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**Legal
Brief***

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* The information provided in
this document is not a legal
interpretation.

The masculine gender has been used
to designate persons solely in order
to simplify the text.

Police Chases (What You Need to Know)

At the beginning of the year 2000, section 249.1 was added to the *Criminal Code*, creating the offence of fleeing a police chase while driving a motor vehicle.

The following are the elements that make up this offence:

- The accused must be driving a motor vehicle;
- He must be being pursued by a peace officer who is driving a motor vehicle and asks him to stop his vehicle;
- He must fail to stop his motor vehicle, without a reasonable excuse, as soon as it is reasonable to do so in the circumstances; and
- The failure to stop his vehicle must be made in order to evade the police.

The first two elements of the offence are rather simple and do not really pose a problem.

The third element of the offence consists in stopping one's vehicle safely, usually by the side of the road. The driver must avoid manoeuvres suggesting he is fleeing, such as accelerating.

The last element deals with the accused's intent. In order for an accused to be found guilty of this offence, the prosecution must prove that the accused failed to stop his vehicle in order to evade the police. This therefore presupposes that he knew he was being followed by a police car. Thus, if the chase is initiated by a police officer in civilian clothing and in an unmarked car, the accused may not realize this is the police and may refuse to stop his vehicle without necessarily having intended to evade the police.

When the four elements of the offence of evading a police officer while driving a motor vehicle have been proven, the accused can sometimes raise the defence of reasonable excuse. This defence may allow him to be acquitted even if his actions would otherwise constitute a crime.¹

A person found guilty of this offence faces a sentence of up to five years in prison. Where an injury has been caused, the maximum penalty increases to fourteen years and, in the event a death has been caused, the penalty may be life in prison. A guilty verdict will also affect the accused's driver's licence, i.e. suspension or cancellation of the driver's licence.

The driver of the motor vehicle must stop his vehicle at the request of the police even if he thinks he has already committed an offence. The act of evading the police often has greater and more severe consequences than those of the initial offence with which the driver could have been charged. In some judgments, the courts have ruled that the sentence for evading a police officer while driving a motor vehicle should be served consecutive to the sentence imposed for the initial offence.

The purpose of this section of the *Criminal Code* is to avoid police chases in order to make our public roads more secure.

Safe driving!

¹ *R. v. Armstrong*, [2011] ONCA 709