	1,281	43%	1,369	41%	1,557	41%	1,645	40%	1,762
Driver identified and apprehended following investigation	833	28%	1,061	32%	1,111	29%	1,258	31%	1,392	29%
Driver not identified or outcome unknown	883	29%	893	27%	1,128	30%	1,192	29%	1,709	35%
Total	2,997		3,323		3,796		4,095		4,863	

Australian data

31. The NRPC approached all Australian jurisdictions to determine whether a requirement to undertake investigations into fleeing driver events (to identify the driver) is an effective mechanism for ensuring accountability and improving outcomes. This included confirming:

- whether each jurisdiction has a policy for investigating a fleeing driver event or pursuit;
- whether any changes to fleeing driver policies have had a substantive effect (either positive or negative) on the number of fleeing driver events;
- the total number of fleeing driver events per year in each jurisdiction over the period 2010 to 2019, specifying where possible, the number of events where police;
 - identified and apprehended the driver at the time of the event.
 - identified and apprehended the driver through a subsequent investigation.
 - were unable to identify and apprehend driver.

32. Responses were received from all jurisdictions except [REDACTED].

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]

Risks/Opportunities

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

Financial Implications

63. There are no specific financial implications relating to the revised Policy. Funding for training and implementation is expected to come from baseline.

Resourcing / Staff Implications

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

IT Implications

65. There are no anticipated IT implications.

Māori, Pacific and Ethnic Peoples

66. Police acknowledges there are a disproportionate number of young Māori men involved in fleeing driver events. Increased emphasis on using investigations (rather than pursuits) to identify and

hold fleeing drivers to account may improve safety outcomes for this demographic due to fewer injuries and deaths.

67. However, this may still result in a disproportionate effect for Māori. For example, an investigation resulting in criminal charges may be the entry point into the criminal justice system.
68. It may be appropriate to consider and investigate factors such as unconscious bias and alternative justice pathways for young or first-time offenders to address potential inequities.

Alignment with strategic priorities

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

Legislative Implications

71. There are no anticipated legislation implications.

Health and Safety Implications

72. An increased focus on investigations rather than pursuits to hold fleeing drivers to account is likely to reduce health and safety risks for our people. They will be engaging in fewer pursuits, ensuring our people are safe and feel safe.

Training and Implementation Implications

73. Development and delivery of appropriate, effective training will be required to achieve the mindset shift required to give effect to revised Policy.

District Implications

74. District Leadership Teams have a significant role in implementation to achieve the required shift in mindset and culture. Action to embed the revised Policy needs to be leader-led. It will be necessary to identify District champions to assist in this process.

Implications for other Agencies

75. There are no specific implications for other agencies.

Public Relations

76. Following the approval of the revised Policy, the Media and Communications Team together with the Fleeing Driver Action Plan Steering Group, will develop an appropriate engagement and communication strategy for both internal and external audiences.

Consultation

77. There was comprehensive internal consultation with the Steering Group, Senior Leadership Team and ELB members (via the Consultation Group distribution list) on the proposed policy revisions [refer ELB/20/35].
78. As this paper simply responds to the ELB's request for additional information to inform decision making in relation to the paper discussed on 18 May 2020, it was not necessary to undertake further consultation.

Recommendations

It is recommended the OCGG:

- (i) **Note** that ELB requested further information on the effectiveness of investigations to hold fleeing drivers to account, specifically information from other jurisdictions.
- (ii) **Note** that this paper is intended to assist the ELT in considering and approving the revised Policy and should be considered alongside the paper discussed on 18 May 2020 [refer ELB/20/35].
- (iii) **Refer** to the paper submitted to the ELB meeting [ELB/20/35] for recommendations to approve the revised Policy.

Glenn Dunbier
Deputy Commissioner: District Operations

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Feedback received

Reference OCGG/20/33
 Title
 Date paper sent for consultation

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

Name / position / workgroup / agency	Feedback provided	Action taken or recommended following the feedback

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