



VICTORIA POLICE

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Coroner John Olle
Coroners Court of Victoria
65 Kavanagh Street
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Subject: Raymond Noel Lindsay Thomas -
Finding into death with inquest
Court Reference: COR 2017 003012
Date of Recommendations: 20 September 2021

Dear Coroner Olle,

Victoria Police response to recommendations arising from the Finding into the death of Raymond Noel Lindsay Thomas

This document provides the response to your recommendations to Victoria Police arising from the Finding into the death of Raymond Noel Lindsay Thomas, delivered on 20 September 2021.

OVERARCHING RECOMMENDATION

Due to the extreme danger of high-speed police pursuits, and the reality that a small number of drivers flee to avoid intercept, a pursuit must never be justified in respect to the manner of driving which is the result of an attempt to avoid intercept. That is, a vehicle taking flight.

Victoria Police supports this recommendation. However, upon a review of the Victoria Police Manual (VPM) Pursuit Policy (**the Policy**), it is considered that it reflects the intent of the recommendation and it is not considered that any change to the Policy is necessary.

When conducting a pursuit, police members must apply the pursuit justification criteria as follows:

Members may only conduct a pursuit when they reasonably believe a serious risk to the health or safety of a person existed before attempting interception and there is a need to prevent or respond to that risk; and:

- other means for apprehending the vehicle occupant/s are not practicable; and*
- the serious risk they are seeking to prevent or respond to is greater than the risks involved in conducting the pursuit at that time.*

The language and intent of the Policy requires that police members must have held a reasonable belief in respect of the serious risk posed prior to attempting an intercept.

RECOMMENDATION (A)

That the Pursuits Policy mandate that the following requirement must be satisfied before commencing a pursuit:

A serious risk to health or safety of a person must exist before the decision to intercept, that is before police involvement.

Victoria Police supports this recommendation in principle. It is considered that the Policy reflects the intent of this recommendation as it applies to pursuits, and no changes are necessary. However, the considerations and reasons for vehicle intercepts are necessarily broader.

Victoria Police members routinely intercept vehicles to enforce the law, support visible road policing, and support community safety. The VPM Policy Rules – Road Policing provides for considerations to be made prior to the interception of a vehicle, and requires that members think holistically about the reason for the intercept and the wider safety implications of attempting an intercept.

Further, the policy clarifies that members ought to conduct ongoing risk assessments and consider a range of factors when considering an intercept (including, but not limited to, the reason for the intercept, the nature of the risks involved, the weather and road conditions, surrounding traffic and geographical environment, and controls available to reduce the risks).

The decision to commence a pursuit is a subjective decision made by the police members instigating the attempted intercept and subsequent pursuit with the information available to them at the time. The Policy overview notes that, when responding to drivers that fail to stop when directed or take deliberate action to avoid being stopped, police members must consider the safety of the community, other road users, the occupants of the pursued vehicle and police members and then balance the risks associated with those circumstances against the need to apprehend the offender.

Police members may only conduct a pursuit when they reasonably believe a serious risk to the health or safety of a person existed before attempting an interception and there is a need to prevent or respond to that risk. Further, where a driver fails to stop after a direction to stop is given or the police member believes the driver is taking deliberate action to avoid being stopped, the police member must determine the most appropriate action to take and either:

- discontinue the attempted intercept and not follow the vehicle; or
- conduct a pursuit if the pursuit justification criteria are met.

These requirements on police members are clearly set out in the Policy.

Victoria Police considers that the intention of the recommendation is captured in the Policy, and allows for operational flexibility when responding to a serious risk to the health or safety of any person.

RECOMMENDATION (B)

Training must ensure there is no scope for interpretation of the above. That the policy means what it says.

Victoria Police will implement this recommendation.

The Victoria Police Manual - Road Policing - Operations is scheduled for release in early 2022 and will be released in conjunction with a Victoria Police Learning Hub training and communication package. This will provide police members with more rigorous training in respect of Road Policing policy with a particular emphasis on police pursuits and urgent duty driving in line with the Court's recommendations.

Further, Victoria Police will consult with People Development Command to update and emphasise the training packages provided in the Road Policing Investigator's Course, Constable Qualifying Program and Sergeant Qualifying Program relating to pursuits and urgent duty driving.

RECOMMENDATION (C)

Policy must require neither urgent duty driving nor pursuit be conducted unless police are always aware of their speeds.

Whilst Victoria Police continues to advance situational awareness requirements for members involved in pursuits, it does not support this recommendation. In dynamic situations, it is not considered feasible for members to be aware of their exact speed at all times whilst remaining cognisant of other critical factors including their surroundings, communications and their tactical response.

Victoria Police continues to advance the training, policies, operational police vehicles and equipment which support members to enhance their situational awareness and balance the risks when involved in pursuits. Section 4.2 of the Policy currently in force mandates that the speed of the police vehicle is communicated during a pursuit and that members consider speed as part of their initial and ongoing risk assessments during a pursuit.

The release of the updated VPM - Road Policing - Operations includes a new risk assessment and decision-making guide for pursuits which nominates speed as a primary consideration whilst assessing whether to engage in or continue a pursuit. The risk assessment involves ensuring that the risk you are seeking to prevent or respond to is not greater than the risks involved in conducting the pursuit, or if the member is uncertain, to terminate or not commence a pursuit. The update also includes a risk assessment and decision-making guide for urgent duty driving which is very similar to the guidance in respect of pursuits, which again nominates speed as a primary risk when assessing the need to conduct urgent duty driving.

Since Raymond Thomas' death, the Victoria Police vehicle fleet has seen significant change with Holden and Ford vehicles supplemented and mostly replaced by a variety of other vehicle manufacturers. These vehicles are factory fitted with varying combinations of heads-up speed displays, a more centralised dash with a speed readout and a clearer dash cluster. Police vehicles are also fitted with a GPS device on the dashboard that routinely displays speed and is easily visible to all persons in the vehicle. The ability to view the speed of police vehicles, by both driver and observer, while maintaining forward observations is much improved over the situation at the time of this pursuit. However, further consultation is occurring with Victoria Police Transport Branch to ensure that the entire Victoria Police vehicle fleet have clear speed displays, visible to all persons in the vehicle.

The following changes have been made to operational police vehicles, equipment and policy since Raymond Thomas' death (as of June 2021):

Equipment	Change	Supporting policy
In-Car Video (ICV) systems fitted to more than 190 highway patrol vehicles	ICV system camera records the front of police vehicle and can be downloaded and reviewed post pursuit or urgent duty driving event.	<p>VPM In-car technology systems</p> <p><i>The ICV is activated automatically:</i></p> <ul style="list-style-type: none"> • <i>when red and blue flashing lights are activated, and/or a siren is sounded</i> • <i>as a result of high rate acceleration</i>
Body Worn Cameras (BWC) issued to operational police members	BWC record forward observations and member communications and are readily available for review.	<p>VPM Body Worn Cameras</p> <p><i>Circumstances where a member wearing a BWC must start a recording include:</i></p> <ul style="list-style-type: none"> • <i>vehicle interceptions</i> • <i>a police pursuit or police interdiction</i>

RECOMMENDATION (D)

In every pursuit, irrespective of outcome, policy requires members to record for review the serious risk which existed before the decision to intercept, that is before police involvement.

Victoria Police supports this recommendation. However, the Policy already stipulates recording requirements following a pursuit, including the rationale for a pursuit (which details the serious risk which existed before the decision to intercept was made).

Since 2017, in addition to the recording of the rationale, advancements in technology have been introduced to allow the rationale for the interception of a vehicle to be independently reviewed. Within each region, for those pursuits that meet the criteria outlined in the Policy, a Divisional Driving Review Panel (DDRP) will convene and review pursuits which have occurred within that region. These reviews are recorded and assess compliance with the Policy, rationale for the pursuit and any areas of improvement.

Yours sincerely,



Shane Patton APM
Chief Commissioner