

Caution:

This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

CONSULTATION DRAFT

ONTARIO REGULATION

to be made under the

COMMUNITY SAFETY AND POLICING ACT, 2019

VEHICLE PURSUITS

INTERPRETATION

Meaning of vehicle pursuit

1. In this Regulation, a vehicle pursuit occurs when a police officer pursues, in a motor vehicle, another motor vehicle that the police officer had attempted to stop but that failed to stop and remain in place.

VEHICLE PURSUITS, GENERAL REQUIREMENTS

Initiating, continuing and discontinuing vehicle pursuits

2. (1) A police officer shall not initiate or continue a vehicle pursuit unless,

- (a) the police officer has reason to believe that a criminal offence has been committed or is about to be committed and that stopping the motor vehicle is necessary to apprehend an individual in connection with the offence or to prevent the commission of the offence; or
- (b) the purpose of the pursuit is to identify the motor vehicle or an individual inside the vehicle.

(2) A police officer shall not initiate a vehicle pursuit unless the police officer has first determined that,

- (a) the vehicle pursuit is permitted under subsection (1);

- (b) there are no alternatives set out in the applicable procedures that can readily be implemented in the circumstances; and
- (c) the risk to public safety that may result from the pursuit is outweighed by the risk to public safety that may result if,
 - (i) an individual in the fleeing motor vehicle is not immediately apprehended, or
 - (ii) the fleeing motor vehicle or an individual in the fleeing motor vehicle is not identified.

(3) Despite subsections (1) and (2), a police officer shall not initiate a vehicle pursuit for a non-criminal offence if the identity of an individual in the fleeing motor vehicle is known.

(4) During a vehicle pursuit, a police officer shall continually reassess the determination of the risk to public safety made under subsection (2).

(5) A police officer shall discontinue a vehicle pursuit if,

- (a) due to a change in circumstances, the vehicle pursuit ceases to be permitted under subsection (1);
- (b) in the case of a vehicle pursuit for a non-criminal offence, the fleeing motor vehicle or an individual in the fleeing motor vehicle is identified; or
- (c) the police officer subsequently determines that the risk to public safety that may result from continuing the pursuit is no longer outweighed by the risk to public safety that would result if either of the circumstances described in subclause (2) (c) (i) or (ii) occurs.

(6) For greater certainty, a vehicle pursuit is discontinued for the purposes of this Regulation when police officers are no longer pursuing a fleeing motor vehicle for the purpose of stopping the fleeing motor vehicle or identifying the fleeing motor vehicle or an individual in the fleeing motor vehicle.

POLICIES AND PROCEDURES

Policies

3. The Minister and every police service board shall establish policies, that are consistent with this Regulation, about vehicle pursuits.

Procedures for tactics

4. (1) Every chief of police shall establish procedures that set out the following tactics that may be used in the relevant police service's area of policing responsibility:

1. Tactics that may be used as an alternative to a vehicle pursuit.
2. Tactics for pursuing or stopping a fleeing motor vehicle.

(2) Every chief of police shall establish procedures, that are consistent with this Regulation, about vehicle pursuits in the relevant police service's area of policing responsibility.

(3) A reference in this Regulation to the applicable procedures, as they relate to a police officer, is a reference to the procedures referred to in this section of,

- (a) the police service of the officer, if the officer is a member of a police service referred to in clause (a), (b) or (c) of the definition of "member of a police service" in subsection 2 (1) of the Act;
- (b) the police service whose local commander was notified of the appointment of the officer under subsection 6 (1) of the *Interprovincial Policing Act, 2009*, if the officer was appointed under Part II of that Act; or
- (c) the police service of the local commander who appointed the officer under Part III of the *Interprovincial Policing Act, 2009*, if the officer was appointed under that Part of that Act.

Other procedures

5. (1) Every chief of police shall establish procedures on the management and control of vehicle pursuits.

(2) The procedures must,

- (a) identify the supervisor with decision-making responsibility for the pursuit;
- (b) set out the responsibilities of police officers, dispatchers, communications supervisors and road supervisors; and
- (c) describe the equipment that is available for implementing alternative tactics.

Supervision

6. (1) If more than one police service is involved in a vehicle pursuit, the supervisor from the police service with responsibility for the area in which the pursuit begins has decision-making responsibility for the pursuit.

(2) The supervisor may hand over decision-making responsibility to a supervisor from another police service involved in the pursuit.

CONDUCT OF VEHICLE PURSUITS

Pursuit in unmarked police motor vehicle

7. (1) Subject to subsection (2), a police officer shall not engage in a vehicle pursuit unless the officer is in a marked police motor vehicle.

- (2) A police officer may engage in a vehicle pursuit in an unmarked police motor vehicle if,
- (a) a marked police motor vehicle is not readily available; and
 - (b) the police officer believes that it is necessary to immediately apprehend an individual in the fleeing motor vehicle or to identify the fleeing motor vehicle or an individual in the fleeing motor vehicle.

Notice of pursuit

8. (1) A police officer shall notify a dispatcher when the officer initiates a vehicle pursuit.

(2) The dispatcher shall notify the supervisor identified in the procedures referred to in section 5 that a vehicle pursuit has been initiated.

Order to discontinue pursuit

9. (1) The supervisor referred to in subsection 8 (2) shall order police officers to discontinue a vehicle pursuit if, in the opinion of the supervisor, the risk to public safety that may result from the pursuit outweighs the risk to public safety that may result if an individual in the fleeing motor vehicle is not immediately apprehended or if the fleeing motor vehicle or an individual in the fleeing motor vehicle is not identified.

(2) A police officer who receives an order under subsection (1) shall obey the order even if the officer is not a member of the police service of the supervisor who made the order.

Use of firearm

10. A police officer shall not discharge a firearm for the sole purpose of attempting to stop a fleeing motor vehicle.

Stopping a motor vehicle

11. (1) During a vehicle pursuit, a police officer shall consider the tactics for stopping a motor vehicle as set out in the applicable procedures.

(2) A police officer shall not intentionally cause a motor vehicle to come into physical contact with a fleeing motor vehicle, except in the following circumstances:

1. The purpose of the manoeuvre is to stop the fleeing motor vehicle and the police officer, after having assessed the effect of the manoeuvre on the safety of other individuals, believes on reasonable grounds that the manoeuvre is necessary to immediately protect against loss of life or serious bodily harm.
2. The purpose of the manoeuvre is to pin the motor vehicle where,
 - i. the driver of the motor vehicle has lost control of the vehicle or collided with an object, causing the vehicle to come to a stop, and
 - ii. the driver continues to try and use the motor vehicle to flee.

(3) Nothing in subsection (2) precludes police officers involved in a vehicle pursuit, with assistance from other police officers in motor vehicles, from attempting to safely position the police motor vehicles in a manner to prevent the movement either forward, backward or sideways of a fleeing motor vehicle.

MISCELLANEOUS

Application of code of conduct

12. A police officer does not breach the code of conduct when deciding not to initiate or choosing to discontinue a vehicle pursuit because the police officer has reason to believe that the risk to public safety that may result from the pursuit outweighs the risk to public safety that may result if an individual in the fleeing motor vehicle is not immediately apprehended or if the fleeing motor vehicle or an individual in the fleeing motor vehicle is not identified.

Records

13. (1) If a police officer engages in a vehicle pursuit and the officer is a member of a police service referred to in clause (a), (b) or (c) of the definition of “member of a police service” in subsection 2 (1) of the Act, the police service’s chief of police shall ensure that the particulars of the pursuit are recorded on a form approved by the Minister, if any.

(2) If a police officer engages in a vehicle pursuit and the officer is appointed under the *Interprovincial Policing Act, 2009*, the officer shall report the particulars of the pursuit to the appointing official or local commander who appointed the officer under that Act and that person shall ensure that the particulars are recorded on a form approved by the Minister, if any.

Commencement

14. [Commencement]