

## Fatal crash following Police pursuit near Ōtaki

1. On 26 April 2024, Police briefly pursued a stolen Ford Courier ute south of Levin on State Highway 1 after it was involved in an aggravated robbery in Ōtaki. Police abandoned the pursuit due to the driver's high speed. They later found the ute driving north in the southbound lane of the expressway and it eventually crashed head-on into a Toyota Fortuner SUV north of Ōtaki. The driver of the ute, 16-year-old Reihana Hawea, died at the scene. One passenger, Tama Whakarau, later died in hospital, while another sustained serious injuries but survived. The four occupants of the SUV suffered serious to moderate injuries and survived.
2. At 8.27 pm, two young men entered a Super Liquor store in Levin armed with a screwdriver and two sets of vice grips. One of the men stood by the door while the other approached the cash register. The store owner had emptied the cash register before their arrival (so there was no money to hand over) and informed them that he had called Police. The man with the screwdriver brandished it at the store owner. The men then ran out of the store and fled in the stolen ute.
3. Officer A was driving a marked patrol car, with Officer B as the front seat passenger. An authorised civilian passenger, Mr Z, interested in joining the Police, was in the rear seat. At 10.23 pm, they received information that the ute had been seen near the Z service station in Levin. Eight minutes later, Officer A saw the ute driving south on Oxford Street, and he switched on his patrol car's warning lights and siren to stop the car. The ute failed to stop, and a short pursuit commenced. After about four minutes, the Emergency Communications Centre (Comms) instructed the pursuit to be abandoned. The pursuit spanned an approximate distance of eight kilometres (see Appendix 1 for a map of the pursuit route).
4. Comms informed Police staff on the Wellington radio channel that the ute was travelling south on State Highway 1, possibly approaching their area. The Traffic Operations Centre (TOC) monitored traffic cameras and observed the ute turning into Waikanae Beach. Officer C, a Police dog handler, was nearby and followed the ute, which again turned onto the expressway. He observed the ute slowing down and performing a three-point turn, entering the southbound lane of the expressway and driving northbound (that is, driving north towards Ōtaki in the lane for traffic going south towards Wellington).

5. Officer H parked his vehicle near Lawlors Road, just north of Ōtaki, where the expressway ends and the dual carriageway merges into a single lane. Officer H prepared to deploy road spikes at this location. He reported over the Police radio that several cars were travelling in the single southbound lane toward the ute. The ute ultimately crashed head-on with an SUV.
6. Police notified us of the incident as required by Section 13 of the Independent Police Conduct Authority Act 1988.<sup>1</sup> We decided to conduct an independent investigation. Concurrently, Police conducted a critical incident investigation, which the Authority oversaw. We agreed with the findings of the Police investigation.
7. As part of the Authority's independent investigation, we monitored the interviews conducted by Police with Officers A and B and interviewed them ourselves. Additionally, we spoke with seven other Police staff members involved in the incident, including the pursuit controller who managed the fleeing driver event at Comms. We reviewed relevant Police records and documents, including witness statements, CCTV footage, and audio recordings of Police communications. This report presents the findings of our independent investigation.

## The Authority's Findings

### Issue 1: Was the initial pursuit justified and managed appropriately?

Officer A was justified in commencing a pursuit.

All relevant risk information was communicated to Comms.

Ideally, Officer B should have handled the Police communications during the pursuit.

The pursuit controller appropriately called for the pursuit to be abandoned.

Officer A abandoned the pursuit correctly but should have communicated his location and confirmed that he was stationary to Comms.

### Issue 2: Were Police actions after the initial pursuit appropriate?

Officer D should not have recommenced the pursuit.

Officers E and F should have closed the road to prevent other traffic from entering the southbound lane of the expressway.

Officer A should not have activated his warning lights without obtaining permission to resume the pursuit.

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<sup>1</sup> Section 13 says: "Where a Police employee acting in the execution of his or her duty causes, or appears to have caused, death or serious bodily harm to any person, the Commissioner shall as soon as practicable give to the Authority a written notice setting out particulars of the incident in which the death or serious bodily harm was caused."

**Issue 3: Could Police have taken preventative action to limit the risk of harm to other road users?**

The pursuit controller considered closing roads to minimise risk to other road users.

It was not feasible for Police to establish a roadblock in time, or to alert southbound traffic.

Officer H's decision to deploy road spikes was appropriate; he could not have closed the road safely.

Officer C's decision not to execute a non-compliant vehicle stop was appropriate.

## Recommendations

8. We recommend that Police:
  - 1) amend the 'Fleeing driver' policy to specify that when a Police vehicle is carrying crew members, those crew members are responsible for managing Police communications during pursuits.

## Analysis of the Issues

### ISSUE 1: WAS THE INITIAL PURSUIT JUSTIFIED AND MANAGED APPROPRIATELY?

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9. This section outlines the events when Officer A initially pursued the ute. We evaluate whether the pursuit was justified and managed in accordance with Police's 'Fleeing driver' policy.

#### What does the 'Fleeing driver' policy say?

10. The safety of Police staff, the public, and vehicle occupants, particularly children and young people, takes precedence over apprehending a fleeing driver.
11. A pursuit is justified if at least one of the criteria in the Fleeing Driver Framework is met. These criteria are:
  - 1) The threat posed by the driver or occupants as determined by an officer's overall assessment of the situation.
  - 2) The seriousness of the offence suspected to have been committed by the driver or occupants, along with the risk of ongoing offending, harm, or victimisation.
12. During the pursuit, continuous risk assessments must be conducted to ensure its appropriateness. The initiating unit must communicate all relevant risk information to Comms.
13. The pursuit must be abandoned if the risk assessment indicates that the potential harm exceeds the threat posed by the vehicle's occupants and the need for immediate apprehension.

14. When a decision is made to abandon a pursuit, all units must:

- Reduce speed to increase distance from the fleeing driver.
- Turn off warning devices once below the speed limit.
- Stop safely; if on a motorway, it may be necessary to keep warning lights activated until moving again.
- Notify the Emergency Communication Centre (Comms) of their stationary status and provide their location.

### What happened?

15. A unit responded to an aggravated robbery at the Super Liquor store in Ōtaki. This unit provided details about the circumstances of the robbery and described the suspect vehicle as a blue ute with distinctive white wheels. They also shared a still CCTV image of the offenders with all officers via cell phone. The image shows two men wearing balaclavas and carrying implements approaching the entrance to the Super Liquor store.

16. Officers A and B were searching for the ute, which had been seen on CCTV at the Z petrol station in Levin, when they spotted it driving south on Oxford Street. They followed the vehicle. Officer A (the driver) later told us:

*“I was trying to catch up to it. Comms asked if I was in pursuit, so I lit up [i.e., he switched on his patrol car’s warning lights], but it failed to stop. I immediately let Comms know that I had a failing to stop... Comms said they had command, and the pursuit was justified.”*

17. According to the pursuit controller, Police were aware the ute was stolen and reasonably suspected it had been involved in the aggravated robbery in Ōtaki, which occurred approximately two hours earlier. The pursuit controller assessed that aggravated robbery is a violent offence, carrying a penalty of up to 14 years in prison. She accordingly believed the criteria for allowing a pursuit had been met. She also assessed that, given the unsuccessful attempt at aggravated robbery, the individuals had made their intent known and it was likely they would try again, posing a potential risk of harm to someone. The pursuit was authorised, with the dispatcher warning: *“Comms has command, any unjustified risk to any person you must abandon immediately, acknowledge.”* Officer A acknowledged.

18. Officer A pursued the ute southbound on State Highway 1 from Levin to Tatum Park, covering about eight kilometres in approximately four minutes, indicating an average speed of about 120 kph. During the pursuit, Officer A handled radio communications with Comms and relayed the following information about the ute’s driving:

- *“Lights on, staying within its lane, doing 120 in an 80. No other traffic on the road, gold class driver, A class vehicle.*
- *He’s driving in the flush median attempting to overtake a car that’s well in front of it.*

- *We're just past Boulton and McLeavey. It's weaving between the lane and the median. Current speed is 140 in an 80, just entering Ōhau. The roads are still clear and no other traffic on the road.*
- *Just approaching another vehicle in front of it. Median barrier in the middle, just undertaken in the shoulder, had heaps of room took it, nice and wide.*
- *It's just gone on the wrong side of the road. On a straight, had clear visibility all the way down, back in its lane now, just past Kuku Beach Road.*
- *It's slowing to overtake, overtaking in the flush median. Just past two other cars on the road, back to no other traffic, 500 metres, approaching Tatum Park... Currently 142 in an 80, still no other traffic, straight road, slowing for corners."*

19. The ute had just passed a unit near Tatum Park. The officers in that unit were preparing to deploy road spikes. The ute was not successfully spiked, Officer A then reported to Comms that the ute was overtaking other vehicles in the flush median on State Highway 1, travelling at approximately 150 kph.<sup>2</sup> The speed limit on that section of the road was 80 kph. Comms then instructed: *"Given the type of speed, pursuit no is longer authorised, abandon immediately, advise when stationary, over."*

20. Officers A and B say they pulled over, stopped the patrol car, and deactivated their warning lights and siren. This was confirmed by Mr Z (the civilian passenger). Officer A says he waited until the ute was out of sight before continuing driving south.

### Was Officer A justified in commencing a pursuit?

21. Officers A and B do not recall specific information about the age of the offenders being communicated to them. They say they also did not have a clear enough view of the offenders during the pursuit to ascertain whether they were youths. The pursuit controller received a briefing from the dispatcher who dealt with the aggravated robbery incident, indicating that the offenders were two unidentified males wearing balaclavas and believed to be between the ages of 18 and 20 years old.

22. We have reviewed the CCTV footage showing two males approaching the Super Liquor store; they could not be identified. As they were driving a stolen ute, Police could not determine their identities or know that Reihana Hawea and Tama Whakarua were minors. Even if Police had known they were youths, this alone would not have made pursuing them unjustified. In this case, the seriousness of the offence weighed in favour of a pursuit. Under the policy, the offenders' young age (if known) would simply have required extra care to ensure everyone's safety.

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<sup>2</sup> A flush median is a white, diagonal stripe painted in the middle of a road that allows vehicles to turn into and out of side roads without interfering with through traffic.

23. Aggravated robbery is a serious offence. Moreover, this incident occurred amid a spate of armed robberies and ram-raids targeting businesses,<sup>3</sup> often resulting in serious injuries and, on one occasion, the death of a victim.<sup>4</sup> We concur with the assessment that there was a high likelihood of reoffending following the failed robbery. This is because the offenders had made considerable effort to obtain a stolen vehicle, arm themselves, and conceal their identities.
24. In accordance with the policy, the second criterion of the Fleeing Driver Framework is met. In our assessment, Officer A was justified in commencing a pursuit.

### Was the pursuit managed appropriately?

25. We have reviewed Officer A's radio communication with Comms. The records indicate that Officer A provided all relevant information regarding risks.
26. Officer A managed the Police radio communications while driving in pursuit of the ute. Ideally, Officer B should have taken responsibility for the radio communications to reduce the cognitive load on Officer A, allowing Officer A to focus on the road and ensure safe driving.
27. During his Police interview, Officer A explained: *"I made the decision to operate the radio because I knew it was [Officer B's] first pursuit. I have two and a half years of experience in Communications, running pursuits and listening to pursuit commentary."* Officer A was previously employed as a dispatcher at Comms. When we asked Officer A about the policy regarding who should handle radio communications, he responded: *"I don't believe there's anything in the policy about it."* Additionally, Officer A does not recall receiving specific training on this issue.
28. We have reviewed the current 'Fleeing driver' policy, and Officer A is correct: it does not specify who should handle radio communications. Previous versions of the policy outlined the responsibilities of both the driver and the passenger of the lead vehicle. Specifically, it stated that the passenger *"must undertake radio communications if in the lead vehicle"*. Additionally, it required that if there was a second pursuing vehicle, it should *"take over pursuit commentary if the lead vehicle is single-crewed"*.
29. The current policy does, however, state that the pursuit controller should *"ensure a secondary vehicle takes over the pursuit commentary if the initiating unit is single-crewed"*. This implies that Police drivers actively involved in pursuit should avoid managing radio communications whenever possible. We recommend that the current 'Fleeing driver' policy clearly articulate this.
30. The pursuit controller explained that she called for the pursuit to be abandoned because the ute's speed and manner of driving escalated as it travelled south. She also assessed that there were no tactical options available to stop or slow the ute down until it got closer to Kāpiti. In addition, the pursuit controller explained she wanted to reduce pressure on the driver, hoping

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<sup>3</sup> [Sobering report shows escalating scale of retail crime in New Zealand - Retail NZ](#)

<sup>4</sup> [Auckland dairy killing: Three men charged with murder of dairy worker Janak Patel - NZ Herald](#)

he would slow down. In our assessment, the pursuit controller appropriately called for the pursuit to be abandoned.

31. To ensure compliance with the policy, the dispatcher instructed Officer A to notify Comms when he was stationary. In reviewing the Police radio communications, Officer A acknowledged the instruction by saying: *"Copy, Comms."* However, it appears that Officer A did not confirm that he was stationary. In his next transmission, Officer A stated: *"I'm well and truly behind it, I don't have sight, I'll just head to the expressway and see if I can see if it's made a decision or not."*
32. It is apparent that Officer A complied with the physical abandonment procedures, by stopping his patrol car and turning the warning lights and siren off. However, he did not report to Comms when he was stationary or give his location, as required under the policy.

#### FINDINGS ON ISSUE 1

Officer A was justified in commencing a pursuit.

All relevant risk information was communicated to Comms.

Ideally, Officer B should have handled the Police communications during the pursuit.

The pursuit controller appropriately called for the pursuit to be abandoned.

Officer A abandoned the pursuit correctly but should have communicated his location and confirmed that he was stationary to Comms.

#### RECOMMENDATION

We recommend that Police amend the 'Fleeing driver' policy to specify that when a Police vehicle is carrying crew members, those crew members are responsible for managing Police communications during pursuits.

#### ISSUE 2: WERE POLICE ACTIONS AFTER THE INITIAL PURSUIT APPROPRIATE?

33. In this section, we describe the events that occurred after the pursuit was abandoned. We evaluate whether the event was managed appropriately and if the actions of individual Police staff breached the 'Fleeing driver' policy.

#### What does the 'Fleeing driver' policy say?

34. The 'Fleeing driver' policy governs all incidents involving drivers who do not stop or remain stopped after being signalled.
35. In all pursuits, Comms has overall command and control. The pursuit controller will plan to resolve a pursuit as safely as possible and communicate this plan and any subsequent revision of the plan to all staff. All staff are responsible for managing fleeing driver events as safely as possible.
36. If a vehicle is found (still driving) after a pursuit has been abandoned, permission must be obtained from the pursuit controller before signalling the driver to stop. If permission to signal

and pursue again is granted, the pursuit controller must outline a clear plan and tactics to handle the situation should the driver not stop or remain stopped.

### What happened?

37. After the initial pursuit was abandoned, the Traffic Operations Centre (TOC) monitored the ute using traffic cameras. It turned off the expressway at Waikanae and drove down Te Moana Road towards Waikanae Beach. Officer C, who was nearby, entered Te Moana Road and saw the ute ahead of him. Although Officer C estimated that he was about 40 to 50 metres behind the ute, the traffic camera footage revealed that he was about 125 metres behind it.
38. Officer C believes that the driver of the ute was unaware of his presence. He reported that the ute was driving below the speed limit. After the ute turned onto the southbound on-ramp of State Highway 1, Officer C followed and positioned himself behind another vehicle travelling in the same direction.
39. Officer C saw the ute slowing down and reported over the Police radio: *“Vehicle breaking, it’s pulling over. Someone get ready for the spikes in case it does a [U-turn]. Yeah, it looks like it’s doing a [U-turn]; it’s gonna go invert on the motorway. It’s doing a [U-turn], going invert, going back through on the motorway.”* Officer C stopped following the ute.
40. Shortly after the ute entered the expressway’s wrong lane, the TOC reported it was *“in the northbound lane travelling southbound”*. Another unit, however, clarified it was actually driving northbound in the southbound lane.
41. Officer D was driving toward the emergency gate of the expressway at Hadfield Road, which provides access to the southbound lanes. He noticed the ute approaching about 200 metres south of his position. Officer D says the ute passed him at high speed, prompting him to activate his warning lights and siren and briefly follow it north in the southbound lane. Comms instructed Officer D to abandon his pursuit immediately. He duly complied and exited the expressway.
42. Officers E and F were preparing to deploy road spikes near the southbound on-ramp at Ōtaki Gorge Road. A witness, Mr W, entered the expressway via the on-ramp and noticed a Police car parked nearby, with Police officers standing on the footpath. Mr W recognised Officer E. On the expressway, Mr W saw the lights of the ute approaching, and as the vehicle came closer, he realised it was travelling on the wrong side of the road. Mr W stated that he had to move towards the left-hand barrier to avoid a collision. Mr W expressed concern that the officers did not attempt to stop him from entering the expressway at the on-ramp.
43. Officer A, who had initially pursued the ute, travelled to the Peka-Peka on-ramp after learning that the vehicle had been seen in Waikanae. Officer A recalls entering the expressway via the Peka-Peka on-ramp and parking on the side of the road, approximately 500 metres north of the on-ramp. At that point, he heard that the ute was driving on the wrong side of the expressway, and shortly afterwards saw the ute travelling north in the southbound lane. He then followed the ute, driving north in the northbound lane but maintaining a distance of about 300 to 500 metres behind it. Officer G followed approximately 800 metres behind.



44. As stated, Officer H was parked near Lawlors Road, north of Ōtaki, and was preparing to deploy road spikes. He asked Officer A to turn on his patrol car's warning lights so he could see the approaching ute and know when to deploy the spikes. Officer A activated his patrol car's warning lights and accelerated to close the distance between himself and the ute. Meanwhile, two civilian cars were driving south toward the expressway, with the ute approaching at high speed. Just before the crash, Officer A transmitted: *"Yeah southbound vehicles just be aware of the corner. Braking, braking, braking. Crash, crash, crash."* Officer H described the crash as occurring directly parallel to his position, approximately 5 to 10 metres away from him.
45. The Police crash investigation records that there was a wire barrier separating the northbound and southbound lanes at the crash location. This wire barrier ends approximately 470 metres north of the crash site. As a result, the ute travelling in the wrong lane of the expressway could not switch to the correct lane in time to avoid oncoming traffic, leading to a head-on collision with the Toyota Fortuner SUV.

#### *How was the fleeing driver incident managed overall?*

46. Central Comms oversees three Police districts, each with its own radio dispatch channel. This incident required the deployment and coordination of personnel from two different districts: Wellington District and Palmerston North (in the Central District). The districts are separated by a boundary at the Peka-Peka interchange.
47. Wellington District uses a digital radio system, while Palmerston North operates on an analogue system. As a result, staff using either system cannot communicate with those on the other system unless they have a radio capable of switching between both. According to the pursuit controller, very few patrol vehicles are equipped with dual radio sets. Consequently, communication had to be physically relayed between the dispatchers of the two radio channels, which was challenging due to the dispatch desks being about 12 metres apart.
48. Since this incident, the dispatch desks have been relocated next to each other. Police have also informed us that they are about to upgrade their analogue radio systems and digitise all radio infrastructure. This project will commence next year and will be rolled out in phases across the country.
49. At 10.32 pm, the Palmerston North dispatcher alerted the pursuit controller to the initial fleeing driver event (when Officer A began a pursuit). The pursuit controller walked over to the dispatch desk, plugged in her headset, and listened to the radio transmissions. In addition, she monitored the location of nearby units through the Situational Awareness Map (SAM), an application that shows the real-time location of units that are logged on. The pursuit controller did not take over verbal communication over the radio but explained that she conveyed her intent through the dispatcher.
50. After the initial pursuit was abandoned, the pursuit controller reviewed the CCTV footage related to the aggravated robbery but could not identify the offenders' ages or genders. She informed the team leader that no further pursuit would be authorised and emphasised the need for a coordinated plan to stop the ute safely.

51. At 10.48 pm, the Wellington desk notified the pursuit controller that the TOC had located the ute heading towards Waikanae. The pursuit controller put on her headset to monitor communications from the Wellington desk. Officer C then reported that the ute was pulling over, performing a U-turn, and driving “invert” on the expressway.
52. The pursuit controller immediately instructed the dispatchers for the Wellington and Palmerston North channels that no units were to follow the ute. She explained: “My focus was to take all pressure off the offending driver and encourage them to leave the southbound lane as soon as possible.” She understood that, due to the wire barriers separating the northbound and southbound lanes on the expressway, there were limited opportunities for the ute to return to the correct lane. The ute had already passed the Peka-Peka on-ramp without returning to the correct lane. Its last chance to do so would be at the Ōtaki on-ramp.
53. Officer G informed the Wellington District Command Centre that he had an advanced paramedic in his patrol car who could assist if the ute crashed. He requested permission to follow the ute, which was approximately one kilometre ahead of him. The pursuit controller granted this request due to the distance between the ute and Officer G, who was not using his warning lights or siren, meaning the driver of the ute would be unaware of his presence.
54. As the ute travelled north of the Te Horo bridge, the pursuit controller moved to the Palmerston North dispatch desk, hoping the ute would take the Ōtaki on-ramp to exit the expressway. The pursuit controller explained that she was considering where the best place to stop southbound traffic might be but said she needed to establish where the Police units were located before making any decisions.
55. When the pursuit controller connected her headset to the Palmerston North channel, the ute had already passed under the Ōtaki overpass and was continuing northbound. Due to the wire barrier separating the north and southbound lanes along the expressway, the ute could not switch to the correct lane or exit the expressway.
56. The pursuit controller attempted to locate the Levin units by monitoring the SAM. The dispatcher informed her that most of the Levin units had either gone into Ōtaki or were located south of the township. The pursuit controller assessed that they were unlikely to be in a position to stop southbound traffic north of Ōtaki. The dispatcher informed the pursuit controller that Officer H was north of Ōtaki, preparing to deploy road spikes where the expressway ended. As this was being communicated, the pursuit controller heard the transmission: “Corner, brake, brake, brake. Crash, crash, crash.”

#### Should Officer D have recommenced the pursuit?

57. Officer D says he was concerned for the safety of other road users upon hearing that a ute was travelling north in the southbound lane, particularly because it was nighttime and there was a lack of lighting on much of the expressway. Officer D initially intended to deploy road spikes at the emergency on-ramp on Hadfield Road. However, upon his arrival, he noticed the ute approaching and then passing by him at a high speed. According to Officer D, the ute was

travelling at a speed of approximately 150 kph. Officer D followed the ute, about 300 metres behind, using his warning lights and siren for about 50 metres.

58. Officer D stated that he did not intend to pursue but rather wanted to warn oncoming traffic of the approaching danger. He explained: *“In my mind at the time, I thought that if there were flashing lights in the same lane, people would slow down, which would hopefully prevent a crash.”* Officer D reported to Comms that he was following the ute. He was instructed not to re-engage in the pursuit and immediately stopped.
59. Officer D believes that Comms instructed this because *“we don’t want to provoke them into driving even worse or at greater speeds, potentially putting people at more risk.”* Officer D says he did not consider this; at the time, his only concern was the safety of the approaching road users.
60. The policy requires that the pursuit controller, who has overall command and control, must evaluate risks in deciding whether it is justified to resume a pursuit. Consequently, the policy specifies that if a pursuit has been abandoned, an officer must first obtain permission from the pursuit controller *“before” (emphasis added)*, signalling a fleeing driver to stop again.
61. Although Officer D did not consciously intend to restart the pursuit, following the ute with activated warning lights and siren effectively recommenced it. Officer D should have obtained permission from the pursuit controller before following the ute with his warning lights and siren activated. We conclude that Officer D should not have recommenced the pursuit.

#### **Should Officers E and F have closed the road to prevent other traffic from entering the expressway?**

62. Officer E stated that he was positioned near the roadside, getting ready to deploy the road spikes. Officer F explained that he placed himself further down the road to alert Officer E if the ute approached, allowing Officer E to deploy the road spikes safely, provided that no other vehicles were following the ute.
63. Both Officers E and F stated that they did not consider stopping traffic from entering the expressway at the Ōtaki Gorge on-ramp. Officer E acknowledged it was a mistake, saying:

*“Yeah, we didn’t make the right call there. We should’ve blocked off the road but didn’t. We were just trying to make the best decision we could at the time, but we didn’t think of it. The guy passed us, and we should’ve made a better call. In the heat of the moment, we didn’t, and that’s what happened.”*
64. According to the policy, all staff must manage fleeing driver incidents as safely as possible. Officers E and F acknowledged that this was a missed opportunity and that they should have closed the road to prevent other vehicles from entering the southbound lane of the expressway. We accept this was an error of judgment, but no more than that.

## Should Officer A have switched on his warning lights when he did?

65. Officer A says he arrived at the Peka-Peka roundabout when he learned that the ute was travelling the wrong way on the expressway. There was initially some confusion about its direction. Officer A describes continuing 500 metres north of the Peka-Peka on-ramp where he pulled over onto the left shoulder of the northbound lane. It was then confirmed over the radio that the ute was travelling north in the southbound lane.
66. Officer A says he considered using road spikes to stop the ute but opted not to do so due to safety concerns. The location on the expressway had four lanes, and he would have had to cross two active lanes of traffic, relying solely on the wire barrier for protection. He also considered that the ute could bypass the road spikes by using the road shoulder.
67. Officer A observed a truck passing by in the northbound lane, followed closely by a ute travelling north in the southbound lane. He entered the expressway behind the truck and informed the dispatcher: *"I'm in the correct lane, far enough away where he can't see me. I am hidden behind a truck. I've got obs (observations). I'll keep commentary from a distance if you're happy with that."* The dispatcher agreed, responding: *"Roger, we have permission to spike, not permission to re-engage the vehicle. All units acknowledge."* Officer A acknowledged this.
68. Officer A told us that no express plan was communicated on how the incident was to be resolved. He believed the only viable tactic was to try and spike the ute to slow it down and eventually bring it to a stop. Officer A says he was aware of other units ahead and his purpose for following the ute was to provide radio commentary to assist in getting it successfully spiked.
69. Officer A described the ute as travelling at high speed, approximately 150 kph, and overtaking oncoming vehicles. According to Officer A, he was approximately 500 metres behind the ute and intentionally kept that following distance to ensure the driver could not see him. Officer G similarly informed the dispatcher: *"I'm in the northbound lane, about 800 metres behind this vehicle. He's still northbound in the southbound lane, with no lights or sirens activated, and he's unaware of our location. Heavy traffic coming in the opposite direction, flashing lights at them currently, over."*
70. As Officers A, G, and the ute approached Ōtaki, Officer H transmitted over the radio: *"Can we light him [i.e. signal him to stop]? I've got spikes set."*<sup>5</sup> Comms asked Officer G to confirm his location, and he advised that he was just north of Ōtaki. Officer H describes that it was nighttime and dark, and he was unsure if the ute had its headlights on. He asked the lead pursuing unit, Officer A, to activate his patrol car's warning lights to give him a visual reference to gauge the distance necessary to deploy the road spikes successfully.
71. Officer A says that he activated his patrol car's warning lights and siren immediately upon hearing the request. He explains that he accelerated to close his distance to the ute because *"I wanted to be closer to the offending vehicle, so the spiker (Officer H) knew how far away we were... Additionally, my decision to do this was to alert oncoming traffic that something was happening."* Officer A does not believe his patrol car's warning lights and siren had an effect on

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<sup>5</sup> 'Light him' refers to signalling by activating a patrol car's warning lights.

the ute's driving, as he observed no change in its speed or driving behaviour since activating them. The audio recording of Police communications indicates the crash occurred 43 seconds after the request was made to activate his warning lights.

72. Considering the circumstances, particularly the low light conditions, our view is that Officer H's request for Officer A to activate his patrol car's warning lights was reasonable. This would, after all, enable Officer H to determine how far away Officer A and the ute were and allow him to deploy his road spikes.
73. Whatever the reasons for the tactical use of the patrol car's warning lights, this action effectively recommenced the pursuit. As mentioned earlier, when a pursuit has already been abandoned, permission must first be obtained from the pursuit controller before it can recommence. While a brief resumption of the pursuit may have been justified for tactical reasons, such as those described, it required prior approval from the pursuit controller.
74. Although the pursuit controller instructed that no other vehicles, except for Officer G, should follow the ute, Officer A informed the dispatcher, who agreed to let him follow in order to provide updates. Furthermore, the dispatcher was aware of the radio transmissions regarding the activation of the warning lights but did not discuss this with the pursuit controller.
75. We conclude that Officer A should not have switched on his warning lights without obtaining permission to recommence the pursuit.

## FINDINGS ON ISSUE 2

Officer D should not have recommenced the pursuit.

Officers E and F should have closed the road to prevent other traffic from entering the southbound lane of the expressway.

Officer A should not have activated his warning lights without obtaining permission to resume the pursuit.

## ISSUE 3: COULD POLICE HAVE TAKEN PREVENTATIVE ACTION TO LIMIT THE RISK OF HARM TO OTHER ROAD USERS?

76. In this section, we evaluate whether Police could reasonably have taken actions to limit the exposure of other road users to risk. We will also assess if Police could have taken any action that might have prevented the crash.

### What does the 'Fleeing driver' policy say?

77. Fleeing driver incidents can create a high-risk, fast-paced event which evolves rapidly, exposing the public, fleeing driver, passengers, and enforcement officers to significant risk. The overall objective is to achieve the safest possible outcome balanced against policing functions.

78. All staff share a collective responsibility for ensuring a fleeing driver event is managed as safely as possible. The safety of Police staff, the public, and vehicle occupants takes priority over the immediate apprehension of a fleeing driver.

### Could Police have closed the roads leading onto the expressway?

79. The pursuit controller says she was considering the best location to stop southbound traffic from entering the expressway and was mindful that stopping two lanes of vehicles travelling at 100 kph on the expressway would be challenging to accomplish on short notice. As explained above, the pursuit controller tried to locate the nearest Levin units to evaluate the feasibility of implementing such a plan. The crash occurred before she could complete this exercise.
80. The concurrent Police investigation of this incident assessed the viability of using roadblocks to stop southbound traffic and concluded that it was not practical under the circumstances. Notably, the report records the following:
- *“The fatal crash occurred seven minutes and eight seconds after confirmation that the ute was travelling southbound on the expressway.*
  - *At the time the ute started driving north on the expressway, there were six units located in various positions to the north of it. However, these units were situated south of where the wire median barrier ended. This means they would have needed to travel further north to access the southbound lane.*
  - *After the ute passed the Ōtaki Gorge Road on-ramp, three minutes and seven seconds later, only a single Police unit (Officer H) remained north of its location.*
  - *In the context of a dynamic, fast-evolving situation, the pursuit controller would have had to consider several key factors in deciding to establish a roadblock, such as:*
    - *the safest location to set up a roadblock;*
    - *the location of available Police units that could do this;*
    - *what equipment to utilise (including the availability of safety equipment); and*
    - *time constraints.*
  - *Given these factors, it was nearly impossible to set up a roadblock in a timely manner due to the circumstances that developed.*
  - *Consideration was also given of whether southbound traffic could have been warned about the risk to help mitigate the danger. This could have included measures such as highway signage or a stationary Police unit with activated lights.*
  - *In our opinion, aside from establishing a roadblock, using Police lights to warn and slow down southbound traffic would not have completely mitigated the significant risk.*

- *At 11.03 pm, the TOC posted the following message on their electronic highway sign:*



- *Based on the established timings, even with immediate signage on the southbound highway, it would not have prevented the crash when the ute commenced driving north in the southbound lane."*
81. We concur with the overall conclusion of the Police investigation, which determined that it was not feasible to establish roadblocks to prevent traffic from entering the expressway under the given circumstances. However, as explained in paragraphs 62 to 64, Officers E and D had the opportunity to stop traffic from entering the expressway and should have taken steps to do so.
  82. In addition, Officer H was located on State Highway 1, just south of Lawlors Road and north of Ōtaki township, where he was preparing to deploy road spikes for the approaching ute. This area marks the end of the expressway, where two southbound lanes merge into a single lane. A wire medium barrier is positioned in this location, extending approximately 470 metres to the north. This raises the question of whether Officer H could have closed the road or warned oncoming traffic about the impending danger.
  83. According to Officer H, it was "*imperative*" for him to attempt to spike the ute because he viewed it as "*a huge threat and risk to other innocent road users*". He explained: "*My thoughts and actions that night were trying to prevent this fleeing driver and stop this vehicle and disable this vehicle to protect other people... I needed to make sure I could successfully spike it.*"
  84. We asked Officer H for his opinion on using his vehicle to block the southbound lane and warn oncoming traffic. Officer H explained that he was driving a black, unmarked Skoda station wagon. The vehicle was not equipped with a light bar but had warning lights affixed to the grille and body of the vehicle. He parked the station wagon in a driveway on the side of the northbound lane. Officer H stated that he had only been at the location for less than five minutes when the ute approached. Due to the wire barrier separating the north and southbound lanes, he was unable quickly to move his vehicle into the southbound lane. In this regard, Officer H told us: "*I didn't believe I had time. He still could've gotten around me, or he would've just ducked back into the lane and carried on.*"
  85. We acknowledge there were no easy decisions in the circumstances. Even if Officer H could position the car in the southbound lane, it would not be safe for him to park a dark-coloured vehicle late at night in the path of oncoming traffic travelling at high speeds. While the car's warning lights might alert other drivers, there is no guarantee they would notice the vehicle in time to stop safely. As Officer H explained, this approach would not have stopped the ute from circumventing the Police car and posed a risk to oncoming vehicles. In light of the risks involved,



our assessment is that the best way to ensure the safety of other road users in this situation was to slow down and stop the ute. This could only be effectively accomplished by using road spikes.

86. We conclude that the pursuit controller considered closing roads to minimise risk to other road users. It was not feasible for Police to establish a roadblock in time or to alert southbound traffic. Officer H's decision to deploy road spikes was appropriate; he could not reasonably have closed the road.

### Could Officer C have prevented the ute from entering the wrong lane on the expressway?

87. Officer C followed the ute from Te Moana Road and saw it perform a U-turn before entering the wrong lane of the expressway. He considered moving his dog wagon forward to block the ute as it faced the central barrier. Officer C believed that it was highly likely the ute would attempt to "ram" (deliberately collide with) his dog wagon if he took this action. Given the circumstances, he contemplated the following:

- This manoeuvre constituted a tactic known as a 'non-compliant vehicle stop'. This tactic could only be authorised by a pursuit controller and executed by a qualified team.
- Although Officer C believed his actions in defence of others would be justified by law,<sup>6</sup> he: *"...feared the repercussions from the organisation, even though I believe I would have been attempting to save lives and deny them access to our roads."*
- He was concerned that it would be difficult to replace the dog patrol wagon if it sustained significant damage.

88. Officer C informed us that he was approximately 40 to 50 metres away from the ute when the driver executed a U-turn. He described the manoeuvre as a "very slow movement" and recalled that the ute remained stationary for a few seconds while facing the central barrier. Officer C believes he could have reached the ute in time to apply "positive pressure" to the vehicle, pushing it against the barrier to prevent it from going into the wrong lane of the expressway. He stated that he could have safely carried out this tactic, as there were no other vehicles nearby, and the low speeds involved posed minimal risk to the occupants of the ute.

89. Officer C expressed concern that in executing a non-compliant vehicle stop he would have breached Police policy. Additionally, he feared that the occupants might exit the ute and run into the expressway. Officer C stated:

*"This is one of my biggest fears if I am unsuccessful... I'm always scared of the repercussions that then I would be blamed for provoking them into driving even more dangerously. If they continued driving in the southbound lane and a head-on collision occurred, resulting in fatalities, all the blame would shift to me... I would have had to justify myself."*

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<sup>6</sup> [Crimes Act 1961 No 43 \(as at 01 October 2024\), Public Act 48 Self-defence and defence of another – New Zealand Legislation](#)



90. After the ute completed the U-turn and continued driving north in the southbound lane, Officer C took the Paraparaumu off-ramp and headed north towards Ōtaki.
91. The policy defines a ‘non-compliant vehicle stop’ as:
- “The deliberate collision between a Police vehicle and another vehicle when the driver of the other vehicle has failed to stop when required to do so; and where the collision is used to cause the other vehicle to stop. Non-compliant vehicle stops describe various driving techniques... (including) the deliberate use of force in which a Police vehicle is used to ram, block, or pin a fleeing vehicle such that the fleeing vehicle becomes immobile, thus preventing the pursuit from continuing.”*
92. Officer C determined that blocking the ute would be considered a non-compliant vehicle stop, correctly in our view. At that time, only the pursuit controller or an AOS (Armed Offenders Squad) or STG (Special Tactics Group) commander could authorise trained AOS or STG personnel to carry out such a stop. This has since changed, and now a pursuit controller can authorise any Police unit to perform a non-compliant vehicle stop.
93. In our opinion, Officer C would have been legally justified in blocking the ute to prevent it from entering the wrong lane of the expressway, which would protect other road users from potential danger. However, taking such action would have violated the policy in effect at the time. Therefore, we accept that Officer C appropriately decided not to initiate a non-compliant vehicle stop. This situation raises the question of whether restricting non-compliant vehicle stops serves public safety. Arguably, if Officer C could have safely executed this tactic, he might have been able to prevent the ute from driving into the wrong lane.
94. The pursuit controller currently has the authority to permit any unit to conduct a non-compliant vehicle stop. However, in this particular case, the pursuit controller acknowledged that the time required to request, evaluate, and approve such a tactic would make it impractical, as the ute would already be in the wrong lane by the time the authorisation was communicated. Both the pursuit controller and the officers we interviewed support a change in policy that would allow for the self-initiation of this tactic in limited circumstances – specifically when the risk to those involved is low, compared to a high risk of danger to the public if it is not allowed.
95. Although Officer C expressed some concern that the occupants of the ute might run across the expressway to escape if their vehicle became immobilised, this concern must be balanced against the safety of the general public. Allowing the ute to drive recklessly would unjustifiably endanger innocent people. In this situation, where Police are faced with a choice between the safety of the public and those of offenders who, by their own actions, expose themselves to danger, public safety takes priority.
96. In their interviews, the pursuit controller and Officer C expressed the opinion that the ability to self-initiate a non-compliant vehicle stop should not be extended to all frontline Police officers. This is because many frontline officers are junior and inexperienced. According to their perspective, making the decision to execute a non-compliant vehicle stop requires sound judgment. Therefore, this ability should be limited to experienced staff, such as Police dog

handlers, who often take the lead in pursuits due to their capability to track offenders fleeing from vehicles. We agree.

97. Officer C mentioned that it would be beneficial for suitable Police vehicles to be equipped with push bars. These push bars are mounted over the grille of a patrol car and provide a flat surface for safely pushing another vehicle or obstacle, which helps minimise damage to Police cars. While we recognise that this is ultimately an operational decision for the Police, we see the merit in this idea.
98. We have informed Police that, in our view, it would be beneficial for suitably experienced staff to be able to self-initiate a low-risk, non-compliant vehicle stops where grounds for necessity exist and where the tactic can be safely executed, such as in circumstances where a fleeing vehicle is driving at low speed, and when there is minimal traffic nearby.
99. Police have expressed reservations as such a manoeuvre can be dangerous, and call for proper training. Currently, only AOS/STG staff are trained in executing non-compliant vehicle stops. Police say that allowing untrained officers to execute this tactic using only a single vehicle would present a significant risk to the safety of staff and the public. Police are reviewing the policy wording to clarify when non-AOS/STG staff may execute non-compliant vehicle stops.
100. We accept Police's position on this matter, and are currently engaging with them on this issue.

### FINDINGS ON ISSUE 3

The pursuit controller considered closing roads to minimise risk to other road users.

It was not feasible for Police to establish a roadblock in time or to alert southbound traffic.

Officer H's decision to deploy road spikes was appropriate; he could not have closed the road safely.

Officer C's decision not to execute a non-compliant vehicle stop was appropriate.



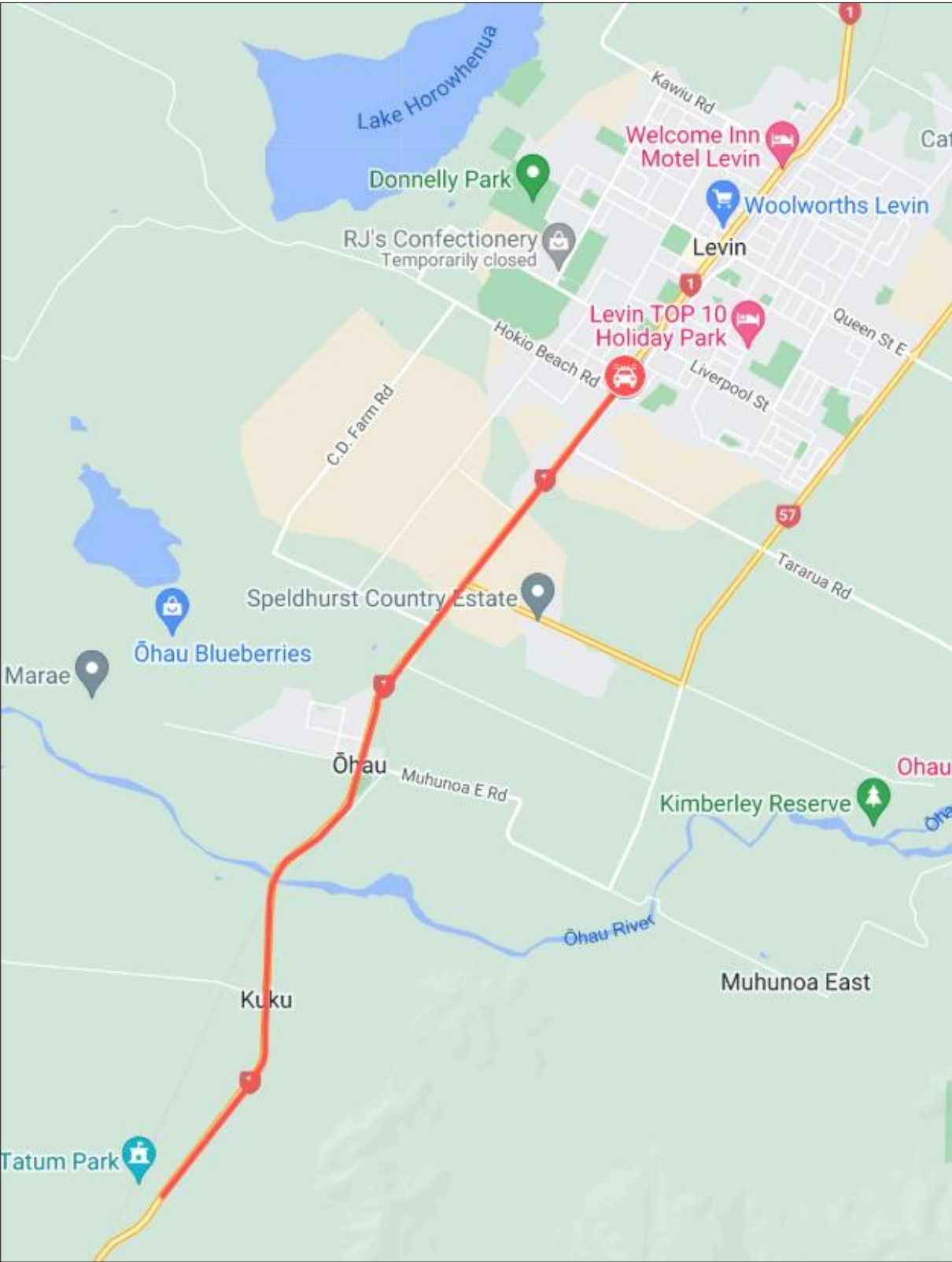
**Judge Kenneth Johnston KC**

Chair  
Independent Police Conduct Authority

15 April 2025

**IPCA: 24-22579**

# Appendix 1 – The route of the initial pursuit



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## About the Authority

### WHO IS THE INDEPENDENT POLICE CONDUCT AUTHORITY?

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

We are not part of the Police – the law requires us to be fully independent. The Authority is overseen by a Board, which is chaired by Judge Kenneth Johnston KC.

Being independent means that the Authority makes its own findings based on the facts and the law. We do not answer to the Police, the Government or anyone else over those findings. In this way, our 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?

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Under the Independent Police Conduct Authority Act 1988, the Authority receives and may choose to investigate:

- complaints alleging misconduct or neglect of duty by Police;
- complaints about Police practices, policies and procedures affecting the complainant in a personal capacity;
- notifications of incidents in which Police actions have caused or appear to have caused death or serious bodily harm; and
- referrals by Police under a Memorandum of Understanding between the Authority and Police, which covers instances of potential reputational risk to Police (including serious offending by a Police officer or Police actions that may have an element of corruption).

The Authority's investigation may include visiting the scene of the incident, interviewing the officers involved and any witnesses, and reviewing evidence from the Police's investigation.

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

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This report is the result of the work of a multi-disciplinary team. 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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