

Opinion No. 59-20

March 5, 1959

BY: FRANK B. ZINN, Attorney General

TO: Joseph P. Roach, Chief New Mexico State Police Santa Fe, New Mexico. Attention: Patrolman Jerry Workman, Jr. New Mexico State Police Santa Rosa, New Mexico

A police vehicle showing red lights or sounding a siren is an emergency vehicle and all approaching or pursued vehicles are required to stop.

OPINION

{*30} This is written in reply to your recent request for an opinion on the following question:

Is the driver of a vehicle, which is being pursued by a police vehicle showing a red light and sounding a siren, required to pull to the right hand side of the road and stop?

It is my opinion that a police vehicle which is being operated in such a manner as to give warning of its approach or pursuit by showing red light or sounding a siren is an emergency vehicle and that all other non-emergency vehicles in the immediate vicinity are required to pull to the side of the road and stop upon becoming aware of its presence.

The statutory provisions controlling in this opinion appear first in Section 64-14-4, N.M.S.A., 1953 Compilation, Pocket Supplement, which in part defines an emergency vehicle:

"(e) Authorized emergency vehicle. Vehicles of the fire department, **police vehicles**, ambulances, and such emergency vehicles of municipal departments or public service corporations as are designated or authorized by the commissioner, the chief of the New Mexico state police or the local authorities." (Emphasis supplied).

And next by Section 64-15-5, N.M.S.A., 1953 Compilation:

"(a) The driver of an authorized emergency vehicle, when responding to an emergency call **or when in the pursuit of an actual or suspected violator of the law**. . . , may exercise the privileges set forth in this section, . . .

. . .

{*31} (c) The exemptions herein granted to an authorized emergency vehicle shall apply . . . when the vehicle is equipped with at least one lighted lamp displaying a red light visible . . . from a distance of 500 feet . . . , except that an authorized emergency vehicle

operated as a police vehicle need not be equipped with or display a red light. . ." (Emphasis supplied).

From these two statutes it must be concluded that police cars are to be considered emergency vehicles; that the pursuit of known or suspected law violators is a responsibility of drivers of police vehicles, and that in the case of police cars, red lights need not be visible in front of the vehicle.

Finally, Section 64-18-31, N.M.S.A., 1953 Compilation, requires that:

"Upon the immediate approach of an authorized emergency vehicle equipped with at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle other than a police vehicle when operated as an authorized emergency vehicle, and when the driver is giving audible signal by siren, exhaust whistle, or bell:

1. The driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position, until the authorized emergency vehicle has passed, except when otherwise directed by a police officer."

Based upon these statutes it is my opinion that a driver of any automobile or other vehicle, when confronted with an approaching red light or sounding siren, is required to stop on the right side of the roadway and wait until the warning vehicle has passed or until otherwise directed by a police officer.

Hilton A. Dickson, Jr.

Assistant Attorney General