

**Report of the Police Complaints Authority
on the investigation into the death of Desra Ratu Compain
in Otahuhu on 10 August 1994**

Introduction

On Wednesday 10 August 1994 at about 8.15am Desra Ratu Compain, then aged 15, was a front seat passenger in a 1989 Holden Executive car driven by his 18 year old friend, Duncan Michael Moore. They had converted this vehicle the night before. It had been reported missing to Police.

About this time Police received information that the missing vehicle had been spotted. It had been seen being driven at normal speed enclosed in heavy early morning traffic. Police moved to intercept it. Two Police cars located it. It was pulled over near the intersection of Walmsley and Robertson Roads in Mangere.

With lights flashing a marked car pulled up behind it. The other Police car was unmarked. It pulled up angled across the front of the Holden to prevent it moving off.

Nevertheless, before Police could speak to the occupants the Holden driver thwarted this attempt at containment. The vehicle burst clear and sped off at high speed. The two Police cars set off in pursuit.

For the next four minutes the driver of the Holden ran red lights, travelled on the wrong side of the road, mounted the kerb to pass other vehicles and weaved in and out of traffic, at high speed.

He finally swung right from Atkinson Avenue into Avenue Road, Otahuhu. Before the Southern Motorway construction Avenue Road was one continuous straight road lying on a west/east line. The motorway bifurcated at right angles the road towards its eastern end (at about two-thirds of its length) and the section on the eastern side of the motorway thereafter was named Avenue Road East. As one stands on Avenue Road it is raised above the Southern Motorway and the eastern side can be observed across the motorway itself. The abruptness of the end of Avenue Road when it reaches the motorway would be unexpected to anybody unfamiliar with the area. Under heavy acceleration whilst in Avenue Road the Holden headed east in the direction of the Southern Motorway. It reached speeds in excess of 100kmh. Apparently the driver did not know this was in effect a dead-end street. He learned this only as he reached near the end of the street. There was a last moment desperate attempt to brake. It was in vain.

The vehicle crashed through a wooden and wire barrier at the end of the street, became airborne and landed on the roof of a truck travelling north towards Auckland on the Southern Motorway. Desra Compain was killed outright.

Four minutes only had passed from the time the vehicle fled from the two Police vehicles which pulled it over until this fateful and dramatic end. During this time some eight Police vehicles became involved one way or the other. I will return to their involvement later.

Report to the Police Complaints Authority

Because of the involvement of Police in the circumstances culminating in the fatal collision, the Authority was very soon after the event on 10 August notified by Inspector N T Morris from Auckland Central Police Station.

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

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

Action Taken

I made an immediate decision that I would oversee the Police investigation of the incident. Police were so informed. There has been no complaint lodged by any person as a result of the Police pursuit, the crash, and the death of Desra Compain.

To implement my decision I travelled to Auckland on the day of the event, reaching there shortly after noon. Arrangements were made prior to my arrival for Inspector McMinn to meet me and brief me on the matter.

I visited the scene. My decision was to agree to Inspector R M Hepburn of the Manukau Police District continuing his enquiries and to keep me fully informed. I advised him of the aspects of the incident to which I wished attention to be particularly directed.

I have now received the very extensive and detailed final report from the Inspector. This includes references to a technical report prepared by Constable T J McMahon who holds a Certificate in Advanced Accident Investigation.

There has been a very thorough and wide ranging investigation of the incident by Police. I have now completed my review of the Police file.

Aim of the Report

This report will describe in narrative form the events of the morning of 10 August that subsequently led to the death of Desra Compain. It will address Duncan Moore's actions and also those of Police members who became involved in the incident, either directly or indirectly.

The report will examine action taken by Police in the incident. It will make recommendations which appear appropriate, especially in relation to vehicle pursuits. The thrust of this report is remedial.

Cars Committed to Stopping the Holden

In all eight cars were involved. It is not a simple matter to describe their respective roles. For ease in following the narrative I will refer to each car by a number. This legend denotes the occupants of each marked car:

Car 1	Sergeant Watson
Car 2	Constable Taaka
Car 3	Constables Pua and Smith
Car 4	Constable Rothville
Car 5	Constables Crowley and Whistler
Car 6	Constable Becker
Car 7	Constable Robson
Car 8	Constable Harries and Peat

Initial Police Action

Police had been informed the Holden was missing. Initial Police action was not targeted at a pursuit situation. Police intentions were simply to stop this slow moving vehicle part of a heavy traffic flow and apprehend the occupants. With this in mind Constable Matapo at Auckland Control began to direct Police vehicles in the area.

The Holden's anticipated route was the continuous stretch of roadway between the intersections of Mahunga Drive and Walmsley Road and that of Kaka Street and another road also called Walmsley Road which for the sake of clarity I will refer to as Walmsley Road East. This roadway undergoes name changes at different points along its length. First it is Walmsley Road, which becomes Favona Road, which becomes James Fletcher Drive and finally becomes Kaka Street. It crosses a bridge over Harania Creek, known as Favona Bridge.

As the Holden travelled south down Mahunga Drive towards its intersection with Walmsley Road no less than five cars were committed to intercept it.

Car 1 had been fast approaching that intersection travelling in an easterly direction along Walmsley Road. Stationary beside the kerb on Walmsley Road 20 or 30 metres to the west of the intersection and facing east towards it was Car 2, an unmarked car with motor running and the driver on the alert for the approaching Holden.

To the east of that intersection, using lights and siren, Car 3 was speeding towards it travelling west, that is approaching from the opposite direction to Car 1.

Two other Police cars were moving to take up static positions further east towards the Kaka Street end of the route.

Car 4 took up a static position as its driver attempted to set up a roadblock east of the Favona Bridge. About the same time Car 5 took up a static position further east facing the direction of the approaching Holden. This was in the James Fletcher Drive section.

So in all five Police cars were committed to intercept the Holden as it approached that intersection.

Stopping the Holden

I now retrace to the beginning the events that led to the final crash.

As he approached the intersection Sergeant Watson in Car 1 sighted the Holden. It was among vehicles turning left from Mahunga Drive into Walmsley Road. The vehicles formed two lanes. The Holden was in the inside lane. It was spotted about the same time by the driver of the unmarked Car 2 which as described was stationary 20-30 metres to the west of the intersection but facing east keeping the intersection under observation.

At this stage the Holden was being driven slowly with other vehicles travelling in front and behind it.

Just as the Holden was turning left into Walmsley Road Sergeant Watson in Car 1 with siren activated and lights flashing passed the still stationary Car 2. Car 2 immediately began to follow Car 1 at 30-40 kmh.

Other traffic pulled to the side of the road which allowed Car 1 to pull immediately behind the Holden. However what followed was all in slow motion. The Holden kept driving on for about another 300 metres at a speed of 30-40kmh. It travelled through green lights at the intersection of Walmsley and Robertson Roads, then without indicating pulled over to the side of the road about 20 metres past the intersection. This is the start of Favona Road.

Car 1 pulled in behind the Holden and kept its warning lights flashing. Car 2 followed Car 1 through the intersection, then passed to its right when it stopped and continued on to park at a slight angle in front of the Holden.

At 8.18.31 Car 1 advised Control the Holden had been stopped and there were no problems. Soon however there was a major problem. At 8.18.46 Car 1 advised Control that the Holden had escaped.

There had been a slight delay in going to the Holden when it was stopped. Sergeant Watson had become suspicious of activities in the car. He was taking steps to obtain a firearm to take with him. He never actioned this before the Holden took off, as one civilian eyewitness said *“like a scalded cat”*.

Pursuing the Holden

I have described five Police cars at various points along the route to the Kaka Street/Walmsley Road East intersection as the pursuit began. I now examine the roles they played as the Holden travelled at great speed towards that intersection at Kaka Street.

This stretch of roadway makes up roughly half the length of the total pursuit. It took the Holden less than two minutes to cover that distance. As noted earlier, its escape from the block is recorded on the Control tape at 8.18.46. Just before 8.20.20 on the tape is recorded a warning shouted to Sergeant Watson in Car 1 by Constable Crowley in Car 5 as he saw the Holden cut the corner into Kaka Street: *“Kerry watch out, he’s driving like a mad bastard”*.

So this analysis of vehicle positions in relation to the fleeing Holden covers a very short time span of under two minutes.

Car 2 the unmarked car was the first to begin the pursuit. After it had travelled 200 metres the Holden was already 200 metres ahead of it, at a speed estimated to be 100kmh. Constable Taaka, the driver, said the traffic density had lessened.

When he saw Car 1 behind him with lights flashing and siren sounding he dropped back to enable it to become the lead car. He did this because his was an unmarked car and equipped only with grille lights as a warning device.

At this point Sergeant Watson in Car 1 describes the Holden as continuing to accelerate and reaching speeds of over 120kmh.

As the road became James Fletcher Drive he noted his own speed at approximately 100kmh. At that point the Holden was 300 metres in front of him and progressively pulling away. He said he did not have his foot flat to the floor as he did not feel it was safe to go any faster. He requested the Police helicopter but as he said in a later statement he did not think *“it was feasible to follow the vehicle safely due to its speed”*.

He did not hear any response to his request. He said he found it difficult to differentiate between Control and other units talking on the radio and generally hard to understand just what people were saying due to a combination of siren noise and radio traffic. This is a familiar problem.

He finally lost sight of the Holden as it disappeared over the crest of the railway overbridge on Kaka Street. It was then on the wrong side of the road travelling at over 100kmh and to its left were two stationary lanes of traffic. These had been halted at the Kaka Street/Walmsley Road East intersection by Constable Becker, the driver of Car 6. He anticipated the pursuit could pass through that intersection and commendably took up the vital role there of a pointsman.

Car 1 travelled through the congested area with lights and siren going. Its speed was 10-20kmh. Constable Becker said that car reached the intersection approximately 10 seconds

after the Holden. Constable Becker had tried to flag the Holden down. Indeed he made eye contact with the driver, but to no avail. That vehicle simply accelerated rapidly away.

I now turn to consider what action these other vehicles in fact did take.

After the pursuit began involving Car 1 and Car 2, the next Police car to join the pursuit was Car 3. It was then travelling in a westerley direction opposite to the Holden. It came over the Favona Bridge onto Favona Road. The Holden came in sight travelling at high speed and overtaking other traffic. In doing so it crossed onto the wrong side of the road and was heading straight for Car 3 which had to brake and swerve hard to the left to avoid being hit. It could not make an immediate u-turn to begin pursuit because of other Police cars following the Holden.

The first was Car 1. It passed with flashing lights some five or ten seconds behind the Holden according to Constable Pua in Car 3. Shortly after came the unmarked Car 2 with its grille lights on.

Car 3 then executed a u-turn on the west side of the Favona Bridge and began to follow Car 2, at speeds the driver of Car 3 estimated between 100 and 120kmh.

At the time the u-turn had been completed there was no sign of the Holden or Car 1. With lights and siren operating Car 3 continued to follow the unmarked Car 2 east. At this point there were three Police vehicles in a line pursuing the Holden.

It is appropriate to describe the actions of Constable Rothville in Car 4. It will be recalled that the driver, Constable Rothville, had previously set up a roadblock east of Favona Bridge. Shortly after he was in position he saw the Holden bearing down on him overtaking another vehicle. It appeared to be travelling at high speed with the whole body of the car rolling from side to side. It passed very close to the front of the Police car. The Constable estimated its speed at 110-130kmh.

Next he said came Sergeant Watson in Car 1 some 250 metres behind and not travelling so fast. Then some distance back came Car 2 the unmarked car of Constable Taaka.

Constable Rothville took no part in the pursuit. He drove to the Kaka Street/Walmsley Road East intersection to help clear the traffic backlog. This took about 1/2 an hour so is a good indication of traffic density in the area at the time.

The final car to become involved in this section of the pursuit was Car 5 which had taken up a static position further east on James Fletcher Drive and not far from Kaka Street. It was facing west in the direction of the fast approaching Holden.

The recollection of the two Constables in that car as to what they saw as the Holden approached differs to some degree. In fast developing situations occupying a second or so in time this is not unusual.

One Constable describes the Holden being in the middle of the road and “zapping” past other cars going the same way. Its speed he estimated was 90-100kmh. It was, he says, followed by Sergeant Watson doing 60-80kmh and at least a couple of hundred metres behind. The other Constable says the Holden was “flying” but travelling on the correct side of the road and there were no other cars around. Both however agree they immediately did a u-turn with lights flashing and sirens sounding and followed Sergeant Watson. They continued to follow him until they reached the crash scene.

To summarise then, on the first leg of this pursuit there were four Police cars actively pursuing the Holden at various times. Three were travelling with flashing lights and sirens sounding and the unmarked car was operating its grille lights. Constable Becker has them all arriving at the Kaka Street/Walmsley Road East intersection close behind the Holden. Car 1 and Car 5 were about ten seconds behind it and they were followed 15-20 seconds later by Cars 2 and 3.

After travelling slowly through the intersection Cars 2 and 3 peeled off to patrol adjacent streets in case the Holden doubled back. It could be said at this point these two Police vehicles were no longer in pursuit.

Final Stage of the Pursuit

Beyond the Kaka Street/Walmsley Road East intersection the time involved in the final stage of the pursuit was again only about two minutes. That section embraces parts of Walmsley Road East, Mangere Road, Great South Road, Atkinson Avenue and Avenue Road. Within the space of a few hundred metres Great South Road joins Mangere Road and then leaves it.

In this section again four Police cars were involved, two not yet mentioned. Cars 1 and 5 continued the pursuit after travelling slowly through the intersection.

Sergeant Watson driving Car 1 did not know where the Holden had gone as he entered the Kaka Street/Walmsley Road East intersection but its direction of travel was indicated by Constable Becker. As Car 1 emerged from the intersection and turned right into Walmsley Road East Sergeant Watson again spotted the Holden. It was travelling left into Mangere Road and it was some 800 metres ahead.

To his great surprise however, Sergeant Watson saw in front of him another Police car with lights flashing and siren sounding pursuing the Holden. That car was 400-500 metres behind the Holden. It turned out to be Car 7. Its driver, Constable Robson, had heard the chase on his car radio. He thought the Holden might be heading in his direction. He was not logged in so at no time was he in touch with Control. He had taken up a static position on Walmsley Road East on the other side of the intersection being slowly negotiated by Cars 1 and 5. The Holden flashed past him. He activated his lights and siren and took off in pursuit.

So at this stage there were three Police cars in pursuit of the Holden.

Constable Robson says that he did not think he exceeded 70kmh at any stage. Sergeant Watson, who was following him, confirms this.

So the pursuit continued with three Police cars. As the Holden approached the intersection with Mangere Road the lights were red and there was a line of traffic pulled up. The Holden mounted the kerb and just squeezed past these vehicles, ran a red light and continued down Mangere Road towards Otahuhu.

Using lights and siren Car 7 travelled through the intersection at slow speed.

About this time Sergeant Watson in Car 1 called up “*Who’s that car in front of me?*” Constable Robson in Car 7 replied “*Constable Robson in pursuit*”.

Constable Robson saw the Holden run another red light at the intersection of Mangere Road and Great South Road. On the wrong side of the road it went around two lines of traffic. It was travelling at high speed and leaning hard over as it swerved around traffic. Police cars followed but at 10kmh with flashing lights and using their sirens and airhorns. The Holden was drawing away because the Police cars slowed to a virtual standstill at the intersections where lights were red.

The result was that when a fourth and final Police car entered the pursuit the occupants of that car saw no other Police cars in sight. This car was Car 8. Its occupants were aware of this pursuit as they travelled south on Atkinson Avenue. They saw the Holden approaching in the opposite direction. They activated lights and siren. By the time they completed a u-turn the Holden was 150-200 metres ahead. It swung into Avenue Road. They followed at 60-70kmh.

The driver of Car 7 spotted them as they turned and later followed them.

The Holden proceeded down Avenue Road under heavy acceleration. It crashed through the wooden and wire barrier at the end of the road. It was then some 500 metres ahead of the first pursuing Police car, Car 8. Just before the final impact Constable Peat in that car said he was about to say they should stop following the vehicle because of the speed at which it accelerated along the length of Avenue Road.

Constable Robson in Car 7 said the first Police car, Car 8, was some 600-700 metres ahead of him as he went down Avenue Road.

He got to the end of Avenue Road and there was nobody in that first Police car by then. He said he pulled up at the end of the road and as he was getting out of his car Car 1 pulled up

behind him and Car 5 beside him. This shows how closely together these three Police cars were travelling with lights flashing and sirens sounding.

In the final moments of the second two minutes of this pursuit there were then again four Police cars travelling with lights flashing and sirens sounding very close in terms of time to the Holden car.

It is difficult to reconstruct the actual events after the Holden entered its flight path. It appears that it flew as far as the middle lane, clearing the bank and first lane. It crashed on top of a Hino truck. The driver received serious injuries. The Holden then rolled into the third lane. It was struck by a concrete mixer truck which propelled it into the median barrier which fractured under the impact. The Holden then rolled over into the southbound lane. It ended on its side leaning against the median barrier.

Chaos followed. The concrete mixer truck was pulled up. However the Hino truck with its driver now unconscious carried on spilling a load of steel reinforcing rods onto the motorway. It struck and damaged the median barrier some 70 metres further on before it finally came to rest. Other vehicles swerved to try and avoid the accident and the reinforcing rods suddenly crashing before them. Fortunately and remarkably little further damage was caused and no further injury.

Moore's Driving Competence

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

As at the date 10 August 1994 Moore had only one previous conviction for a traffic offence. That was a conviction for careless driving recorded in the Whakatane District Court on 15 December 1992. He was then fined \$200.

As the result of this driving and the death of the 15 year old passenger, Moore pleaded guilty in the High Court to charges of manslaughter and dangerous driving causing injury. This was

on 16 May 1995. On the charge of manslaughter he was sentenced to five years imprisonment and disqualified from driving for five years. On the charge of dangerous driving causing injury to the truck driver, he was sentenced to three years imprisonment and disqualified from driving for five years. He pleaded guilty to a charge of unlawfully taking a motor vehicle.

Civilian Witnesses

Some seven civilian witnesses, including one 11-year-old boy, have commented on what they saw in the last moments of the pursuit in Avenue Road. Only two eye-witnesses have recorded comments on the earlier part of the pursuit. One was a van driver whose suspicions were aroused when he saw this relatively expensive vehicle being driven with these two young occupants in it. He called his base. Base checked with Police and found it was a stolen car. Thereafter the van driver at the request of Police tailed the van and kept Police informed of its whereabouts. He saw the vehicle stopped in Walmsley Road when he was about three cars behind. He saw the door on the Police car behind begin to open, then he says the car took off *“like a scalded cat”*.

There is only one other eye-witness who speaks of an earlier part of the pursuit before the final fatal dash down Avenue Road. He was stationary at red pedestrian crossing lights on Great South Road by Inland Revenue, Otahuhu. He said he was in the outside lane close to the centre line, and the Holden “whistled through” on the inside lane. He said that it shook his car and he could hear the engine revving. He said that he could not remember if the lights at Atkinson Avenue and Great South Road were green or red *“but he drove through and was gone in a flash”*. He said:

“I drove forward when the lights turned green and was half way to the next lights when I checked my rear vision mirror and saw the first Police car coming from behind. They all had their lights and sirens going. As they went through the Atkinson Avenue intersection, they had their horns going. The first two Police cars went through Atkinson Avenue and Great South Road lights, but the third braked to let two school children pass who had begun to cross.”

He said he had pulled to the centre line behind them all and could see it all clearly. He said he thought there was no way they were going to catch the car because they weren’t going fast enough.

So at this stage there were three Police cars in pursuit. One more was to be added as the lead car shortly before the fatal turn onto Avenue Road.

So not long before that some four Police cars with sirens sounding and lights flashing were in pursuit of the Holden.

The seven civilian witnesses in Avenue Road confirm a number of Police cars there in close pursuit. Recollections do vary as might be expected as they relive a brief traumatic episode. One witness was travelling west on Avenue Road. She had slowed to make a right-hand turn into Hutton Street. Hutton Street bisects Avenue Road about the half-way point of the length involved in this pursuit.

She saw the Holden speeding towards her. She stopped. It passed her and she said about 5-6 seconds later the first Police car passed her with another close behind. Then another passed 2-3 seconds after the second car. Police cars she said were not travelling as fast as the Holden. She remained stationary while three Police cars passed.

Other witnesses confirm a number of Police cars were involved but none were tailgating the Holden.

One of these witnesses was stopped at the compulsory stop on Avenue Road where it intersects with Walton Street. He saw the Holden approaching at speed. He heard Police sirens so he stayed put. The Holden passed him at 100kmh. He said that the first Police car was six power poles spaces away and going a lot slower. He said:

“I thought that the Police who were following the car did a very good job in the distance they kept away from the car and the relatively slow speed that they were travelling at in comparison with the car they were following.”

Another witness who was walking on the footpath about 18 metres from the barrier which was demolished said the first Police car was at least 100 metres behind the Holden.

Other witnesses also place following Police cars some distance behind the Holden. The overall picture however is clear. When the end came three Police cars with sirens sounding and lights flashing were not far behind the lead car which was pursuing the Holden.

Pursuit as Recalled by Moore

Moore was interviewed on video by Police for some 42 minutes on Friday, 12 August. His memory of events is very fragmented. It is clear that he has no detailed memory of what happened in the four minutes from the time he burst away from the stationary block until the crash. It is perhaps not surprising the events on this short traumatic ride have tended to merge into one. Certain matters, however, seem clear enough. He denies using alcohol or drugs before driving and there is no evidence to the contrary.

On this early morning trip they were in no hurry until the point they were stopped by Police. He recalls spotting the van driver who was tailing them. He saw him wave to a Police car. He recalls being pulled over with one Police car angled in front and the other at the back. He recalls his passenger urging him to flee.

There is virtually no recorded memory detail of events before reaching Avenue Road. He comments on the significant Police presence “... *everywhere we were going there was Police. Police cars along the way*”. There is some suggestion that given the choice the two may have abandoned the car. “... *I was just gonna get around the corner and me and Des was just gonna jump out, but there was too many along the way*”. He recalls he lost pursuing Police for a time. He describes events as he turned into Avenue Road:

“Next minute we saw no cop behind us, we, then, um, I just slowed down and next minute he came around the corner. Then I just shot off where that fence was, and that is when I blacked out ... I remember seeing in the rear ... the Police at the back of us. ... I just looked ... in front of me and saw the fence and then I just blacked out”.

Police General Instructions

These were promulgated in March 1993. The core elements are these. 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 of 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."*

Control Room

The relevant portions of the Control tape have been listened to. This records radio traffic from the time the Holden was stopped on Walmsley Road.

At 8.18.31 Sergeant Watson in Car 1 advised Constable Matapo, the dispatcher for the Manukau Channel, he had the Holden pulled over.

“Got the vehicle pulled over on Walmsley just past Robertson towards Otahuhu - No Problem.”

Constable Matapo responded *“Copied”*.

Then 15 seconds later at 8.18.46 Sergeant Watson advised Control:

“... its taken off along Walmsley towards Otahuhu”.

At this moment the use of Police patrols to apprehend a slow moving stolen car was dramatically changed to a high speed pursuit. To assess the performance of Control in dealing with this pursuit it is important to bear in mind that the total time of pursuit from beginning to disastrous conclusion was less than four minutes.

The tape runs from 8.18.46 when notification of the escape was made to 8.22.38 when confirmation was given that the Holden had crashed onto the motorway.

The transcript of conversations is a telling picture of how in pursuits such as this there is little oversight from Control, particularly if vehicles join in unbidden.

Constable Matapo, the link to the outside patrols, is recorded as speaking only five times before the crash.

Three other transmissions are simply noted as “Undistinguishable transmissions”. Nine more are listed where the caller cannot be identified.

At about 18.20 Inspector Morris, the Control Shift Supervisor for Section One, has recorded the only call he made. He asks:

“Control to those Units why is that vehicle being chased? - over”

A surprising partial reply is received from Sergeant Watson (Car 1) in the lead car:

“... no idea, um, according to an informant.”

At the outset Sergeant Watson at 8.19.11 had reported”

“Continuing at speed about 120 along Walmsley.”

To Sergeant Watson’s credit he kept up a commentary over most of the pursuit. Constable Matapo had requested this. He recorded the speed again on James Fletcher Drive at about 120kmh.

In Great South Road asked by Constable Matapo he said:

“I’m doing 80K. I’ve lost sight of the vehicle. Its somewhere ahead of me on Atkinson I think.”

The tape reveals that over nearly the whole pursuit it appears Constable Matapo spoke only to Sergeant Watson. He was quite unaware of the role other cars were playing apart from the notification by Sergeant Watson when Car 7 was suddenly seen in front of him. That car was not logged in so it remained unidentified.

There are only two transmissions recorded from Sergeant Bartle, who was the Southern Control Supervisor. At 8.20.20 he said”

“Calling Eagle now”

Then seconds before the end at 8.22.30 he asked:

“What are the conditions like?”

The Inspector in charge of Control was, as I have said, Inspector Morris. He had been in control only one week when the pursuit occurred. His main concern was to get Eagle, the

Police helicopter, in the air. As he said, when it is monitoring the offending vehicle “... *there would be no need for pursuing Police vehicles and any danger to the public would be minimised*”. He later said:

“I then heard on the radio that the vehicle was heading towards the motorway. It was my intention to ascertain in which direction the stolen car was going to travel on the motorway, call off the pursuing Police vehicles, then direct Eagle to monitor its movements from the air. I was about to broadcast that direction over the channel when the vehicle crashed”.

Inspector Morris believed, as he says, there was only one pursuing Police car. He says:

“I allowed the pursuit to continue over that short period of time in that the vehicle had been confirmed as stolen and there was ever only one vehicle pursuing it”.

Sergeant Bartle also believed that there was only one vehicle pursuing at any time. He learned of the pursuit at 8.19am and asked how many cars were pursuing. He was told one, namely Sergeant Watson in Car 1. He was told his speed was about 120kmh. He was told there were five other units in the area, but they were coming to do static cordons. He too asked for Eagle to be called.

When Sergeant Watson called in at 8.21.50 and said he had lost the vehicle, Sergeant Bartle believed the pursuit was finished. Then Constables Harries and Peat in Car 8 came on air to say that the Holden had been sighted. Sergeant Bartle enquired what traffic and pedestrian conditions were but got no reply. He later said “*throughout the pursuit to the best of my knowledge, there was only one patrol vehicle behind pursuing at any one time.*” He commented that due to the short time span the pursuit involved he felt he had covered the criteria outlined in General Instructions as best he could. He complimented the way Constable Matapo handled the situation.

I return to the Control Room involvement hereafter.

Evaluation of Incident

The primary focus of this report is to examine the factors that arose out of the accident while Moore was under pursuit by Police cars which ended when he crashed onto the Southern Motorway and his passenger 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.

In my report dated 1 August 1994 into the death of Simon Keith Wright my first recommendation was this:

“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 vehicle pursuits is a community problem and not exclusively that of Police.”

I am happy to record this recommendation is now being implemented. A distinguished multi-disciplinary group under the chairmanship of Mr John Gibson QC is sitting regularly making such an in-depth examination of high speed pursuits with a view to making appropriate recommendations.

The second general observation is that the central purpose of this report is to concentrate on remedial strategies for use in the future by Police which it is hoped will reduce the instance of death, injury and property damage. It is also another instance of a Police pursuit for Mr Gibson’s Committee to consider in the course of its deliberations and I will send him a copy.

Review by PCA

When addressing the relevance and appropriateness of the current Police General Instructions relating to vehicle pursuits it can be seen from what has been said that a number of departures were made from the procedures set out in General Instructions.

It is very much a replay of the situation which I criticised in the Wright report.

In this case, too, the truth is that there was no effective management of the pursuit by Control.

The transcript of transmissions mainly comprises messages by Sergeant Watson by way of commentary as to how he viewed the pursuit over nearly the whole distance but it must be remembered it was barely four minutes in time.

Apart from a request to Sergeant Watson to keep up his commentary, apparently no instructions were radioed from the Control Room to the pursuing Police.

At one point, at 8.21.50, Constable Matapo asked Sergeant Watson what speed he was doing and at 8.22.30, eight seconds before the end, Sergeant Bartle asked Control what conditions were like.

However there was substantially little compliance with General Instruction V5(1) which states that 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.

Neither Inspector Morris nor Sergeant Bartle had any real conception of what was happening out on the highway. Both believed that at any time there was only one car in pursuit. The reality is completely different as the narrative of this report records.

The requirements of General Instructions V5(4)(a) to V5(4)(d) were not followed. How could a supervisor like Inspector Morris ensure the pursuit was justified when about a minute into the pursuit the driver of the lead car could not apparently tell him why the vehicle was being pursued?

There was no attempt made to limit the number of vehicles following the offender to two because both supervisors believed only one car was ever in pursuit.

On the information being received it was virtually impossible to review the justification for the continuation of the pursuit.

When Sergeant Watson was the lead car he was not regularly (or at all) questioned about road and traffic conditions. Once Constable Robson took over as lead car he was not logged in so was incommunicado as far as Control was concerned.

At the very end it appears there was no contact with Car 8 until after the final crash.

The transcript of the Control Tape contains no indications that any of the Police cars which joined in the pursuit after Sergeant Watson (Car 1) and Constable Taaka (Car 2) 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.

The result was that there was no limitation by Control of the number of Police cars involved as required by General Instruction V5(4)(b) and no degree of certainty in Control as to the number of Police cars involved.

This case, like Wright, demonstrates two disturbing features. The first is the involvement of officers in a pursuit situation without bidding from Control. The second is the absence of any direction of these extra cars from Control.

As I have said in the Wright report, I believe deficiencies in the General Instructions are largely responsible for both these factors. It is my view this overall state of affairs is not the fault of the drivers of Police vehicles, or the personnel of Control, but the inherent inability in a practical way to apply General Instructions within their own parameters.

I accept the time involved was too short to enable effective control to be implemented but that is typical of the rapid response situation found in pursuit situations.

I repeat what I said in the Wright report:

"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."

There are two further matters to be considered in my evaluation. The first is a consideration of how the Holden escaped after being stopped by two Police cars. If it had not escaped there would have been no pursuit. That is saying the obvious. The answer to the question then is important.

There was here an attempt to use what is termed in General Instructions a 'stationary block'. That is one Police car pulled up behind and the other one is angled across the front of an offender's car. General Instruction V4(3) defines stationary block:

"This is the positioning of Police vehicles to prevent an offender moving off once stopped."

Then under the head of 'General Pursuits' General Instruction V7(2) states:

"Where an offender's vehicle has been stopped after a pursuit, a stationary block to prevent an attempt to drive off and pose further threat to the public shall be employed in all cases except where it is obviously unnecessary or impractical to do so."

In this case the officers clearly believed such action was necessary. However the attempt at containment failed. It should not have done so. Today when power-steering is commonplace particular attention should be paid to ensure that when a block is created it does exactly what it is supposed to do, namely prevent the driver driving off and posing a threat to the public.

However it is perhaps too easy to be critical of the failure of the block in this particular instance. On another analysis of the facts it is understandable that the officers involved saw the stopping as a voluntary and total surrender. After all the car was not run down after a chase, it simply pulled over to the side of the road. Then there was this sudden and complete change of plan within the car itself. The driver accelerated away, probably under the urgings of his passenger as he claims.

Finally I express some concern that the unmarked car appears to have been involved in a pursuit situation over the first half of the pursuit itself.

The relevant General Instruction in force at the time of the incident was V6(1):

“... pursuits shall not be continued in an unmarked car where a marked car can be called to take over.”

I stress that it is imperative that drivers of unmarked cars are not inveigled into taking part in high speed pursuits with the resulting risk to officers and the General Public.

Was the Pursuit Justified?

Although the pursuing Police cars were being operated 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: *(a) the offender’s continued liberty would constitute a greater danger than the continued pursuit, or (b) when the offence committed is serious and constitutes a danger or serious threat to the public or Police.*

I note that the General Instruction V6 makes clear that the fact that a vehicle is being driven at excessive speed is not in itself sufficient grounds for a sustained pursuit.

Police at the time, of course, did not know who the occupants of the converted car were. They did not know of their very strong motivation to escape. The sentencing Judge in the High Court, according to a report in *The New Zealand Herald* of 17 May said Moore had been “*hell bent on making good his escape from the authorities.*” Again, Police were not to know that as recently as 17 July 1994 Moore and his passenger had also elected to take part in a similar high speed chase to avoid apprehension, although on that occasion the 15-year-old passenger was the driver. Such thrill-seeking behaviour to the great danger of the innocent public then was not to them a new experience.

It soon, however, became apparent to Police that this was a driver with little or no regard for his own life or the lives of others as he ignored red lights, opted to drive on the wrong side of the road at speeds of over 100kmh and all this in built-up areas and at a time when children and others were on the way to school or their place of work.

I believe, then, Police had a duty to warn innocent motorists by use of lights and sirens of the imminent danger from this driver hell-bent on escape as the High Court Judge said on sentencing. In short, this was yet another pursuit case where, on balance, the offenders' continued liberty constituted a greater danger than the continued pursuit.

Should the Pursuit Have Been Abandoned?

However near the end, in the light of the observed driving in Avenue Road, the answer is a qualified "yes" in my judgment. This was certainly the view of Constable Peat, who was a passenger in the lead pursuit car on Avenue Road. As his vehicle turned into that road he saw that the Holden had put so much distance between itself and his car that it must have accelerated down the length of that road at unbelievable speed. He says:

"I was about to say to Constable Harries that we should stop following the stolen vehicle because of the speed at which the vehicle must have accelerated along the length of Avenue Road"

It was about this moment that it crashed through the barrier.

Inspector Morris, too, at Control, it will be recalled, believed that the Holden was heading towards the motorway and knowing what he did of the pursuit at that time he intended to call off pursuing Police vehicles once its direction of travel on the motorway was known. He then had decided to direct Eagle to monitor its movements from the air. He said *"I was about to broadcast that direction over the channel when the vehicle crashed"*

It had been a very short pursuit of less than four minutes. In that space of time I accept it was, on balance, a justified aim to stop that car to prevent possible or probable harm to other road users. Near the end however the scales had tipped and I believe the pursuit should have been called off. As far as the pursuit was concerned at that point, enough was enough.

I accept it must always be a very debatable point just when to give up a pursuit. After all, if Police just ignore a person driving like this and make no attempt to stop him, and he crashes into another vehicle causing the death or serious injury to innocent persons, there will always be people who will be critical of Police for not carrying on the pursuit that little bit longer.

This is the dilemma for ever faced by Police in pursuit situations, namely just when is the right moment to abandon the pursuit. Generally speaking, the answer to that is that it should be sooner rather than later.

Conclusion

It is fortunate indeed that more innocent persons were not killed or injured, especially over the final stages of this pursuit. Overall I regard Compain as an innocent person. The truck driver travelling on the motorway certainly was a completely innocent person and he was quite seriously injured. Moore, to his credit, has acknowledged how dangerous his driving was by pleading guilty to manslaughter and a charge of driving in a dangerous manner causing injury.

In my view the pursuing Police cars, for the short time of the pursuit, cannot be said to have pressured Moore to drive as he did. For very good reasons, he and probably his passenger were determined to escape Police and prepared to risk life and limb of themselves and others to achieve this end. No pursuing Police car was close enough behind to directly influence his speed or push him to make driving misjudgments. The responsibility for the dangerous driving, death and injury must rest with the driver.

I am not moved, then, to recommend any disciplinary action against any Police driver.

Again, clearly in this case, there was insufficient time to implement the fairly wide requirements of General Instructions. For that reason I have made no finding of censure in respect of the Control Room staff.

As I have said, the thrust of this report is deliberately remedial.

Recommendations

The result of this review leads to the following recommendations:

1. I repeat what I said in the Wright report that General Instructions require revision in that the requirements that they impose on supervisors are too rigid, complicated, and unrealistic in light of the conditions likely to be encountered in these pursuit situations. They should be reviewed so they better accord with the reality of a pursuit situation.
2. I also repeat again what I stressed in the Wright report. The General Instructions 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.
3. I recommend that all officers should be reminded again that unmarked cars should join in pursuit situations only in exceptional circumstances.
4. I recommend officers should also be reminded of the importance of proper and effective implementation of the stationary block technique.

Finally, I hesitate to go further in recommendations because Mr Gibson's Committee is currently deliberating and I am at pains not to confuse a difficult situation.

Sir John Jeffries
POLICE COMPLAINTS AUTHORITY
24 July 1995

**Report of the Police Complaints Authority
on the investigation into the death of Desra Ratu Compain
in Otahuhu on 10 August 1994**