



ASSOCIATION OF CHIEF POLICE OFFICERS

UNIFORMED OPERATIONS BUSINESS AREA

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South Yorkshire Police

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TO: ALL CHIEF CONSTABLES AND COMMISSIONERS

Attachments@:

Dear Colleague

Re: Dangerous Driving – the Risk Posed to Officers Engaged in Police Pursuits and Response Driving

I write to update you on the outcome of recent court cases that impact on the police service's ability to conduct police pursuits and respond to emergencies. Section 2A(3) of the Road Traffic Act 1991 defines dangerous driving as driving which falls "far below what would be expected of the competent and careful driver". This is a wide definition and it is possible to imagine instances where officers are engaged in pursuits, response or surveillance operations when their driving might well not meet this standard.

In the Court of Appeal case (R v Bannister [2009]) the court prohibited a jury from taking into account a police officer's skill and training in determining whether the driving was dangerous. As a result, a police officer cannot argue that his driving ought not to be considered dangerous because he had the skills to deal with the apparent hazards. In a more recent case (R v Holden and Haughton) which involved officers from Hampshire, a further problem was highlighted. In this case the prosecution argued that a police driver is criminally liable for the danger caused by the subject vehicle because, by pursuing or continuing to pursue, the police driver has caused the dangerous driving of the subject vehicle. These rulings appear to widen the scope of dangerous driving.

The Police Federation are rightly concerned that officers are at increased risk of prosecution whilst merely seeking to discharge their duties as constables. It would pose a serious risk to the operational delivery of the police service if officers do not conduct pursuits and do not respond to emergencies promptly. I am working with the Federation to address this issue, but it seems likely that a change or amendment to legislation is required and as you may imagine, this could take some while. I have already initiated discussions with both the Home Office and the Department of Transport to initiate this change.

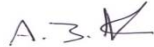
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The issue has been raised with the Director of Public Prosecutions to ensure that before any prosecution the public interest test has been appropriately applied. I chair the ACPO Pursuits Steering Group and this group is able to provide help and support to forces that wish to review any police pursuit before deciding if further action is required in respect of the police drivers engaged in any such pursuit. Should such support be helpful, my Staff Officer can be contacted on the following e-mail address craig.clifton@southyorks.pnn.police.uk.

I will update you on any progress in due course.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A. Holt' with a stylized flourish at the end.

Andy Holt
T/Deputy Chief Constable
ACPO Police Pursuits Lead