



POLICE COMPLAINTS AUTHORITY

**Report by the Police Complaints Authority
on the Investigation into the Death of Simon Keith Wright
in Auckland on 27 April 1994**



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REPORT BY THE POLICE COMPLAINTS AUTHORITY ON THE INVESTIGATION INTO THE DEATH OF SIMON KEITH WRIGHT IN AUCKLAND ON 27 APRIL 1994

Introduction

At about 8.27am on Wednesday 27 April 1994 a Holden Torana car driven by Simon Keith Wright (22) collided with a Nissan Bluebird car driven by Mrs Paula M Brill and in the vehicle were Mrs Brill's two daughters, Ella (3) and Lucy (21 months). A later computer analysis concluded that the speed of Wright's car would not have been less than 144kph prior to the collision at the point where braking began.

Wright sustained fatal multiple injuries in the collision and died at the scene. A death on the roads is a tragedy and therefore so was Wright's. Mrs Brill sustained minor injuries. Ella and Lucy both suffered shock. Lucy also sustained minor injuries. That more serious injuries did not result to the three occupants of the Nissan is an extremely fortunate event.

The manner of Wright's driving had already attracted the attention of Police in an unmarked Police car who had pursued him. Other, marked, Police cars were in the immediate vicinity of the collision at the time it occurred. Further reference will be made to the involvement of these other marked Police cars.

Report to the Police Complaints Authority

Because of the involvement of Police in the circumstances culminating in the fatal collision the Authority was at 10.15am that day notified from Police National Headquarters of the death of Wright in the collision.

Section 13 of the Police Complaints Authority Act 1988 requires the immediate notification of the Authority by the Commissioner of Police of any incident in which death or serious bodily harm is caused to any person where a member of Police was acting in the execution of duty.

In this instance the involvement of a number of Police patrols in the lead-up to the collision rendered such notification necessary.

Action Taken

I informed the Commissioner that I would oversee the Police investigation of the incident. There has been no complaint lodged by any person as a result of the collision and death of Wright.

There have been two Police internal investigations. One, by an Inspector of the Traffic Safety Branch, addressed the traffic aspects of the collision. The other internal investigation was conducted by an Inspector of the Auckland Police Internal Affairs Section and addressed wider aspects of the incident including whether established Police policy, practice and procedures had been followed.

A Senior Investigating Officer of my staff visited Auckland on 28 April 1994 to make a preliminary assessment of the circumstances.

He conferred with the Police officers making the internal Police investigations. He visited the scene of the incident and travelled the route followed by Wright in the period preceding the fatal collision.

He obtained a copy of the tape recording of Police patrol car radio transmissions relevant to the incident under investigation. He interviewed some of the Police officers who were involved in the pursuit of Wright.

He also spoke to Mrs Brill, the driver of the Nissan with which Wright's car collided, and interviewed one civilian witness who was reluctant to speak to the Police. Further reference is made to him hereafter.

Following these preliminary enquiries and the resultant assessment I advised the Commissioner of Police of the aspects of the incident to which I wished attention to be directed. The Commissioner has since supplied me with copies of the two reports of the internal investigations to which I have already referred.

Aim of this Report

This report will describe in narrative form the events of the morning of 27 April that eventually led to the death of Wright. It will address Wright's actions and also those of the Police members who became involved in the incident either directly or indirectly.

As provided by Section 27 of the Police Complaints Authority Act 1988 the report will then examine the Police policies, procedures, and practices relating to the conduct of Police operations in respect of vehicle pursuits. It will assess the effectiveness of their application to this incident. In this the relevance and appropriateness of the current Police General Instructions relating to incidents of this nature will be addressed.

Finally the report will attempt to draw conclusions on the action taken by Police in the incident. It will make such recommendations as appear appropriate in the light of those conclusions. The report will also draw on some overseas experience in the area of high speed Police pursuits.

Narrative of Events

According to his fiancée, Wright rose at about 8.10am on the morning on which the fatal collision occurred and drove her to her work-place. On leaving her there he planned to go to a bank at St Lukes shopping centre to get a new Bankcard.

At 10.30am he was scheduled to fly to Tauranga where he was working. He had no need to hurry; a taxi had already been booked to take him to the airport for his flight. He was said to be in a happy frame of mind having only recently become engaged to be married.

The most direct route from his fiancée's place of work to the St Lukes bank would have been down Morningside Drive. It was on Morningside Drive that Wright was first seen by two Police officers. They were in a maroon unmarked Police car.

The driver of the Police car was Constable M R Jones. He was in uniform. With him was Constable M J Simpson who was in civilian clothes. The two constables were stationed at Balmoral. They were in Taylors Avenue on their way to the Morningside Police Station to deliver mail. They were not on a traffic or crime patrol.

Constable Simpson noticed the white Holden Torana car travelling along Morningside Drive towards St Lukes Road. This was the car being driven by Wright. It was travelling at a speed estimated by the Constable to be well in excess of 120kph. Constables Jones' estimate of the Torana's speed was a little lower at in excess of 100kph.

From the time Wright's car was first observed by the two constables until the fatal collision Wright was at all times travelling in a built-up area in which an upper speed limit of 50kph applied.

The two constables decided to follow the Torana in order to speak to the driver. They turned and followed it down

Morningside Drive. Constable Jones saw it turn left into Leslie Avenue about 80-100 metres ahead of their Police car. Constable Jones made the same turn but lost sight of the Torana.

The next sighting of the Torana was it coming in the opposite direction to their own as it turned from Sandringham Road into Kenneth Avenue, from which they had just emerged.

Constable Jones turned the Police car round and drove after the Torana, which was travelling at a speed Constable Simpson stated was in excess of 100kph down Kenneth Avenue back towards Morningside Drive.

At this point, on Kenneth Avenue with the Torana approximately 100 metres ahead, Constable Simpson activated the Police car siren and its red and blue incident lights.

Such lights are clearly visible in the rear view mirror of a car being followed but not as visible as roof lights. The audible penetrating note of the siren is designed to attract the attention of other road users as well as the pursued driver.

The Torana continued without responding to the light and siren signals.

It is here necessary to establish the point at which the pursuit of the Torana driven by Wright commenced, and at what point Wright became aware he was being pursued.

Constable Simpson stated his belief that Wright did not have any idea the Police were following him until the Constable activated the lights and siren as set out above. In that sense the pursuit can be said to have commenced in Kenneth Avenue and Wright became aware of the pursuit.

After activation of siren and lights Constable Simpson made his first report by radio to Auckland Central Control Room that a car had failed to stop. He asked if Eagle, the Police helicopter, was in the air.

The Torana turned left from Leslie Avenue into Morningside Road in the direction of St Lukes Road. At the junction of Morningside Road and St Lukes Road the Torana turned left again in the direction of Sandringham Road, passing through a red traffic signal as it did so.

Constable Simpson reported their position to Control and that the Torana was travelling at 100-odd kph.

The Police car was about 100 metres behind the Torana. After going over an amber traffic signal at the junction of St Lukes Road and Cornwallis Street the Torana next turned left from St Lukes Road back into Sandringham Road.

This turn was reported by Constable Simpson to Control on the radio.

Constable Simpson's radio message was also heard by Senior Sergeant R G Endicott-Davies, of the Police Traffic Safety Branch, elsewhere in the city. He drove off towards the pursuit, operating the flashing incident lights and siren of the Police car, and travelling at a speed he put at about 80-90kph.

Two other officers, Constable S D Marter and Constable P R Rosser of the Police Traffic Safety Branch, who were together, also heard Constable Simpson's message. They were in two separate cars and drove off in the direction of the pursuit with lights and sirens operating, but taking slightly different routes.

Constable Marter encountered the marked car driven by Senior Sergeant Endicott-Davies and followed the Senior Sergeant's car north along Sandringham Road.

Constable Rosser also made his way to Sandringham Road and turned north, arriving before the Senior Sergeant and Constable Marter. He was approximately 700 metres ahead of Senior Sergeant Endicott-Davies.

Returning now to the unmarked Police car driven by Constable Jones and containing Constable Simpson, the Torana was seen by Constables Jones and Simpson to turn right off Sandringham Road at speed, sliding round the corner on the wrong side of the road. Constable Simpson reported the turn to Control.

The transcript of radio transmissions shows that the Eagle Police helicopter came on the air at this time and reported that it was on its way to the area.

After negotiating suburban streets the Torana and its pursuing unmarked Police car both turned right on to Sandringham Road again, the Torana ignoring a give-way sign. This turn was again reported to Control by Constable Simpson.

The Torana then went along Sandringham Road towards central Auckland. Constable Simpson reported to Control that the Torana was heading towards Eden Park along Sandringham Road. The Constable added that, "There are plenty of school kids around, so we're not trying to push him too hard". This is a telling comment to make.

The Torana was briefly held up at a pedestrian crossing at Ethel Street. It was driven onto the wrong side of the road to pass traffic still stationary at the crossing. At this point the pursuing Police car came to within 60 metres of the Torana allowing Constable Simpson to note its registration number: OZ5661.

This was the first time the pursuing Police had been able to note the Torana's registration number.

Still on Sandringham Road just north of Eden Park the Torana made a right hand sliding turn into Walters Road. Constable Simpson reported the registration number of the Torana to Control and said it had gone into Walters Road.

In Walters Road the Torana glancingly struck another car being reversed out of a driveway causing minor damage to both cars.

The Torana was momentarily stationary and the Police car halted alongside it. Constable Simpson went to alight but before he was able to speak to the driver of the Torana that car was driven off again at high speed.

The Torana then turned left out of Walters Road and re-entered Sandringham Road. The Police car followed, but Constable Jones lost sight of the Torana. Constable Simpson reported that the Torana had gone back down Sandringham Road, away from the city.

Constable Rosser had been travelling north on Sandringham Road towards central Auckland when he heard Constable Simpson's radio report of the Torana being in Walters Road. Constable Rosser then saw the Torana coming down Sandringham Road from Walters Road and in the opposite direction to his own. It was travelling at a speed he estimated as approximately 100kph.

After it passed him the Constable executed a u-turn and set off after it. He lost sight of the Torana as it went over a rise on Sandringham Road near Ethel Street. Still further behind was the unmarked car driven by Constable Jones. The latter said he observed the marked car in front of him.

At this point another Police unit with call-sign PBQ1 announced on the air that it was coming down Bond Street towards Sandringham Road. This was another marked Police car manned by Constables P M Dean and J E Hicks which made the 4th marked car, and the 5th in total in pursuit. It might be arguable whether there was a 5th car in pursuit, and I deal with that under the definition of "pursuit" hereafter.

At this stage the Torana driven by Wright was travelling south on Sandringham Road.

Coming towards the Torana on the opposite side of Sandringham Road at this time were two marked Police cars, the one in front being driven by Senior Sergeant Endicott-Davies and, some distance behind the Senior Sergeant, Constable Marter.

Constable Marter's car was positioned slightly to the right of the track of the Senior Sergeant's car so that the Constable could have a clear view of the road ahead. This meant the Constable's car was on the painted median running down the centre of Sandringham Road.

The Torana went past Senior Sergeant Endicott-Davies near the intersection of Burnley Terrace with Sandringham Road. The Senior Sergeant slowed and u-turned ready to follow the Torana. He then saw the Torana slide sideways across the centre median, over-correct, and then slide onto the wrong side of the road. This slide continued for about 60 metres and the Senior Sergeant saw the Torana collide with a blue Nissan Bluebird, the car driven by Mrs Brill.

The braking and skid marks left on the road by the Torana were later analysed and found to equate to a speed of 144kph by the Torana at the commencement of braking.

Constable Marter, behind the Senior Sergeant by about 50 metres, saw the Torana approaching at a speed he put at around 140kph. He saw it swing to its right behind the Senior Sergeant's car and in front of his own, missing his Police car by about two metres. The Constable braked and made a u-turn in time to see the collision between the Torana and the Nissan.

Senior Sergeant Endicott-Davies and Constable Marter immediately attended to the occupants of the two cars in the collision. Mr Wright exhibited no vital signs. An ambulance officer who arrived shortly afterwards detected faint heart activity, but after a few minutes during which CPR was applied no signs of life were present. Dr W. Daniels certified life extinct at the scene.

Constable Rosser arrived at the scene immediately after the collision. The Torana had been travelling at a speed he put at about 140kph when it drew away out of his view at the brow of a rise in the vicinity of Ethel Street.

Shortly afterwards the unmarked Police car driven by Constable Jones reached the scene of the collision, followed by Constables Hicks and Dean.

The duration of the incident, from the first radio report by Constable Simpson until the collision was approximately three minutes.

Police Units Committed to the Pursuit

This is a useful point at which to review the Police resources which were committed to the pursuit of the Torana being driven by Wright.

A few seconds before the collision occurred Wright was driving south on Sandringham Road at speeds variously estimated at between 100 and 144kph.

Two to three hundred metres behind him was the marked Police car driven by Constable Rosser with siren and red and blue incident lights operating.

Some 70 metres behind Constable Rosser on Sandringham Road was the unmarked car driven by Constable Jones who was still intent on pursuing the Torana and had lights and siren operating.

Still further behind was the marked Police car manned by Constables Dean and Hicks which was coming South and arrived at the collision scene shortly after the other Police cars.

Coming north along Sandringham Road in the opposite direction to that being travelled by Wright were the marked Police cars driven by Senior Sergeant Endicott-Davies and Constable Marter, respectively, with lights and sirens operating.

Wright, on the opposite side of the road, could not have failed to have been aware of the approach of these two cars. The two cars were in the immediate vicinity of the collision when it occurred and it was witnessed by both officers.

It can be observed from this that no less than five Police cars, all of which were operating red and blue lights and sirens, were committed to the pursuit of the Torana driven by Wright immediately before it collided with Mrs Brill's Nissan.

Traffic Aspects of the Collision

Analysis of the collision established that the Torana overtook another vehicle at high speed just north of the intersection of Sandringham Road with Ethel Street and Burnley Terrace. It was seen by a civilian witness to return to the correct side of the road and then veer over to the wrong side of the road between the two Police cars. These were the cars driven by Senior Sergeant Endicott-Davies and Constable Marter.

The Torana then went out of control and skidded 116.6 metres until its impact with the Nissan. By computer analysis this equated to a speed at the commencement of the skid in the vicinity of 144kph. The impact forced the Nissan back 12.1 metres from the point of impact.

Both vehicles were subsequently examined by Vehicle Testing New Zealand Limited for their general mechanical condition and for any defects likely to have contributed to the collision.

The examination found that the Torana had been extensively modified, the only original component being the body shell. The car had a Chevrolet V8 motor fitted. No mechanical faults which may have contributed towards the collision were found.

A similar finding was made in respect of the Nissan.

Wright's Driving Competence

A factor now warranting attention in light of the observed driving conduct of Wright were his driving habits and competence but they were not known to any of the officers at the time of the pursuit.

Wright had a driving record that can only be described as poor. It comprised five convictions including convictions for speeding, failing to stop after an accident, careless driving and one for impeding traffic. These convictions and other information about the way Wright was given to behave on the road suggests that his attitude to the responsibilities of safe driving was seriously flawed.

On 4 February 1994 Wright had been convicted of failing to stop after an accident and careless use of a motor vehicle after an incident in which he deliberately drove into the rear of a car he felt was baulking him. In addition to being fined on both counts Wright was disqualified from driving for six months. His disqualification was still in force at the time of this incident. Post mortem analysis showed there was no alcohol in his blood although a trace was present in his urine which was of no significance.

The disqualification may explain why Wright did not stop when signalled to do so by Constables Jones and Simpson.

These characteristics are of significance in considering Wright's driving on the morning of the collision.

Civilian Witnesses

A number of civilian witnesses who were present in the area during the pursuit of Wright were able to comment on what they had seen.

The witness who was best placed to see the culmination of the pursuit was at the junction of Sandringham Road and Burnley Terrace.

This witness first saw the Torana go past travelling north on Sandringham Road followed at a distance of about 30 or 40 metres by the unmarked Police car. The same witness then saw the Torana coming back down Sandringham Road. This would have been after it had been in collision with the car in Walters

Road. It was then travelling at a speed the witness put at in excess of 100kph.

The Torana was seen by the witness to first veer towards the footpath then towards the centre of the road. At that point the two marked Police cars driven by Senior Sergeant Endicott-Davies and Constable Marter respectively, were seen going past in the opposite direction to the Torana.

The witness saw both Police cars brake. The Torana was by then sliding and apparently out of control. It slid between the two Police cars. The collision with the Nissan quickly followed.

Other witnesses to various stages of the pursuit estimated the speed of the marked and unmarked Police cars involved in the pursuit at speeds of between 70 and 100kph. The Police cars were said by one witness to be travelling fast but in control. The speeds of the Torana were estimated by witnesses to be somewhat higher than those of the Police cars.

The witness who would not speak to the Police told the Police Complaints Authority investigator that he felt a Police car travelling in the opposite direction to the Torana had been deliberately driven on to the Torana's side of the road. The witness however also said his observation was uncertain and acknowledged that the Police driver would have been unlikely to place himself in the path of another car approaching at speeds in excess of 100kph. I treated this witness's recollection with some reserve.

No other witness was critical of the performance of any of the Police cars during the pursuit. Witnesses variously saw the Police as handling the situation well and operating their vehicles safely.

Police General Instructions

For ease of reference it will be helpful to reproduce at this point extracts from the Police General Instructions governing Vehicle Pursuits.

They were promulgated in March 1993. General Instruction V2 is headed 'Basic Principles'. It instructs:

"1. A sustained pursuit will not be justified except in very exceptional circumstances and only where:

a. An offender's continued liberty would constitute a greater danger than the continued pursuit; or

b. the offence is serious and constitutes a danger or serious threat to the public or the police."

(The emphasised words are as in the promulgated GI).

Another GI relevant to this incident is at GI V5 and deals with 'Duties of Supervisors'. It instructs:

"1. Supervisors shall, at all times, strictly supervise members who are involved in 'pursuits' and shall ensure that the members maintain a high standard of driving behaviour at all times."

2.

3. In areas serviced by control rooms, the control room supervisor shall be responsible for the control of the pursuit.

4. When notified of a pursuit the supervising officer or NCO shall:

a. ensure that the pursuit is justified according to the criteria specified in the paragraph titled Basic Principles;

b. limit the number of vehicles following the offender to not more than two unless there is good reason to authorise additional vehicles;

- c. constantly review the justification for the continuation of the pursuit, and, where the circumstances no longer warrant the pursuit, order its abandonment;
- d. ensure the officer engaged in the pursuit is regularly questioned about the road and traffic conditions. This will compel the officer to take notice of these, and other similar matters and help to overcome the problem of 'tunnel vision' and to keep controllers informed.
- e. where a crash occurs involving the member's and/or the offender's vehicle a supervisor is to attend the scene and report;
- f. require the pursuing officer to furnish a pursuit report. If the member is unable to do this, a supervisor is to undertake this action on their behalf using *PURSUE."

In defining the pursuing driver's responsibility the GI goes on at V6 'Driver Responsibility' to instruct:

- "1. Drivers are legally responsible for their actions. They shall exercise every care to ensure their passengers and the public are not placed at risk by the officer's actions. The fact that a vehicle is being driven at excessive speed is not in itself sufficient grounds for a sustained pursuit. Pursuits should not be continued in an unmarked car where a marked car can be called to take over.
- 2. When a pursuit is considered necessary the officer shall;
 - a. advise the control room or supervisor (as appropriate);
 - b. drive carefully and skilfully;

- c. drive with total control and concentration and, at all times, retain the ability to make a safe emergency stop;
- d. use warning lights and siren;
- e. reduce speed at intersections and other dangerous places;
- f. maintain radio contact with the control room or supervisor (as appropriate);
- g. discontinue the pursuit immediately it becomes likely that it is likely to endanger life;
- h. complete a pursuit report using preformat *PURSUE on the Wanganui system before finishing duty."

Definition of Pursuit

I pause here to address the problem of when is a Police vehicle said to be in pursuit? The problem of "sustained pursuit" is dealt with hereafter. In the introduction to "Vehicle Pursuits" in General Instructions a pursuit is defined as follows:

"A pursuit is an active attempt by a police officer, in a vehicle, to stop a moving vehicle where the driver of that vehicle is attempting to avoid apprehension."

That definition is not without serious difficulties in interpretation, some of which are revealed by the facts of this incident. The definition's meaning is plain enough where one Police vehicle is pursuing another vehicle and by its actions the driver is indicating evasive action to avoid apprehension. At the beginning Constable Jones in the unmarked car came within the definition. Interpretation gets more difficult when other Police vehicles after hearing of the pursuit commit themselves and their cars by activating siren and lights and

heading in the direction of the area of the pursuit. On a narrow definition there were two cars in pursuit immediately prior to the fatal collision, being the cars driven by Constables Rosser and Jones. Further behind the unmarked car was the one containing Constables Dean and Hicks. There were two other cars very close. It might be arguable that the unmarked car containing Constables Dean and Hicks was in pursuit, being about 1km away at the time of the collision. However its lights and siren were operating and it was heading to the area and in fact arrived at the collision site. In my view subject to the interpretation difficulties I mention that is sufficient to bring it within the definition of being in pursuit.

I have included these comments to highlight the problem with multiple Police cars directly involving themselves with the apprehension of the pursued vehicle and its driver.

Was this a Sustained Pursuit?

The term 'sustained pursuit' is not defined in the General Instructions. The relevant definition of 'sustain' from the Concise Oxford Dictionary is 'maintain or keep ... going continuously'. I turn to decide whether on the facts this was a sustained pursuit. This is a threshold question for the General Instructions seem to be designed to control sustained pursuits but again it is not entirely clear.

The pursuing Police car driven by Constable Jones maintained continuous driving after the pursued car over 4.7 kilometres up and down several suburban streets, albeit losing sight of it at times, for a period of approximately three minutes.

Constable Jones was in continuous pursuit with lights and siren operating. Wright would undoubtedly have been able to hear the Police siren. He would also have been able to hear the sirens of the other cars committed to the pursuit as they drew near on Sandringham Road.

The considerable distance by which Wright drew ahead of Constable Jones' Police car cannot be regarded as a measure of whether the pursuit was or was not sustained. Visual contact may not have been maintained, pursuit certainly was.

There is also the question of the role of the other Police cars to consider when addressing the matter of a sustained pursuit. The evidence I have seen indicated that Senior Sergeant Endicott-Davies and Constables Marter, Rosser, and, although late arrivals, Constables Hicks and Dean, all responded to the pursuit situation.

In four separate marked Police cars all these officers were operating their incident lights and sirens and all were making their way at speed to the area of the pursuit. The inescapable inference to be drawn from this is that they had committed themselves to, and intended to assist in, the apprehension of the pursued motorist. They were therefore part of the pursuit.

The Senior Sergeant and Constable Marter were in the immediate vicinity of the fatal collision when it occurred. Again, Wright would have seen and heard their cars coming towards him. Their involvement as part of the sustained pursuit has to be recognised.

I find all of these officers to a greater or lesser degree took part in what was a sustained pursuit leading to the fatal collision.

I am also reinforced in my finding that this was a sustained pursuit by the research Report for Western Australia Police Department prepared in 1990 and entitled "High Speed Police Pursuits in Perth". The Report was prepared by Mr Ross Homel of the School of Behavioural Sciences, Macquarie University NSW, with the assistance of other individuals and organisations.

The Report sought to define the nature and dimensions of the problem of high speed pursuits in Perth and to carry out data analysis to aid the better management of pursuits by Police.

The researchers, from the School of Behavioural Sciences, Macquarie University, New South Wales, found that in a study of 346 pursuits recorded by the Traffic Branch between 1 January and 30 June 1990, the median duration of the pursuits was three minutes. I have checked at Police National Headquarters and have been informed the duration of pursuits is not kept as a statistic. It is my view in future this statistic should be gathered.

Three minutes was the approximate duration of the pursuit of Wright and it is not unreasonable to regard the pursuit in terms of time in a built-up residential area with a dense street configuration as substantial and within the boundaries for sustained pursuit.

Pursuit Control Aspects

At the time the pursuit of Wright was in progress a senior sergeant, Senior Sergeant C Brown, was the officer in charge in the Auckland Central Police Control Room. He had worked in the Control Room for two months. During that time he had not had to direct or control any vehicle pursuits by Police. This incident was the first in his experience.

Organisationally the Officer in Charge of the Control Room had under his charge a number of subordinate controllers, or despatchers as they are also known. Each operates a console and controls one segment of Police operations and communications in the Auckland area.

The despatcher who first received Constable Simpson's radio message that a car had failed to stop was Constable K R Holl. He was under the supervision of Senior Sergeant Brown. Constable Holl passed on to Senior Sergeant Brown the report that the pursuit was being conducted at speeds of about 100kph.

The Senior Sergeant decided that the Police Eagle helicopter should be involved. Constable Holl was at that time unable to contact Eagle.

All of the other despatchers in the Control Room under Senior Sergeant Brown's supervision were busy and so he decided to make contact with Eagle himself. The decision to bring Eagle into play might have been understandable, but it inhibited the Senior Sergeant's ability to control the pursuit.

The pursuit did not come under the direction of the Control Room in any practical sense. I will comment on this later in this report.

Eagle Involvement

The transcript of the radio transmissions and other information indicated that Eagle became aware of the pursuit situation when a Police aircrew member, Constable M Gray, at the Mechanics Bay helicopter base overheard Constable Simpson's radio reports.

Constable Gray also heard attempts by Control to contact the helicopter. These calls appear on the transcript of radio transmissions but without any apparent acknowledgement at first, although Eagle did report its presence to Control during the pursuit.

The Eagle flight became airborne, but the collision on Sandringham Road between the Torana and the Nissan occurred before any effective part in the pursuit could be taken by the helicopter.

The Control Room

Some comments about the relevance of General Instruction V5 'Duties of Supervisors' have already been made. This incident revealed an unfamiliarity with the requirements of the General Instructions by the O/C Control Room who was on duty. I have doubts that the speed at which the pursuit situation was developing would have allowed him time for measured consideration of the GI.

To comment further, this incident suggests to me that attention should be addressed by the Commissioner of Police to the review

and amendment of General Instruction V5(4)(a) to (f) to more appropriately accommodate the pressures and immediacy of a pursuit situation in order to allow more scope for the discretionary initiative of controllers.

The future of Police vehicle pursuits would profitably be assisted by incorporating in Police training schedules practice pursuit situations to enable Control Room staff to become familiar with the immediacy that invariably attaches to such situations.

Evaluation of Incident

The primary focus of this report is to examine the factors that arose out of the accident whilst Wright was under pursuit by Police cars which ended when he crashed into another vehicle and lost his life. Those factors are addressed hereafter.

Having stated the foregoing there are some general observations which I consider should be made to assist all persons in the understanding of this report and the complex problem of Police pursuits.

The first observation is that high speed Police pursuits are proving to be a problem for most Police departments in countries similarly developed to our own in New Zealand. The general thrust of the Western Australia Report referred to earlier has relevance to New Zealand conditions and the findings mostly are applicable. Attached to that Report are three foolscap pages comprising the bibliography of literature on the subject in Australia, United States and Canada. Those references testify to the universality and complexity of the problem.

Within the last few weeks I have consulted in Wellington with members of "Staysafe", the Joint Standing Committee on Road Safety of the NSW State Parliament, and was informed that Committee has under preparation a Report to go before the State Parliament in November of this year on Police vehicle pursuits.

It is one of my recommendations to the Commissioner that he confer with the appropriate Government Ministers to have a multi-disciplinary group assembled to examine in-depth Police high speed pursuits. As far as I understand there have been in the past consultations with barristers on an ad hoc basis on this problem but not a complete review whereby the views of the public can be ascertained and on which enquiry they would be represented.

The second general observation is more closely related to this incident. There has been no complaint from a member of the public about the event and as stated earlier it is treated as an incident pursuant to Section 13 of the Police Complaints Authority Act. The central purpose of this report is to concentrate on remedial strategies for use in the future by the Police which it is hoped will reduce the incidence of death, injury and property damage. Should the recommendation for the establishment of a multi-disciplinary enquiry be accepted, it is hoped this report might be of initial assistance as the event itself encapsulates many of the characteristics and ingredients commonly found in such pursuits.

Review by PCA

When addressing the relevance and appropriateness of the current Police General Instructions relating to vehicle pursuits it can be seen from the above extracts that a number of departures were made from the procedures set out in General Instructions. Departures from the 'Duties of Supervisors' amounted to there being no effective management of the pursuit by Control. A number of factors led to this.

One was that by trying to contact Eagle himself Senior Sergeant Brown was clearly unable at the same time to devote his supervisory attention to other aspects of the control of the pursuit.

There is no indication, for instance, that he took any steps to restrict the number of Police cars involved in the pursuit at road level as is required by General Instructions. Indeed

whether the Senior Sergeant knew, during the pursuit, just how many Police cars were committed to it is doubtful.

The transcript of transmissions mainly comprises messages by Constable Simpson by way of a commentary on the course of the pursuit. Apparently no instructions were radioed from the Control Room to the pursuing Police during the pursuit.

Nor was there any interrogation of the officers engaged in the pursuit about the road and traffic conditions or to ascertain whether the pursuit was justified in accordance with General Instruction V2 'Basic Principles'. In fact, as Senior Sergeant Brown himself stated "the feedback I was getting from the vehicles as such appeared to relay to me that the vehicle was in control of the situation".

To comment, control of the situation by the pursuing car crew is quite contrary to the General Instructions to supervisors who shall, it is instructed, at all times strictly supervise members who are involved in pursuits and "shall ensure that the members maintain a high standard of driving at all times."

The General Instruction concerned, V5(1) does not elaborate as to how this latter instruction to a Control Room supervisor, remote from the pursuit scene, is to be implemented in practice. However, Senior Sergeant Brown said in this instance he was satisfied in the short time available to him to evaluate the pursuit that everyone conducted themselves correctly.

The number of Police cars which became committed to the pursuit situation causes me great concern. There were five in all, in my view an excessive number in light of the reason for the pursuit: a single speeding motorist.

The transcript of the Control Room tape contains no indication that any of the four Police cars which committed themselves to the pursuit after Constables Jones and Simpson had taken it up had sought Control's approval to join in. Neither did they apparently report to Control that they were available if needed by Control to assist in the pursuit. It is possible the

respective drivers may have refrained from reporting in so as to keep the air waves free.

All those four appear to have themselves decided to take part. The result was that there was no limitation by Control of the number of Police cars involved as is required by General Instruction V5(4)(b) and no degree of certainty in Control as to the number of Police cars involved.

I criticise the self-commitment by so many Police cars to the pursuit without the direction or invitation of Control.

It demonstrates two disturbing factors. The first of these was commitment by the officers who responded to the pursuit situation without bidding from Control. They should have reported their availability and awaited deployment instructions.

The second factor was, of course, the absence of any direction of these extra cars from Control. I believe deficiencies in the General Instructions are largely responsible for both of these factors.

To comment, it is of course acknowledged that the time for effective control of the pursuit to be imposed from the Control Room was short, but that is the nature of any urgent operational situation which demands a rapid response.

I feel the General Instructions require revision in that the requirements they impose on Supervisors are too rigid, complicated and unrealistic in light of the conditions likely to be encountered in pursuit situations. Clearly in this case there was insufficient time in which to implement the fairly wide requirements of General Instructions. For that reason no finding of censure in respect of the Control Room staff is made here.

At the same time the General Instructions appear to be deficient in that no provision is contained in them to prevent the unannounced and unsupervised intrusion of other units into a controlled pursuit situation. I acknowledge the officers who

on this occasion took it upon themselves to become committed to the pursuit did not in any way contravene any General Instruction by so doing.

Was the Pursuit Justified?

Although the pursuing unmarked Police car was generally being operated by Constable Jones within the parameters of General Instruction V6 and no censure is warranted, the question of whether the pursuit was justified warrants examination.

General Instruction V2 'Basic Principles' instructs that a sustained pursuit is only justified in very exceptional circumstances. These are set out as the offender's continued liberty constituting a greater danger than the continued pursuit or when the offence committed is serious and constitutes a danger or serious threat to the public or Police.

Wright was driving a rather noisy powerful car too fast, but I note that General Instruction V6, in instructing pursuit drivers as to their responsibilities, instructs that the fact that a vehicle is being driven at excessive speed is not in itself sufficient grounds for a sustained pursuit.

Wright was not known or suspected to have committed any other offence. In respect of General Instruction V6 then, no justification for the sustained pursuit of Wright's car existed.

Should the Pursuit Have Been Abandoned?

The answer to this question is a qualified yes in my judgement, but there are difficulties with this response because of the number of vehicles involved which is referred to below.

Given the time of day and the presence of school children in the Sandringham Road area, to which Constable Simpson referred in one of his radio messages, and the fact that Wright was of initial interest only by virtue of the speed at which he drove down Morningside Drive, his sustained pursuit was not a matter of operational urgency.

The presence of school children, apparently in sufficient numbers to make their being there a factor for consideration in the conduct of the pursuit, suggests that the pursuit should have been abandoned as soon as it became apparent Wright would not obey the Police signals.

Although I have given a qualified answer above that the pursuit should have been abandoned, that raises the obvious question: when there are so many Police vehicles involved how is that achieved? By asking the question it assists in demonstrating the difficulty of control when so many vehicles are involved in a pursuit of short duration. These are issues which must be addressed in the future.

Conclusion

It is concluded that although the sustained pursuit of Wright cannot be justified, in hindsight it is nevertheless clear that in the judgment of the Police officers who observed his speeding on Morningside Drive it appeared warranted at the time.

It is fortunate that no third party died as a result of Wright's driving. Likewise it is unfortunate that Wright died in the accident but I do not hold that his death was caused by the Police pursuit. His history of erratic and demonstrably irresponsible driving on the day in question shows the risk he clearly posed to himself and other road users.

As in all pursuits with tragic ends, the inescapable fact remains that had Wright responded to the visual light and audible siren signal first used by the Police on Kenneth Road when he was breaking the law no injury or damage would have occurred. However, he chose not to stop.

The pursuing Police cars cannot be said to have pressured Wright into any dangerous driving. The speed at which he drove, well in excess of the Police cars engaged in the pursuit, was within his own control. No pursuing Police vehicle was close enough behind him to directly influence this or to push him to make driving misjudgements.

However, the enquiries made by my officer and the two Police internal investigations, and the reports which I have reviewed lead me to find that there is a need for urgent attention to be addressed to the General Instructions relating to the Police vehicle pursuits.

At the same time the nature of pursuits and the comparatively brief duration of pursuits, especially in built up areas, strongly indicates that the training of Control Room personnel in pursuit management should occupy a prominent position in Police training programmes.

I am not moved to recommend any disciplinary action against any Police officer. As I said earlier, the thrust of this report is deliberately remedial. I do however recommend that action be taken to closely review the Police General Instructions for Control Room staff addressing pursuits. The objective of the review should be to render them more relevant to the actual conditions of urgency which accompany pursuit situations.

It is not enough to lay down detailed catch-all instructions, the wide requirements of which are difficult or impossible to implement by operational staff attempting to deal with the immediacy of such situations. The instructions should be framed to better assist staff in the effective discharge of their responsibilities.

Recommendations

The results of this review lead to the following recommendations:

1. That the Commissioner of Police confer with appropriate Ministers to have a multi-disciplinary group assembled to examine in-depth high speed Police vehicle pursuits with a view to making recommendations. It is important to stress vehicles pursuits is a community problem, and not exclusively that of the Police.

2. In any event:

- A. General Instructions on Vehicle Pursuits are currently under review, I understand, and I have every confidence this report will be given appropriate consideration in the course of that review. In the course of that review the statistical programmes of vehicle pursuits should be re-examined.
- B. Training programmes should contain appropriate and realistic practice for Control Room staff in the management and direction of pursuit situations.
- C. The General Instruction relating to vehicle pursuits should provide for units overhearing excessive speed pursuit messages, but not involved, to place themselves at the disposal of Control to await instructions from Control but not to act on their own volition. I readily recognise there are other urgent situations requiring initiative from Police officers when they should commit themselves to assist.
- D. These recommendations (A) to (C) are not to be treated as exhaustive for certainly on a review of these General Instructions other issues will arise.
- E. Finally, nothing in this report is to be interpreted as suggesting the Police service should not have the capability of using vehicle pursuits when they are considered operationally necessary.



Sir John Jeffries

POLICE COMPLAINTS AUTHORITY

1 August 1994