

# Police pursuit resulting in a crash in Petone

## INTRODUCTION

1. At about 4.08am on 12 November 2016, while being pursued by Police, Mr W lost control of the stolen Subaru he was driving in Petone, Wellington, and crashed. Mr W and the front-seat passenger, Mr X, then fled from the crashed vehicle in opposite directions.
2. Mr W was quickly apprehended by a Police dog and received a minor dog bite. Mr X was tracked by the Police dog and also received a minor dog bite. Mr Y and Mr Z, the back-seat passengers of the crashed vehicle, were cut out by emergency services and taken to hospital to receive treatment for their injuries.
3. The Police notified the Independent Police Conduct Authority of the pursuit and the Authority conducted an independent investigation. This report sets out the results of that investigation and the Authority's findings.

## BACKGROUND

4. This section of the report provides a summary of the incident and the evidence considered by the Authority. When quoting or describing the accounts of any officer, complainant or witness, it is not intended to suggest that the Authority has accepted that particular account.
5. Analysis of the evidence and explanations of where the Authority has accepted, rejected or preferred that evidence is reserved for the 'Authority's Findings' section.

### Summary of events

6. At about 4am on 12 November 2016, Officer A (a dog handler) was patrolling by himself, heading north on Reynolds Street in the Taita area. He was aware that there had been a high number of Subarus stolen in previous months.

7. As Officer A drove through the intersection of Reynolds and Tocker Streets, he noticed two Subarus, one white and one silver, travelling at speed in convoy and heading south. The leading vehicle, the white Subaru, had its headlights off. Its hazard lights were also flashing and the alarm was sounding. Officer A immediately thought this was suspicious and that at least one of the vehicles must have been stolen.<sup>1</sup> He told the Authority that he wanted to stop the drivers in order to prevent further offending.
8. Officer A activated his dog van's red and blue flashing lights and siren and completed a U turn. The Subarus were about 100 metres ahead of him and immediately accelerated heavily away.

## Pursuit

9. At 4.03:12am Officer A notified the Police Central Communications Centre (CentComms) that the Subarus were *"failing to stop"*.
10. The Police 'Fleeing driver' policy requires that once a pursuit has been commenced, the communications centre dispatcher must give the warning: *"If there is any unjustified risk to any person you must abandon pursuit immediately, acknowledge"*.
11. The dispatcher immediately gave the pursuit warning which Officer A acknowledged. Officer A also provided his driver and vehicle status to the dispatcher (gold licence and A class vehicle).
12. At about the same time, the dispatcher called the pursuit controller (usually the shift commander of the communications centre) to her desk. As the shift commander was unavailable at the time, Officer B (a team leader) took responsibility as pursuit controller.<sup>2</sup> He had been pursuit controller for about six other pursuits prior to this one.
13. The dispatcher asked Officer A to state the reason for the pursuit and he replied *"two Subarus travelling in convoy, one with the alarm going"*.
14. The Subarus continued onto Taita Drive and drove through the intersection with Percy Cameron Street. Officer A radioed that his speed was 87kph in a 100kph speed zone, when in fact it was a 50kph speed zone. He later told the Authority this was an error, and stated that CentComms staff would have been aware of his mistake because they are familiar with the posted speed limits. However, the dispatcher did not realise that Officer A was in a 50kph zone at the time.
15. Officer A then reported that he had lost sight of the Subaru. After being prompted by the dispatcher, Officer A advised that the road was wet but it was not raining and there was no traffic.
16. Officer A told the dispatcher that he still could not see the fleeing vehicles and then advised that he believed the silver Subaru had turned off Taita Drive into a side street. He asked CentComms if they could arrange for the motorway cameras to be viewed to track the fleeing vehicles.

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<sup>1</sup> The white Subaru had been stolen on 10 November 2016 from a Lower Hutt address.

<sup>2</sup> This is in accordance with communications centre protocol.

17. At 4.05am Officer A radioed that he had deactivated his lights and siren and was “going to get on the motorway”. He also slowed down to the posted speed limit of 50kph.
18. Officer A told the Authority that he did not believe he was abandoning the pursuit at this point because:<sup>3</sup>

*“... you can't abandon something that's not happening. I told Comms that I'd lost the vehicle so I didn't, again rightly or wrongly, didn't think I had to actually stop and carry out abandonment procedures and I mean in the, in the warning they say if there's any threat to persons you have to abandon the pursuit. I believe there wasn't any threat to anybody because I had lost them and I at that stage wasn't pursuing ....”*

19. The dispatcher did not think that Officer A had abandoned the pursuit because she continued to request information from him after he lost sight of the Subaru and he continued to respond. If Officer A had not responded, she would have considered that he had abandoned the pursuit. She told the Authority:

*“He didn't stop pursuing it. He lost [observations] on it and then recommenced, saw it again. So there is a subtle difference in that sense. A clear abandonment from a unit would follow with: 'I have stopped on the side of the road. I am outside [an address], my lights and sirens are off'.”*

20. Officer B said abandoning was not mentioned by CentComms or by Officer A, “so I took it as one pursuit and, and eventually he caught sight of that vehicle again”.
21. Officer A checked the side streets off Taita Drive for the silver Subaru. He later explained that:

*“... the reason for me deactivating my lights at that stage was to hopefully make ground on the vehicles without them decamping or accelerating further in an attempt to get the staff closer to them before the pursuit would possibly be re-engaged.”*

22. Between Tennyson and Frederick Streets, Officer A got a clear view over to the Kennedy Good Bridge and saw the “rear end of a Subaru going onto the bridge”.
23. Officer A then advised the dispatcher that the vehicles were in front of him and had slowed down, and that he did not think the occupants realised he was behind them. The dispatcher told Officer A to “just keep following them at this stage”.
24. As Officer A was approaching the intersection of Kennedy Good Bridge and State Highway 2 (SH2), he saw the traffic lights turn green just before the Subaru turned left at the intersection. Officer A advised the dispatcher that he would also be turning left and heading south.

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<sup>3</sup> See paragraph 61 for Police policy on abandonment procedures.

25. At 4.05:43am he radioed *"I'm going to re-engage pursuit"*. The dispatcher replied *"roger that"*. Officer A told the Authority, *"I felt I was asking permission [to re-engage the pursuit], and getting a 'roger that' confirmed to me that I could do it"*. Officer B agreed that Officer A obtained *"implicit authorisation"* from CentComms.
26. Officer A reactivated his lights and siren. Shortly afterwards he radioed, *"vehicle is failing to stop"*. At this point he thought he was pursuing only one vehicle because the two Subarus were so close to each other.
27. At 4.06:05am the dispatcher gave Officer A a second pursuit warning, which he again immediately acknowledged. Officer A then advised that his speed was 160kph in a 100kph speed zone, and that the white Subaru was staying within its lane and there was no traffic. The dispatcher radioed, *"good commentary, keep it coming"*.<sup>4</sup>
28. The pursuit continued south through two sets of green traffic lights at the intersection of SH2 and Block Road, Melling. Officer A estimated that he was 300 to 400 metres behind the white Subaru at this time. He told the Authority that he considered abandoning the pursuit at this point because he knew it was a major intersection with multiple roads feeding onto SH2. He conducted a risk assessment and, due to the lack of traffic and the manner of driving of the fleeing driver, he believed it was appropriate to continue the pursuit.
29. The dispatcher advised that attempts were being made to get Wellington Police units in place to assist Officer A. Officer B intended to have road spikes set up at the Ngauranga Gorge interchange.
30. Officer A then reported that the Subarus were passing under the Normandale Bridge and that his speed was 170kph. He radioed, *"... there are two vehicles actually, the other one has just taken Maungaraki off-ramp. I'm continuing with the vehicle going southbound State 2, Petone Bowls"*. Officer A thought he was 200 to 300 metres behind the white Subaru at this point.
31. The silver Subaru took the Maungaraki interchange off-ramp and then came straight back down the on-ramp. It was just in front of Officer A's vehicle as it came back onto SH2, and Officer A said he had to swerve to avoid hitting it. Officer A told the Authority that he again considered abandoning the pursuit because of the possibility of an accident.
32. Soon after Officer A rounded the bend near Petone Bowl, where the speed limit drops from 100kph to 80kph, he saw smoke and realised the white Subaru had crashed into the retaining wall on the left-hand side of the road. He radioed CentComms to advise of the crash.
33. It was approximately five minutes from the time that Officer A radioed CentComms that the Subarus had failed to stop on Reynolds Street to the time of the crash. A distance of 11 kilometres was travelled during this time. The silver Subaru drove off and Police were unable to locate it afterwards, although Officer A had noted its registration number.

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<sup>4</sup> The dispatcher told the Authority that Officer A's commentary was clear, unemotional and the relevant information was conveyed. Officer B also commended Officer A on his commentary.

## Apprehension of offenders

34. Officer A slowed down at the crash scene and saw the driver, Mr W, exit the white Subaru and start running southwards. Officer A also saw the front-seat passenger, Mr X, get out of the crashed vehicle and head towards Petone beach.
35. By this stage, Mr W had jumped the median barrier and started running northwards. Officer A stopped his van about 20 metres in front of the crashed vehicle and got out. Mr W was basically beside him but on the other side of the median barrier.
36. Officer A told the Authority that he issued a verbal challenge to Mr W by saying *“Police. Stay where you are or I will release the dog”*. As Officer A was opening the back of his van to get his dog out, he repeated the same verbal challenge to Mr W but Mr W did not stop running.
37. Officer A and his dog jumped over the median barrier in pursuit of Mr W, who ran into Cornish Street. Officer A said that he issued a third verbal challenge but again Mr W did not stop. Officer A then released his dog.
38. As Officer A arrived at the intersection of SH2 and Cornish Street, he saw that his dog had apprehended Mr W about 100 metres down Cornish Street. Mr W was bitten on his right thigh.
39. At about the same time, Officer A heard yelling from the crashed vehicle and realised that there were other passengers inside. When asked whether he had considered checking the crashed vehicle before trying to apprehend Mr W, Officer A said:

*“I was still moving so I didn’t actually stop and have a look in [the crashed vehicle] and the time between then and the actual deploying of the dog was a matter of seconds, and my main focus was on the driver and no time during that time did I hear any yelling or screaming. Yeah I can honestly say that ... if I had’ve been aware of people trapped in the car at that stage my main focus would have been them and not the driver.”*
40. Officer A then radioed CentComms for assistance. A Police unit arrived soon after and went straight to the crashed vehicle.
41. After Officer A had removed his dog from Mr W, he walked Mr W back to the crash scene. Officer A was then told that two people were trapped in the back of the crashed vehicle. He turned custody of Mr W over to another officer and decided that, as other units had arrived, he would track Mr X who he had earlier seen heading in the direction of Petone beach.
42. Officer A’s dog tracked a scent from the front-seat passenger’s door of the crashed vehicle over to a bushed area near a culvert. Officer A called to Mr X *“you need to come out”* and heard rustling in the bushes. He issued another challenge and then saw Mr X run through a flax bush about 15 to 20 metres in front of him.
43. Officer A released his dog, which bit Mr X on his right upper arm. Other officers then arrived and took Mr X into custody.

44. Shortly afterwards, the two back-seat passengers were removed from the crashed vehicle and provided with medical assistance.

#### **Mr W**

45. Mr W was 18 years old at the time of this pursuit. He was treated at hospital for the dog bite he received and crash-related injuries.
46. Mr W did not have a driver licence. He was charged with unlawfully taking a motor vehicle, failing to stop for red and blue flashing lights and two charges of driving dangerously causing injury. On 7 July 2017 he was convicted and discharged in relation to the charge of unlawfully taking a motor vehicle. The other charges were withdrawn.

#### **Mr X**

47. Mr X was 17 years old. He was treated by a Police doctor for the dog bite he received.
48. Mr X was charged with unlawfully getting into a motor vehicle and was convicted on 1 March 2017. He was sentenced to two months and 14 days' imprisonment in relation to this charge and a number of other unrelated charges.

#### **Mr Y**

49. Mr Y was 16 years old. He was taken to hospital with lacerations to both legs and lower back pain.
50. Mr Y was not charged in relation to this pursuit but was referred to Youth Aid.

#### **Mr Z**

51. Mr Z was 18 years old. He was taken to hospital due to a back/neck injury and severe bruising to his left shoulder and stomach.
52. Mr Z was charged with unlawfully getting into a motor vehicle. The charge was withdrawn on 13 June 2017.

#### **Police investigations**

53. A review of the actions of CentComms staff during the pursuit was conducted by a CentComms inspector. The review concluded that:
- 1) Correct abandonment procedures were not followed by Officer A or CentComms.
  - 2) No approval was given by Officer B for the pursuit to be re-engaged.
  - 3) Although Officer A did not seek approval to re-engage the pursuit, the pursuit controller did not take any action to rectify this short coming. However, it could be assumed that

*“authorisation to recommence was given due to the issue of the warning and the acknowledgment by Comms when advised by [Officer A] that he was re-engaging the pursuit”.*

54. Police also investigated the incident. The investigation concluded that Officer A and CentComms staff, under the direction of Officer B, breached the ‘Fleeing driver’ policy regarding the abandonment and re-engagement of the pursuit.

## APPLICABLE LAW AND POLICIES

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### Legislative authority for pursuits

55. Under section 114 of the Land Transport Act 1998, the Police are empowered to stop vehicles for traffic enforcement purposes. An officer can also require the driver to provide their personal details and assist with enquiries to establish the owner of the vehicle under section 114(3).

### Fleeing driver policy

56. The decision to commence, continue, or abandon a fleeing driver pursuit must be continually assessed and reassessed in accordance with the TENR (Threat-Exposure-Necessity-Response) risk assessment tool.
57. During a pursuit, warning lights and siren must be simultaneously activated at all times. The Communications Centre must also be advised immediately if there is a fleeing driver and a pursuit has been initiated.
58. The pursuing staff member who is responsible for undertaking radio communications should provide the pursuit controller with timely and consistent situation reports (when it is safe to do so). Where additional information is required or yet to be transmitted, the dispatcher or pursuit controller should prompt for the required details. The lead vehicle driver must also comply with all directions from the pursuit controller.
59. As part of a flexible response model, all suitable tactical options should be considered, or requested, to safely apprehend the fleeing driver. This could include not pursuing or abandonment.

### Abandonment

60. The lead or secondary vehicle drivers or their passengers, the field supervisor, and the pursuit controller must monitor the risks and take responsibility to make decisions about the safe management and apprehension of the fleeing driver. Any of these individuals can order the fleeing driver incident to be abandoned if they believe that the risk to the public, Police employees and/or the fleeing driver outweighs the seriousness of the offence and the necessity of immediate apprehension. Police employees should be flexible in their response to what will often be a rapidly changing situation.

61. All Police vehicles must immediately carry out the following steps when there has been a direction or decision to abandon a pursuit:
- 1) Acknowledge any direction to abandon the fleeing driver pursuit, or advise the pursuit controller that the pursuit has been abandoned.
  - 2) Immediately reduce speed to increase the distance between the fleeing vehicle and their own.
  - 3) Deactivate warning devices once below the posted speed limit.
  - 4) Stop as soon as it is safe to do so. If stopping in an area such as a motorway, safety may necessitate that the warning lights remain activated until the vehicle is mobile again.
  - 5) Confirm to the pursuit controller they are stationary and state their specific location.
  - 6) Undertake inquiry phase as directed by the field supervisor.

#### *Re-engagement*

62. After a pursuit has been abandoned, permission must be sought from the pursuit controller to re-engage a fleeing driver.
63. Permission will only be granted to re-engage a vehicle previously involved in an abandoned fleeing driver incident if the pursuit controller is satisfied that any subsequent risks are mitigated or the situation has changed.

#### **Use of force with Police dogs**

64. The legal authority to use force is given to the handler, and the dog is the handler's instrument. The use of force involving a Police dog can only be justified if the use of force by the handler would be legally justified under sections 39 to 42 or 48 of the Crimes Act 1961. Section 62 of the Crimes Act makes an officer criminally responsible for any excessive use of force.
65. Police policy states that when locating suspects or otherwise dealing with people when accompanied by a Police dog, dog handlers must take reasonable steps to ensure that their Police dog cannot initiate contact or bite that person unless commanded to do so.
66. Before a Police dog is deployed to bite a person, the person must be warned or challenged to surrender, unless it is unsafe or impracticable to do so. The challenge must:
- identify the dog handler as a Police employee;
  - identify that the dog handler has a Police dog;
  - identify that a dog will be used to bite the suspect if he or she does not surrender to Police; and



- be of such volume that it is reasonable to expect the person to hear it.
67. Dog handlers must stop their dog from biting as soon as possible after the dog has apprehended a suspect or bitten any person.
68. Following a dog bite incident, dog handlers must:
- provide, or direct other staff to provide, immediate first aid as necessary in the circumstances;
  - call for medical support to the scene if necessary (ambulance or other staff).

## THE AUTHORITY'S FINDINGS

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69. The Authority has considered the following issues:
- 1) Was Officer A justified in commencing a pursuit?
  - 2) Did Police comply with policy in respect of communication during the pursuit?
  - 3) Did Police comply with policy and good practice in terms of abandoning and re-engaging the pursuit?
  - 4) Was Officer A justified in deploying his Police dog to apprehend Mr W and Mr X?
  - 5) Did Police provide an appropriate level of care to the back-seat passengers of the crashed vehicle?

### Issue 1: Was Officer A justified in commencing a pursuit?

70. When Officer A first saw the white Subaru, its headlights were off, its hazard lights were flashing and the alarm was sounding. He believed that the vehicle had been stolen and wanted to stop the driver in order to prevent further offending.
71. Both Subarus accelerated heavily away after Officer A activated his lights and siren and completed a U turn to follow them. Officer A considered that they were actively evading him at this point and radioed CentComms that he had a *"failing to stop"*.
72. The Authority finds that Officer A was justified in attempting to stop the driver of the white Subaru under section 114 of the Land Transport Act 1998. When Mr W did not stop and it was clear that he was trying to evade Police, Officer A was justified in commencing a pursuit under the Police 'Fleeing driver' policy.

### FINDING

Officer A was justified in commencing a pursuit.

## Issue 2: Did Police comply with policy in respect of communication during the pursuit?

73. As required by policy, the dispatcher gave Officer A a pursuit warning and he acknowledged it.
74. Officer A also regularly provided, or was requested to provide, reports to CentComms during the pursuit on the speed, direction of travel, traffic conditions and weather.
75. At one point, Officer A mistakenly said he was travelling at 87kph in a 100kph speed zone, when it was actually a 50kph zone. However, the Authority is satisfied that Officer A did not intend to misrepresent the risk involved at that stage of the pursuit and the error did not impact on the outcome of this incident.
76. The Authority is of the view that, overall, Officer A and CentComms staff complied with policy in respect of communication during the pursuit.

### FINDING

Police complied with policy in respect of communication during the pursuit.

## Issue 3: Did Police comply with policy and good practice in terms of abandoning and re-engaging the pursuit?

### *Abandonment*

77. Officer A radioed CentComms several times to advise he could no longer see the Subaru. He then radioed and advised that he had deactivated his lights and siren. He also slowed down to the posted speed limit of 50kph at this time and checked side streets as he thought the silver Subaru had turned off Fairway Drive.
78. Officer A, the dispatcher and Officer B were all of the view that Officer A had not abandoned the pursuit because he was still looking for the Subaru.<sup>5</sup>
79. The Authority considers that, viewed objectively, Officer A did abandon the pursuit because: he had lost sight of the Subaru (more than momentarily); had reduced his speed to the posted speed limit; had de-activated his warning lights and siren; and was searching side streets for at least one of the Subaru. Therefore, he should have followed good practice and completed all of the abandonment procedures outlined in paragraph 61; in particular, he should have advised CentComms that he was abandoning the pursuit, pulled over, confirmed that he was stationary and stated his location.
80. In line with Police policy as outlined at paragraph 59, if Officer A had not wanted to abandon the pursuit and instead wanted to discreetly follow the Subaru with his lights and siren off at road speed, he should have advised CentComms of this and obtained permission for such a tactic.

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<sup>5</sup> Officer A was required to complete a *Fleeing Driver Notification* after the pursuit and selected 'no' in answer to the question 'was pursuit abandoned'.

81. As pursuit controller, Officer B should have sought confirmation from Officer A as to whether or not he was abandoning the pursuit, or instructed him to complete all the abandonment procedures.
82. The Authority acknowledges, however, that the 'Fleeing driver' policy does not clearly state what officers should do once they have lost sight of fleeing vehicles.

### *Re-engagement*

83. When Officer A located the Subaru again, he radioed, "*I'm going to re-engage pursuit*". The dispatcher replied, "*roger that*" and then issued a second pursuit warning. Officer A stated that he regarded this exchange as CentComms giving him permission to re-engage the pursuit.
84. Officer A did not specifically request permission from Officer B to re-engage the pursuit, as required by policy. However, in the Authority's view, he was entitled to rely on the response from CentComms as providing permission for him to re-engage it. In addition, it would have been preferable for Officer B to have sought confirmation from Officer A of his intentions and, if necessary, to have provided him with explicit permission to re-engage the pursuit.
85. The Authority acknowledges that Officer B had limited experience in supervising pursuits and that the breaches of policy outlined above are technical in nature. Officers A and B were not deliberately flouting policy and did not put members of the public or others at risk as a result of the breaches.

### *Additional consideration of abandonment*

86. After Officer A re-engaged the pursuit, he told the Authority that there were two specific occasions when he considered abandoning it:
  - a) at the intersection of SH2 and Block Road, Melling, because it is a major intersection; and
  - b) at the Maungaraki interchange because of the possibility of an accident.
87. Officer B said he undertook ongoing risk assessments and was always considering the possibility of abandoning the pursuit.
88. The Authority finds that Officer A appropriately assessed the risks and considered abandoning the pursuit on two separate occasions. Officer B also appropriately conducted risk assessments during the pursuit.

## FINDINGS

Officer A should have completed all the steps required by Police policy when a pursuit is abandoned.

Officer B should have sought confirmation from Officer A as to whether or not he was abandoning the pursuit, or instructed him to complete all the abandonment procedures.

Officer A did not specifically request permission to re-engage the pursuit as required by Police policy. However, he was entitled to rely on the confirmation he received from the dispatcher and the second warning as providing him with the appropriate permission.

When Officer A said he was re-engaging the pursuit, Officer B should have sought confirmation from Officer A of his intentions and, if necessary, provided permission for him to re-engage the pursuit.

After re-engagement, Police appropriately considered abandoning the pursuit.

#### **Issue 4: Was Officer A justified in deploying his Police dog to apprehend Mr W and Mr X?**

89. As required by policy, Officer A completed a Tactical Options Report (TOR) in relation to the dog bites that Mr W and Mr X received. In the TOR he stated that he deployed his dog in both instances to safely apprehend the offenders and to ensure that they did not commit any further offending.
90. Section 40 of the Crimes Act 1961 provides legal justification for Police to use reasonable force to prevent an offender from escaping. As Mr W and Mr X both fled the crash scene and refused to stop running when instructed to do so, Officer A instructed his dog to bite them in order to apprehend them. He issued warnings to both Mr W and Mr X before releasing his dog and removed the dog from them as soon as they had been secured.
91. Mr W and Mr X received minor dog bites and were provided with the appropriate medical attention for these.
92. The Authority considers that Officer A appropriately deployed his Police dog and that reasonable force was used in order to apprehend Mr W and Mr X.

#### **FINDING**

Officer A was justified in deploying his Police dog to apprehend Mr W and Mr X.

#### **Issue 5: Did Police provide an appropriate level of care to the back-seat passengers of the crashed vehicle?**

93. As Officer A approached the crash scene, he saw Mr W fleeing on foot so he drove his van past the crashed vehicle to apprehend him. As he drove past the crashed vehicle, Officer A also saw Mr X flee in the opposite direction to Mr W.
94. Officer A told the Authority that he was focused on apprehending Mr W so he did not immediately check inside the crashed vehicle. He said he was unaware that there were two more passengers inside the vehicle but, if he had known, he would have focused on checking on them rather than following Mr W.

95. Officer A stated that it was only a matter of seconds after deploying his dog to apprehend Mr W that he heard yelling from the crashed vehicle and realised there were other occupants.
96. The Authority is of the view that, in the circumstances, it was reasonable for Officer A not to check the crashed vehicle before trying to apprehend Mr W. In any event, it was a short period of time between Officer A arriving at the crash scene, realising that there were other passengers in the crashed vehicle and calling for assistance. Therefore, the actions of Officer A made little, if any, difference to the level of care that the back-seat passengers were provided.

## FINDING

Police provided an appropriate level of care to the back-seat passengers of the crashed vehicle.

## SUBSEQUENT POLICE ACTION

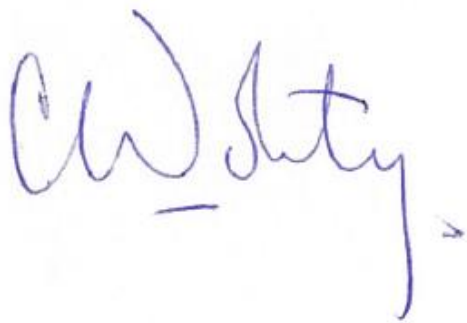
97. It was recommended that Officer A undergo refresher training on the 'Fleeing driver' policy. A referral to the District driving instructor has been made.
98. The dispatcher and Officer B have been debriefed by an inspector at CentComms regarding their management of the pursuit.
99. A commentary about the obligations on staff around when pursuits are abandoned and the permission required from the pursuit controller to re-engage them has been included in the District Commander's weekly message, which is sent to all District staff.
100. The Authority is of the view that the actions by Police outlined above were an appropriate response to this incident.
101. The Authority and Police are also undertaking a joint thematic review of fleeing driver events, in order to better understand the fleeing driver environment and identify any current issues with the conduct of pursuits. The review will examine the issue raised in this pursuit regarding the abandonment procedure.

## CONCLUSIONS

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102. The Authority finds that:

- 1) Officer A was justified in commencing a pursuit.
- 2) Police complied with policy in respect of communication during the pursuit.
- 3) Officer A should have completed all the steps required by Police policy when a pursuit is abandoned. Officer B should have sought confirmation from Officer A as to whether or not he was abandoning the pursuit, or instructed him to complete all the abandonment procedures.
- 4) Officer A did not specifically request permission to re-engage the pursuit as required by Police policy. However, he was entitled to rely on the confirmation he received from the dispatcher and the second warning as providing him with the appropriate permission. When Officer A said he was re-engaging the pursuit, Officer B should have sought confirmation of Officer A's intentions and, if necessary, provided permission for him to re-engage the pursuit.
- 5) After re-engagement, Police appropriately considered abandoning the pursuit.
- 6) Officer A was justified in deploying his Police dog to apprehend Mr W and Mr X.
- 7) Police provided an appropriate level of care to the back-seat passengers of the crashed vehicle.



**Judge Colin Doherty**

Chair

Independent Police Conduct Authority

14 November 2017

**IPCA: 16-0947**

### Who is the Independent Police Conduct Authority?

The Independent Police Conduct Authority is an independent body set up by Parliament to provide civilian oversight of Police conduct.

It is not part of the Police – the law requires it to be fully independent. The Authority is overseen by a Board, which is chaired by Judge Colin Doherty.

Being independent means that the Authority makes its own findings based on the facts and the law. It does not answer to the Police, the Government or anyone else over those findings. In this way, its independence is similar to that of a Court.

The Authority employs highly experienced staff who have worked in a range of law enforcement and related roles in New Zealand and overseas.

### What are the Authority's functions?

Under the Independent Police Conduct Authority Act 1988, the Authority:

- receives complaints alleging misconduct or neglect of duty by Police, or complaints about Police practices, policies and procedures affecting the complainant in a personal capacity;
- investigates, where there are reasonable grounds in the public interest, incidents in which Police actions have caused or appear to have caused death or serious bodily harm.

On completion of an investigation, the Authority must form an opinion about the Police conduct, policy, practice or procedure which was the subject of the complaint. The Authority may make recommendations to the Commissioner.

### This report

This report is the result of the work of a multi-disciplinary team of investigators, report writers and managers. At significant points in the investigation itself and in the preparation of the report, the Authority conducted audits of both process and content.



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