

**REPORT OF THE POLICE COMPLAINTS AUTHORITY ON THE
INVESTIGATION INTO THE DEATH OF LEISHA ANN BOURNE
IN WANGANUI ON 29 FEBRUARY 2000**

Introduction

Shortly after 10:11 am on Tuesday, 29 February 2000 a collision occurred at the intersection of Victoria Avenue and Taupo Quay in Wanganui. The collision involved a Holden Commodore, being driven north along Taupo Quay towards the junction with Victoria Avenue by Rikki Taraikamo Karapi Maru (aged 24) and a Toyota Starlett, being driven down Victoria Avenue towards its junction with Taupo Quay by Leisha Ann Bourne (aged 28). A third vehicle which was parked on Taupo Quay north of the intersection was also involved in the collision, having been hit by the Toyota Starlett after impact. No-one was in that vehicle at the time.

Ms Bourne died instantly from multiple injuries.

Of the other persons involved in the collision, Mr Maru received minor injuries which required treatment, as did one of four passengers in his vehicle.

Mr Maru's vehicle had only minutes before attracted the attention of a Police officer on patrol in the Wanganui suburb of Gonville. Mr Maru failed to stop after the officer activated the flashing red and blue incident lights on his patrol car and a pursuit ensued which continued for a little over 2½ minutes and covered a distance of almost 3½ kilometres. The pursuit proceeded as set out in detail below.

It was later discovered that the vehicle in which Mr Maru and his four associates were travelling had been stolen from Rotorua by persons unknown three days earlier, on the morning of 26 February.

Report to the Police Complaints Authority

The Authority was notified of this fatality by the Commissioner of Police pursuant to s.13 of the Police Complaints Authority Act 1988.

No complaint over this incident has been made to the Authority.

Action Taken

In response to this notification the then Authority (Judge Neville Jaine) advised the Commissioner that, pursuant to s.17(1)(c) of the Police Complaints Authority Act, he would oversee a Police investigation of the incident. To that end, Judge Jaine and an investigating officer of his staff travelled to Wanganui on Wednesday, 1 March 2000 to make a preliminary assessment of the incident.

Prior to Judge Jaine's arrival in Wanganui, two Police investigations had been set in train. One of these was to address the traffic aspects of the fatal collision and the possible criminal liability of any person, whether civilian or Police. This was headed by Detective Inspector Douglas Brew. The other investigation, headed by Inspector Patrick Handcock and overseen by the Authority, was to address the wider aspects of the incident, including whether there had been any misconduct or neglect of duty on the part of any member of the Police, and reviewing also the relevant Police policies, practices and procedures.

Purpose of this Report

This report will describe in narrative form the events on the morning of 29 February 2000 which culminated in the death of Ms Bourne. It will examine the actions of Mr Maru and those of the Police officers who became involved in the incident. It will also examine the actions of the Police officers who had some involvement with the Commodore in the days and hours prior to the pursuit.

The report will also examine the policies, procedures and practices relating to Police operations in respect of vehicle pursuits, vehicle checkpoints and stolen vehicles. It will assess the effectiveness of their application to this incident. Finally the report will attempt to draw conclusions on the actions taken by the Police in the incident. It will make such recommendations as appear appropriate in the light of those conclusions.

To assist in the understanding of the narrative of events a map of the route of the pursuit is attached to this report.

Narrative

The incident giving rise to this report began just after 10:09 am on 29 February 2000 when Officer A was driving a marked patrol car in Gonville.

Officer A was stationary in Abbot Street at its intersection with Heads Road when he saw the Commodore turn left into Abbot Street from Heads Road and travel past him. Officer A was alone in the patrol car.

The Commodore was being driven normally at the time but Officer A was concerned that the vehicle appeared to be in poor condition and he considered it appropriate to check its warrant of fitness and registration to ensure that they were in order.

Officer A also recognised one of the passengers in the vehicle as being a person who had committed offences in the Wanganui area and whom he had not previously seen in that vehicle. He was aware that a number of Commodores had been stolen in Wanganui in the preceding weeks and he therefore decided to ascertain in addition whether that person was entitled to be in the vehicle.

He made a U-turn into Heads Road and back into Abbot Street with the intention of stopping the vehicle. As he did so he activated the flashing red and blue incident lights on his patrol vehicle.

By this stage the Commodore was approaching Bignell Street and it made a right-hand turn into that street. Officer A later said that he was, at that point, 50 metres behind the vehicle.

As Officer A followed the Commodore into Bignell Street, it became apparent to him that it was not going to stop, and that the driver was in fact accelerating in an attempt to evade him. Mr Maru later acknowledged at interview that when he saw the officer turn around and flash his lights, he "*floored it*", pressing his foot to the floor to make the vehicle go "*fast as*". He also said that he believed (it appears incorrectly) that there was an outstanding warrant for his arrest.

It was at this stage that Officer A made a radio call to the Central Communications Centre in Wellington (referred to in this report as 'Comms') advising that "*Comms .. I've got a runner from me*".

The Comms dispatcher asked whether the person was on foot or in a vehicle and Officer A replied "*In a vehicle*". The dispatcher then asked for its registration number, which Officer A was not able to provide until later in the pursuit.

Officer A's radio calls were heard by Officers B, C, D, E, F and G, all of whom were at the Wanganui Police Station in Bell Street, and who left that Station in four marked Police vehicles to assist with the pursuit.

When the Commodore reached the end of Bignell Street, it travelled through the intersection with Kings Avenue and into Tawa Street, making a sharp right and then left-hand turn in order to do so because of the configuration of that intersection.

Officer A advised Comms "*Heading down Tawa in the direction of Gonville Ave. Past Gonville Ave. Going in excess of a 100 k's*".

The Commodore continued along Tawa Street at a speed estimated to be in excess of 100kph. Officer A later said that as he followed the vehicle into Tawa Street, it was some 150 to 200 metres in front of him.

Officer A momentarily lost sight of the Commodore as it negotiated a rise towards the end of Tawa Street. When he got to the top of the rise he saw smoke ahead of him at the intersection of Tawa Street and Koromiko Road and he believed that the vehicle had spun out at that intersection. He advised Comms that the driver had "*lost it*" on Koromiko Road.

Two witnesses, who saw the incident from properties near that intersection, later stated that the Commodore had mounted the footpath on Koromiko Road before skidding to a stop on a grass verge. One of those witnesses added that this had happened outside a property where a woman with a pushchair and "*one or two toddlers*" were walking down the driveway towards the footpath.

Mr Maru and the passengers in his vehicle subsequently acknowledged at interview that the car had "*spun out*" 360 degrees. One of the passengers also said that as the vehicle started to spin, she saw the woman with "*two or three little kids*" and that she was initially worried that their car may have hit them.

After Mr Maru had regained control of the vehicle, he continued at speed along Koromiko Road towards the intersection with Carlton Avenue.

Officer A later said that as his vehicle entered Koromiko Road in pursuit of the Commodore, Mr Maru was only some 30 metres in front of him, although he was accelerating away from him.

It was at this time that one or more of the passengers in the Commodore poured the contents of a plastic motor oil container onto the road. The container was then thrown onto the roadway.

Officer A advised Comms “*Just dumped oil out of the window.*”

It was at this point that he was able to read the registration number of the Commodore and he advised Comms of it.

The Commodore then continued to the end of Koromiko Road, where it made a right-hand turn into Carlton Avenue, taking the corner on the wrong side of the road. Officer A later said that the vehicle was, at that point, some 100 metres ahead of him.

The Commodore proceeded along Carlton Avenue, moving to the wrong side of the road to overtake a vehicle that was proceeding just short of the intersection with Heads Road before going through that intersection, which is controlled by a give way sign, without slowing.

Officer A advised Comms “*Straight through give way, heading... Taupo Quay.*”

The Commodore continued to the end of Carlton Avenue, where it was seen by Officer A to brake slightly before turning left onto Taupo Quay. Officer A later said that the vehicle was, at that point, some 150 metres ahead of him.

Officer A advised Comms “*Left, left, left onto Taupo Quay towards town.*”

He was asked by the dispatcher to “*keep the commentary up.*”

Officer A continued to pursue the Commodore, himself turning left onto Taupo Quay. He later stated that he was becoming concerned at this point that the vehicle was heading towards a busy area in town and so he decided to “*hold back and not try to catch up to the Commodore.*”

By this time, one of the four Police cars to have left the Wanganui Police Station in response to Officer A's radio calls was on Taupo Quay opposite Pacific Place, a distance of approximately 850 metres from the Victoria Avenue intersection.

The vehicle, containing Officers E and F and driven by Officer E, had stopped in this position so that the officers could make a U-turn and return back along Taupo Quay to the Police Station to obtain road spikes.

Officer E later said that after hearing a radio transmission from Officer A indicating that the offending vehicle was heading onto Taupo Quay, he looked ahead and saw the Commodore and the flashing red and blue incident lights on Officer A's vehicle coming towards him.

As soon as Officer A's vehicle had passed their position, Officers E and F activated their siren and made a U-turn to follow Officer A's vehicle and the Commodore back along Taupo Quay towards the intersection with Victoria Avenue.

The Commodore continued along Taupo Quay towards that intersection at a speed estimated by a civilian witness to be well in excess of 100kph.

Officer A later said that the Commodore was some 200 metres in front of him as it travelled down Taupo Quay and past the Suzuki premises, which occupy the block between Pacific Place and Heads Road.

At this time, two of the other three Police cars to have left the Police Station were travelling on the opposite side of Taupo Quay in the vicinity of the BP Service Station, approximately 410 metres from the intersection with Victoria Avenue. The first of these vehicles contained Officer G and the second contained Officer D.

Officers D and G later said that they heard Officer A mention Pacific Place over the radio and that they were under the impression that the offending vehicle had gone into that road, which is a dead end industrial cul-de-sac off Taupo Quay.

Officer G said that after hearing Pacific Place mentioned by Officer A, and knowing that it was a dead end street, she was intending to set up cordons in the area.

Officers D and G were therefore both surprised, they later said, to see the Commodore coming towards them at speed along Taupo Quay.

Officer G reacted by immediately pulling her vehicle to the left of the road in the vicinity of the BP Service Station.

Officer D, who was behind Officer G, immediately braked and also pulled his vehicle to the left of the road. Officer D later said that he was opposite the underground car park of K-Mart (now the Warehouse) at the time and that he pulled to the left of the road because he believed that the Commodore, which was in the process of overtaking a vehicle and which was on the wrong side of the road, would collide with his patrol car head on.

As the Commodore went past him, Officer D made a radio call saying "*she's just about pull the pin material...*"; thus suggesting that the pursuit should be abandoned.

Officer A later said that he was outside the K-Mart building, which is on the corner of Taupo Quay and Wilson Street and approximately 320 metres from the intersection with Victoria Avenue, when he heard Officer D's radio call to cease the pursuit.

The tape of the radio traffic generated during the pursuit shows that he immediately replied "*Roger*". He later said that he then immediately took his foot "*right off the accelerator*".

Officer E, who with Officer F was travelling behind Officer A's vehicle, later said that he heard Officer D's suggestion to "*pull the pin*" at about the time his vehicle was approaching Wilson Street and that he immediately slowed down.

Once Officer A and Officers E and F had travelled past him, Officer D made a U-turn from his position opposite K-Mart, pulling in behind Officers E and F and driving back along Taupo Quay towards the intersection with Victoria Avenue.

Officer G then completed a U-turn behind Officer D, following him back along Taupo Quay.

At this time, the fourth Police vehicle, containing Officers B and C, was parked on the opposite side of Taupo Quay near the old bus station, a distance of approximately 190 metres from the intersection with Victoria Avenue. Officer B later said that he had pulled to the side of the road after he saw the Commodore approaching his vehicle.

Officer B made a U-turn from this position once the Commodore had travelled past him, thereby placing his vehicle directly behind the Commodore and in front of the vehicle being driven by Officer A.

As Officer B completed that manoeuvre the Commodore drove through a red light at the intersection of Taupo Quay and Victoria Avenue, colliding with Ms Bourne's vehicle which had travelled down Victoria Avenue and which was faced with a green light at that intersection.

A period of 2 minutes and 32 seconds had elapsed between the time at which Officer A notified Comms of the pursuit and the collision. The pursuit covered a distance of approximately 3.4 kilometres and its entire course was on roads on which the speed limit is 50kph.

After examining the scene of the collision and the vehicles involved, a specialist Police crash analyst, who has had many years experience in this work, was of the opinion that the Commodore had continued to accelerate until impact and that its speed at that point was increasing and was in excess of 110 kph although probably not more than 120 kph.

Criminal Prosecution of Mr Maru

Mr Maru subsequently pleaded guilty to the manslaughter of Ms Bourne and was sentenced to seven years' imprisonment.

Inquest

On 4 July 2000, the Coroner (Mr C L Riddet) decided that an Inquest would not be held into Ms Bourne's death because the cause of death had been determined by Mr Maru's conviction for manslaughter.

Issues Arising

1. The Pursuit

The procedures to be observed in the execution and control of motor vehicle pursuits by the Police are contained in Police General Instructions V001 to V013.

General Instruction V004 sets out the responsibilities of the driver of the "*primary pursuing patrol vehicle*".

The first of several responsibilities of the Police driver listed in the Instruction is:

"The primary responsibility for the initiation and conduct of a pursuit rests with the Police officer driving the primary pursuing patrol vehicle. The Police driver must exercise every care to ensure the safety risks of undertaking a pursuit are reduced as far as possible in all the circumstances".

Other responsibilities include immediately advising Comms of the pursuit and the reasons for initiating it; using warning lights and siren; driving at a safe speed at intersections and other potentially dangerous places; and maintaining radio contact with Comms giving *“accurate updates on conditions surrounding the pursuit”*.

Throughout the incident Officer A was the driver of the primary pursuing patrol vehicle. Officer B, having moved into a position in front of Officer A, would therefore have assumed that role had the pursuit continued.

During the investigation it emerged that Officer A had not advised Comms of the reason for initiating the pursuit as is required. It also emerged that, while he had activated the flashing red and blue incident lights on his vehicle immediately upon commencing the pursuit, he had not activated his siren until he was in Tawa Street, some 40 seconds after advising Comms of the pursuit. This followed his being asked by Comms whether his lights and siren were on and also a comment by Officer D that he was unable to hear the siren over the radio.

Officer A later said that he had not activated his siren prior to this time because he had been *“juggling”* his radio handpiece and trying to drive the patrol car in order to keep up with the Commodore. He also said *“It was difficult calling in what was taking place, as I was on my own and had to drive and operate the radio simultaneously as well as make sure that my own driving was safe”*.

As the lone officer in the vehicle, Officer A was undoubtedly under pressure in maintaining contact with the pursued vehicle while also providing a commentary to Comms on the pursuit. I make no criticism of his omissions.

Turning now to the requirement to drive at a safe speed at intersections and other potentially dangerous places, Officer A later said that he slowed for the intersections along the route of the pursuit to check that the way was clear. One witness, who saw part of the pursuit from a property on Koromiko Road, later reported that the Police vehicle had *“slowed down”* at the intersection of Tawa Street and Koromiko Road. Another witness, who was driving on Carlton Road, said that she had seen the brake lights of the Police car as the officer approached the intersection of Carlton Avenue and Heads Road and had seen *“his head move very quickly from side to side, as if he was looking left and right at the traffic approaching”*.

As to the requirement to provide Comms with a commentary on the progress of the pursuit, the radio tape shows that Officer A did so, although some parts of his radio transmissions were indistinct, a problem referred to later in this report.

A further responsibility of the Police driver is to abandon the pursuit if its continuation poses an immediate and serious risk to the safety of any person and if that risk *“(a) exceeds the risk for which the pursuit was initiated or (b) is not outweighed by the need to apprehend the suspect”*.

To this end General Instruction V004 requires the Police driver to reassess the situation constantly to ensure that continuation of the pursuit is justified and that no other less dangerous means of stopping the vehicle is reasonably available.

The factors which should be taken into account in considering whether the continuation of a vehicle pursuit is justified are set out in General Instruction V005. These relate to the safety of the public, the pursuing Police officers and the offending driver; the influence the pursuit appears to be having on the offender's driving; the number of people in the pursued vehicle giving potential for innocent parties to be injured; the known identity of the pursued driver and whether an arrest can be made later.

In a statement about the incident, Officer A stated *“I turned left into Taupo Quay and at that stage the Commodore was past the underpass of Cobham Bridge. ... At that stage I was becoming concerned about the direction the Commodore was taking i.e. towards a busy area in town and I made a decision to hold back and not try to catch up to the Commodore”*.

He later stated:

“I was in a difficult position at this time because the driver from the outset presented a danger to the public because of his manner of driving. Even at times when I was some distance back the driver of the car continued to drive at speed and when able was accelerating. What I am saying is that his actions throughout made him an existing danger and there is a requirement of the Police to prevent that if possible. His manner of driving was reckless in the extreme and even when I turned left into Taupo Quay there were still escape options available to the driver. Therefore I chose to slow down but to try and keep observations on the driver so I could call in any direction which would have allowed us to stop the vehicle without further danger to the public”.

Although Officer A did not advise Comms, upon turning into Taupo Quay, that he was *“holding back”*, the accounts of numerous civilian witnesses to that stage of the pursuit, and of two passengers in the offending vehicle, indicate that his vehicle was some distance behind the Commodore as it travelled along Taupo Quay towards the intersection with

Victoria Avenue. Mr Maru himself acknowledged at interview that Officer A was “*backing off trying to get me to slow down*”.

The Authority is satisfied that Officer A did ‘hold back’ once he entered Taupo Quay.

A question for consideration is whether the pursuit should have been abandoned prior to the collision.

The General Instructions do not define what constitutes the abandonment of a pursuit, and the prescribed operating procedures and Police training materials are in some respects at variance with each other. In particular it is unclear whether abandonment involves stopping, or slowing, or stopping and then proceeding at normal speed.

It was Officer D who suggested that the pursuit cease, saying “*she’s just about pull the pin material...*”.

At that point Officer A was outside K-mart, some 320 metres from the Victoria Avenue intersection. The radio tape shows that he replied “*Roger*”. He later said that “*I then immediately took my foot right off the accelerator*”.

Officer E, who by this stage was also involved in the pursuit and was travelling behind Officer A, later reported that, on hearing Officer D’s transmission, he too immediately slowed.

From the accounts of witnesses to the final stage of the pursuit, the weight of the evidence indicates that the officers did reduce their speeds. Civilian witnesses have reported seeing the brake lights on the patrol vehicles and have said that the cars were “*definitely slowing down*”. Mr Maru himself acknowledged at interview that it was “*obvious*” to him that Officer A was slowing down. Two other witnesses, who saw Officer B complete a U-turn so as to place his vehicle behind the Commodore, commented that the pursuing Police vehicles must have been a sufficient distance behind the Commodore to allow Officer B to complete that manoeuvre.

A small number of those who witnessed the final stage of the pursuit have suggested that the Police vehicles were still chasing the Commodore just prior to the Victoria Avenue intersection. They have stated that the pursuing Police arrived very quickly at the scene of the collision and that the first Police car appeared to be travelling very closely behind the offending vehicle.

After studying the accounts of the participants in, and of all of the witnesses to, that stage of the pursuit, I am satisfied that Officers A and E reduced speed upon hearing Officer D's suggestion to "*pull the pin*".

In coming to this conclusion I have not disregarded the accounts of any of the witnesses but I have acted on the accounts given by a substantial majority of them.

Although Officers A and E, and in particular Officer A as the driver of the primary pursuing vehicle, did reduce speed, the Authority considers that it would, in hindsight, have been appropriate in the circumstances of this pursuit for them to have stopped and to have terminated the pursuit by that means. The reasons for the initial requirement of Mr Maru that he stop did not necessitate his immediate apprehension. It does not however follow, had the pursuit been abandoned in this fashion, that Mr Maru would then have driven sensibly and lawfully. He may have done so but on the other hand he may have continued in the same manner and brought about the same tragedy as did occur, or another. In this connection it is relevant that Mr Maru later said that, although he was aware that the pursuing Police car had slowed, he was also aware of the other Police vehicles which were ahead of him on the other side of Taupo Quay, and that "*I was just freaking out on all the cars*" and "*I was just thinking of getting away*". It follows that, had Officer A stopped, as distinct from slowing, that may not have been an influence on the actions of Mr Maru as he proceeded along Taupo Quay.

While one may speculate that the abandonment of this pursuit, in the sense of the pursuing Police stopping their vehicles, may have had a calming effect on Mr Maru's driving, that can be no more than speculation and the probabilities are otherwise.

The complexity of this issue is illustrated by the fact that experienced members of the Police have taken differing views as to the point at which Officer A may or should have '*abandoned*' the pursuit.

Research conducted overseas has not to date produced a clear result as to the likely effect of the termination of a pursuit. That research has been undertaken because, overseas as well as in New Zealand, fleeing drivers have caused tragedies. On some occasions the termination of a pursuit has a calming effect on the driver being pursued, on other occasions it does not and the driver continues to drive dangerously. The outcome of the research so far is to draw attention to the unpredictable nature of the behaviour of fleeing drivers and the risk which is presented to the public whether a pursuit is continued or discontinued.

The Authority recognises the difficulties faced by the Police in circumstances such as these and the part which chance may play in determining the outcome of an individual incident.

A risk which confronts the Police is that, whether they proceed with a pursuit or discontinue it, they may be blamed for the eventual result of the offender's conduct.

Although Officers A and E slowed their vehicles it appears probable that their lights and sirens remained in operation until the collision. While Police procedures (although not the formal General Instructions) contemplate the deactivation of lights and sirens as part of the abandonment of a pursuit, it is recognised by the Police that lights and sirens do provide a degree of warning to pedestrians and other road users which on this occasion was, sadly, not effective.

One matter disclosed by this investigation is that the rules as to the steps which are to be taken when 'abandoning' a pursuit are imprecise. The Authority recognises that each incident presents its own individual circumstances and that it is therefore difficult to prescribe rules which will be of general application. It is however reported by the Police that a review of the existing procedures is in train. The Authority endorses this undertaking and recommends that it proceed as promptly as possible.

Reference has been made above to Officer B who, from a stationary position near the old bus station on Taupo Quay, approximately 190 metres from the intersection with Victoria Avenue, made a U-turn to place his vehicle directly behind the Commodore. He subsequently explained that he had no intention of pursuing the Commodore and that he had made the U-turn as a natural reaction to the risks posed to others by the Commodore. He said that he had not heard Officer D's suggestion to "*pull the pin*" and that by completing the U-turn he felt that he would have been in a better position to provide information to Comms and to other operational units. He stated that upon completing the U-turn, however, the collision unfolded before his eyes. As the collision occurred almost immediately upon his completing the manoeuvre, it is the opinion of the Authority that this action did not exacerbate Mr Maru's driving.

2. External control of the pursuit

General Instructions set out the complementary responsibilities of Police drivers and of controlling officers.

The controlling officer is defined in the Instructions as *“the dispatcher or communications centre supervisor, or the officer’s immediate supervisor ”*. The Authority is advised that the practice is that the Communications Centre dispatcher or supervisor is to be the controlling officer, unless for some reason neither can do so in which event the officer’s immediate supervisor undertakes the role.

In this incident Officer H was the Acting Shift Manager at Comms, a supervisory position that would not normally require him to act as a dispatcher. However, he was also the dispatcher on the Wanganui channel at the time of the pursuit, having been required, because of staff absences, to relieve for the rostered dispatcher, who had taken a break only minutes before the pursuit was reported by Officer A. He was therefore the controlling officer.

The primary responsibilities of controlling officers are set out in General Instruction V008 as:

“Controlling Officers shall monitor and supervise the pursuit, and where practicable co-ordinate other operational resources. At all times they should consider how the pursuit can be safely and successfully terminated”.

Other responsibilities include immediately establishing with the officer/s in the pursuing Police vehicle the reasons for the pursuit and that its continuation is justified; reminding the pursuing officers of the key pursuit responsibilities; and ensuring that the unit engaged in the pursuit is regularly questioned about road and traffic conditions.

In assessing the control which was exercised over the pursuit by Officer H, the radio tape has been listened to.

It was found that Officer H had asked Officer A whether he had activated his lights and siren and that he had clarified with the officer the street which he was then driving on. He also told the officer to *“keep the commentary up”*.

It was however found that he had not established with Officer A the reasons for initiating the pursuit. It was also found that he had not reminded Officer A of some of his responsibilities as set out in General Instruction V004 above, nor ensured that he was regularly questioned about road and traffic conditions.

A further responsibility of the controlling officer is to direct the abandonment of the pursuit if its continuation poses an immediate and serious risk to the safety of any person and if that

risk “(a) exceeds the risk for which the pursuit was initiated or (b) is not outweighed by the need to apprehend the suspect”. This mirrors the obligation which is placed on the driver.

To this end the Instructions require controlling officers to reassess the situation constantly to ensure that continuation of the pursuit is justified and that no other less dangerous means of stopping the vehicle is reasonably available. The Instruction also requires them to direct Police staff to abandon the pursuit immediately when the circumstances no longer justify its continuation.

The radio tape shows that Officer A made calls detailing the dangerous manner in which Mr Maru was driving. In particular, he advised that the Commodore was travelling “*in excess of a 100k’s*”, that it had “*lost it*” on Koromiko Road, and that it had gone straight through an intersection which was controlled by a give way sign. He also advised that the vehicle had turned left onto Taupo Quay and towards town.

It is appropriate to record the concerns of Officer H, who said that he had problems with the radio transmissions during the pursuit, which he said were “*very very difficult to understand*”. He stated that Officer A’s transmissions were “*breaking up constantly*” and that there were problems due to other Police units cutting in and questioning the pursuing vehicle, which made it difficult for him to ask the relevant questions regarding the reason for the pursuit, the speed and the traffic conditions.

The tape confirms that there were distortions and interference during some of the radio transmissions. However they also show that, although he made several transmissions during the pursuit, Officer H did not attempt to restrict the transmissions of other Police units so that he could fully meet his responsibilities as the controlling officer.

In the view of the Authority it would have been appropriate for Officer H at least to question the need to continue the pursuit, particularly as he was unaware that Officer A was ‘holding back’ once he had entered Taupo Quay. However, had Officer H done so, or had he given a direction to “*abandon*” the pursuit, as General Instructions authorised him to do, it is not clear what action Officer A would have taken (because of the several meanings attached to the expression ‘abandon’). Nor, as has been explained, can it be said that any action by Officer A, other than slowing down as he did, would have had any effect on Mr Maru.

3. The Role of Communications Centres

In a recent report (*Drewett*) the Authority referred to the issue of the role of the three Communications Centres operated by the Police throughout the country, the question being whether the Centres have a command and control function or purely a communications function.

It is reported to the Authority by the Police that this issue has been resolved and that, as to command and control, the role of a Communications Centre is to provide tactical management until such time as management of an incident can be established locally.

The Authority recommends that the Police take steps to ensure that all frontline staff and all Communications Centre staff are fully aware of, and are adequately trained in, the roles which they are required to undertake and the procedures which they are to follow.

4. Radio transmissions

During the investigation concern was expressed about the quality of the radio transmissions made during the pursuit.

The tape on which were recorded the transmissions made during the pursuit has been examined by a senior technical investigator from the Police Electronic Crime Laboratory and by a senior technician from the Police Information and Technology Group. It was found that parts of the transmissions were either unintelligible or of poor quality. A number of factors were thought to be responsible for this, the most significant of which were broken transmissions caused by incorrect operation of the radio 'press to talk' (PTT) button, or by a faulty PTT button, or by two or more Police units transmitting simultaneously.

It is reported by the Police that these issues are to be addressed, as to equipment, by the replacement of faulty radios and the introduction of an annual preventive maintenance programme and, as to problems over radio operation, by the further training of staff in the equipment on issue and in radio procedures and protocols.

As difficulties with Police radio transmissions have affected other emergency situations, it is recommended that these measures be advanced promptly.

I turn now to consider the Police involvement with the offending vehicle in the days and hours prior to the commencement of the pursuit.

Rotorua Police

The Commodore driven by Mr Maru had been stolen from Rotorua by persons unknown at around 4:40 am on Saturday, 26 February.

At approximately 5am, Officer I, an officer with eleven months Police service, was finishing his shift (9pm to 5am) as the lone watchhouse keeper at the Rotorua Police Station when he received a telephone call from the owner of the vehicle reporting its theft approximately twenty minutes earlier.

At the time, Officer I's replacement in the watchhouse had commenced work but he was busy with other duties and so Officer I took the complaint details.

After doing so, Officer I should, in accordance with prescribed procedures, have entered the details of the stolen vehicle into the Vehicle of Interest ('VOI') sub-system of the Wanganui Computer. I am advised that it is important that this is done because it will enable the Police to ascertain that a vehicle is stolen, even if its registration plates have been changed, provided the chassis number and engine number of the vehicle have not both been changed and are queried.

Officer I later reported that he did not yet feel competent to attend to this himself and that he usually got a computer operator to do it for him, but that no operators were to be at work until 7 am that morning.

Officer I therefore completed a computer query on the registration number of the stolen vehicle (a Query Vehicle Response – 'QVR') and at 5:13 am, as an interim measure, entered the fact that the car had been reported stolen in what is known as the "*location field*" of the QVR. I am advised that this is the field in which the Police enter the location of the vehicle at the time a QVR is completed and, although this is not general practice, they will at times enter additional information as well. This was the course taken by Officer I on this occasion. A subsequent QVR of the vehicle's registration number would show that a computer query had previously been made. It would then be necessary for a further query to be made in order to ascertain whether any additional information had been entered on that previous occasion.

It appears that the practice of entering additional information in a QVR varies around the country, it being recognised in some Districts but not in others. The Authority recommends that the procedure be standardised nationally in whatever form is decided upon.

Officer I then left for the duty Senior Sergeant, Officer J, the paperwork which he had completed and the printout showing that he had entered the vehicle as stolen in the QVR. He later said that he believed that this paperwork would enable the VOI entry to be made when the Senior Sergeant and a computer operator commenced work at 7 am.

Officer I did not however brief his replacement in the watchhouse about the reported theft so as to enable that officer to make the VOI entry, nor did he advise Police patrols by radio of the stolen vehicle. He later said that he did not broadcast the vehicle's details over the radio because it had been stolen "*at least half an hour since*".

The Authority considers that it would have been appropriate for Officer I to notify Police patrols of the reported theft. It cannot be said that, had he done so, the stolen car would have been intercepted, as the paths of the Commodore and of any of the Police vehicles then on patrol may not have intersected, but the passage of half an hour did not exclude the possibility of the Commodore being observed.

Turning now to Officer J's involvement in the incident, having commenced duty at 7am, he was processing correspondence when he saw the papers prepared by Officer I. However as some of the required paperwork was missing, he minuted the papers back to Officer I querying where they were.

Officer J later said that he did this because Officer I was a very junior member of staff with minimal Police service and he considered it appropriate to return the papers to him so that he could complete the outstanding matters as a training exercise.

Officer J could not recall whether he had put the papers in Officer I's in-tray or whether he had placed them in the outward tray to be delivered to Officer I through the internal mail system.

Officer I later said that the papers were not in his in-tray when he returned to work that night (26 February), or on 27 February, or before commencing days off at 5 am on Monday, 28 February.

It therefore appears that the papers were returned to Officer I through the internal mail system, which would not have been cleared until some time after 8:30am on Monday, 28 February, by which time Officer I was on his rostered days off.

In explaining why he did not take any action himself to have the vehicle entered into the VOI sub-system, Officer J said that he was aware from the computer printout provided by Officer I that the officer had entered the stolen status of the vehicle in the location field of the computer query which he had made. He said that he was satisfied that any person who subsequently queried the registration number of the vehicle would be "*immediately*" alerted to the fact that it had been reported as stolen. In this belief he was mistaken in that, as has been explained, it would require an additional computer query to ascertain that.

In this case several factors were present. The engine of the vehicle had been replaced, apparently by a previous owner, but the replacement engine number had not been reported by that owner for entry in the vehicle registration records. Different registration plates and a different chassis number were attached by Mr Maru once he came into possession of the vehicle. It follows that a VOI entry would not have resulted in a subsequent computer query disclosing the stolen status of the vehicle. These circumstances were not however known on the morning of 26 February and the Authority considers that Officer J should, on receipt of the papers, have arranged a VOI entry in addition to referring the file back to Officer I.

It is a clear lesson of this event that members of the Police should appreciate that care must be taken before deciding of any matter that immediate action is not required, even should that action be of a routine nature.

Wanganui Police

The stolen Commodore was driven to Wanganui by persons unknown. Mr Maru later admitted that once in possession of the vehicle, which he said had already been stripped of its identifying details, he removed the registration plates, licence label and chassis number tag from a legitimate Commodore and attached them to the stolen vehicle. The licence label had expired but was otherwise valid in respect of the vehicle from which it was taken.

Following the collision it was ascertained that the stolen Commodore had been stopped, or that the registration number which it then displayed had been queried, on three occasions by members of the Wanganui Police prior to the fatal collision.

The first occasion was at approximately 10:20 am on 28 February, when the Commodore was stopped at a routine checkpoint.

Officer K, the Sergeant in charge of the operation, later said that two matters drew his attention to the Commodore. He said that the front registration plate was on the dashboard

of the car rather than being attached to the vehicle. He also recognised the driver, Mr Maru, and suspected that he either did not have a driver licence or that he may have been disqualified from driving.

He asked to see Mr Maru's driver licence and found that he was a licensed driver but that he was subject to restrictions, one of which was that he could not carry passengers without being accompanied by a person who has held a full driver licence for at least two years.

Officer K then checked the number on the front registration plate against the registration number on the licence label. He also checked that the licence label specified a Commodore.

He then went to the back of the car to check whether the rear registration plate matched the front plate and the details on the licence label.

As Mr Maru had placed on the vehicle the registration plates and licence label from the legitimate Commodore, all three numbers matched and the licence label specified a Commodore.

Officer K also checked the rear registration plate, which was attached to the vehicle, to see whether there were any scratch marks around the screws to indicate that it had recently been fitted to the car. He could find none. He then asked Mr Maru to open the boot of the car so that he could check whether there were internal indications that the plate had recently been attached. He later reported that the boot was clean and that there were no tools or other items to indicate that the vehicle may have been stolen.

Officer K and another officer then looked under the bonnet of the vehicle and checked with Comms its engine and chassis numbers, Officer K later stating that the chassis number tag showed signs that it had been tampered with. The officers were advised by Comms that there were no records indicating that either number was linked to a stolen vehicle. This is explained by the fact that the engine had been replaced at some point after the vehicle's original registration without the replacement number being recorded, and because Mr Maru had attached the chassis number tag from the legitimate Commodore to the stolen vehicle.

Officer K later reported that he also asked Comms to check the vehicle's registration number (a QVR) but, as the registration plates had been taken from the legitimate Commodore, the result of the query indicated that the vehicle was a green Commodore and that it was not a vehicle of interest. Officer K said that, while the result of the query indicated that the car was

a different colour to the vehicle which he had stopped, it is not unusual for vehicles of such an age to have been repainted.

Officer K also checked the warrant of fitness of the vehicle and found the writing on it to be heavily faded and unreadable. He said however that the warrant was firmly attached to the windscreen and appeared to have been fixed to it for a long time and did not appear to have been transferred from another vehicle.

Officer K later stated that while he felt uneasy about the status of the vehicle, he did not believe that there was sufficient for him to seize it or to detain Mr Maru on suspicion of unlawful taking or theft of the vehicle. He therefore issued Mr Maru with an Infringement Notice for breaching the conditions of his restricted licence and for driving a vehicle without a current licence label, and allowed him to proceed.

Two further checks were made on the vehicle by the Police prior to the pursuit.

Shortly after 1:30 am on 29 February Officer L asked Comms to check the registration number which the Commodore was then displaying and the registration number of a car it was following after he observed both cars slow as they approached his patrol car. He was advised by Comms that neither car was a vehicle of interest.

He later said that he spoke to the occupants of the first vehicle, which had pulled into a private driveway and from which three males had alighted. He said that by radio he asked other patrols to keep a look out for the Commodore because the occupants of the first car were not very forthcoming with information and he realised that he would be occupied with them for some time.

Approximately an hour later at around 2:40 am Officer M had occasion to speak to Mr Maru after he saw the Commodore parked facing the wrong way on a grass verge and a number of persons moving about the vehicle, apparently loading and unloading property. The vehicle was parked outside an address which was known to the Police.

Officer M later said that he spoke with Mr Maru, who explained that he and his friends had just returned from holiday and were unloading their belongings from the car. He stated that Mr Maru took him to the rear of the car and showed him the boot, which contained bags, a duvet and some other sleeping gear.

Officer M conducted what he later described as a “*cursory*” inspection of the Commodore and he asked Comms to complete a computer check on the registration number. He was advised by Comms that the registration number belonged to a Commodore, but of a different colour. He was also advised that the Commodore of that registration number was not a vehicle of interest. Officer M later said that considering the age and condition of the car, he was not surprised that it was a different colour to that advised by Comms.

Officer M was, as he later put it, “*reasonably satisfied*” with the explanation given by Mr Maru and as no grounds existed for him to examine the vehicle further, he left the area.

The Authority considers that the officers who dealt with the Commodore during the three checks in Wanganui were not at fault in their handling of those checks, having regard to the comprehensive changes made to the vehicle’s identifying details and to the fact that none of those officers were specialists in the detection of motor vehicle theft.

The Authority recommends that as many officers as is practicable should receive specialist training in this field.

Conclusion

The investigation has disclosed matters which may, and in some instances should, have been handled differently by members of the Police. It does not however follow that this would have prevented the collision which resulted in Ms Bourne’s death.

This was a tragic incident in which a number of events combined so as to bring about the death of a motorist who was wholly without fault in the matter. The cause of the fatal collision was the unlawful and gravely irresponsible driving of Mr Maru.

In concluding this report the Authority expresses its sympathy to the family and friends of Ms Bourne.

Judge I A Borrin
ACTING POLICE COMPLAINTS AUTHORITY

26 November 2001