

Serious crash during a Police pursuit in Stokes Valley

INTRODUCTION

1. At about 12.56pm on Monday 18 April 2016, a male driver, aged 14, lost control of a Mitsubishi Lancer and hit a road worker while fleeing from Police on Stokes Valley Road in Lower Hutt. The road worker received moderate injuries and was taken to hospital. The driver and his two male passengers were unharmed.
2. The Police notified the Independent Police Conduct Authority of the pursuit and the Authority conducted an independent investigation. This report sets out the results of that investigation and the Authority's findings.

BACKGROUND

Summary of events

3. At about 12.45pm on Monday 18 April 2016, Officers A and B were dispatched by the Police Central Communications Centre (CentComms) to Delaney Park, which is located between George Street and Stokes Valley Road. The officers were advised that members of the public had seen several young men loitering in the area, who the members of the public suspected had been involved in a number of robberies that had occurred earlier in the week.
4. At 12.55pm the officers, who were travelling in a marked Police car, drove north along Stokes Valley Road toward Delaney Park. As the officers approached Chittick Street, Officer B saw a red Mitsubishi Lancer (the Mitsubishi) containing three young men turn left onto Stokes Valley Road, accelerating rapidly.
5. Officer B told the Authority that his attention was drawn to the Mitsubishi because the driver ducked his head and appeared to hide his face as he drove past the officers. Officer B also noticed that the passengers were all young men and as a result he suggested to Officer A that they stop the car to speak to the driver.

6. With the Mitsubishi now travelling south on Stokes Valley Road, Officer A, the driver, turned right into Chittick Street and performed a U-turn. As Officer A turned left onto Stokes Valley Road, the officers could see the Mitsubishi accelerating away at an estimated speed of 65-70kph in a 50kph zone¹. After travelling about 65 metres, the officers saw the Mitsubishi, approximately 200 metres ahead, overtake another car on the left.
7. The officers told the Authority that the overtaking manoeuvre occurred between Milton Street and Morrison Grove, where Stokes Valley Road widens to enable cars on the left-hand side of the road to park on an angle, facing the footpath. At that time of day, the officers said there were no cars parked in the carparks and there was sufficient room for the Mitsubishi to overtake the other car safely.
8. As the Mitsubishi passed the car, Officer A activated the Police car's red and blue flashing lights and siren to signal to the driver of the Mitsubishi to stop. While he was doing this, Officer B radioed CentComms and advised that they were in pursuit for a, *"failing to stop, south bound Stokes Valley Road"*.
9. Police fleeing driver policy requires that once a pursuit has been commenced, the communications centre dispatcher must give the warning: *"If there is any unjustified risk to any person you must abandon pursuit immediately, acknowledge."*
10. The dispatcher issued the required warning and Officer B acknowledged it. Officer B also advised that they were following a red sedan; that the driver tried to hide his face; and that Officer A held a Gold licence (and therefore was authorised to engage in pursuits as the lead driver) and was driving a Class A vehicle.
11. Officer A accelerated to about 65kph and continued south on Stokes Valley Road. As the officers passed Milton Street, the car that had been previously overtaken by the Mitsubishi, pulled over to the left-hand side of the road and Officer A was able to safely pass it.
12. The officers then lost sight of the Mitsubishi as it drove around a right-hand bend on Stokes Valley Road and past a row of community shops.
13. When the officers rounded the same bend moments later, they regained sight of the Mitsubishi and saw that it was approximately 350 metres ahead and continuing south on Stokes Valley Road.
14. Officer A told the Authority that they were travelling at about 80kph as they passed the shops and he estimated that the Mitsubishi was travelling at about 90kph. Officer A said that he maintained his speed at 80kph and did not attempt to close the distance between the cars because he did not want to pressure the fleeing driver into driving faster and he did not want to increase the risk to themselves and the public.

¹The length of the Stokes Valley Road is governed by a 50kph speed limit

15. Officer A told the Authority that they believed it was safe to continue pursuing the Mitsubishi because:

“Although there were pedestrians in the shops itself, they were separated from the road by ... a carpark area, which is double lanes both ways. So that’s at least 15-20 metres of road and then a grass verge and then a steel fence and then our road. So my assessment was there was very little risk to the pedestrians in the shops.”

16. The officers also considered other factors as part of their risk assessment, and told the Authority that:

- the fleeing driver was in control of the Mitsubishi;
- the road was open and predominantly straight;
- the weather was dry;
- there were no other cars currently on the road;
- although Stokes Valley Road is a residential area, there was no traffic joining the road from side streets.

17. As the Mitsubishi passed Kapuranga Grove, Officer A said the driver overtook another car and pulled out onto the wrong side of the road before moving back into the left hand lane. The Mitsubishi then continued around a slight bend at the Glen Road intersection and went out of sight.

18. As the officers approached Glen Road, Officer A said he realised that the Mitsubishi was approaching the busier part of Stokes Valley and he decided that he would abandon the pursuit. As a result, Officer A began to slow down.

19. Officer A said that by the time he had slowed down to about 20kph he was unable to pull over and come to a complete stop as required by Police policy because the car that had been overtaken was still travelling north on the shoulder of the road. After he passed the car, Officer A said he had to travel through the Glen Road intersection in order to find a safe place to stop.

20. As the officers rounded the bend near Glen Road, Officer A said he immediately noticed a dust cloud up ahead and saw a road worker step backwards in a manner that drew his attention. Officer A said he realised immediately that something had happened, so he quickly accelerated, and keeping the lights and sirens on, rounded the next bend and saw that the Mitsubishi had hit the back of a road worker’s Ute.

21. As Officer A stopped the Police car in the middle of the south bound lane, Officer B got out and chased one of the male passengers who had run from the Mitsubishi down a neighbouring driveway. At the same time, Officer A, who was still in the Police car, saw a male get out of the right-hand side of the Mitsubishi and run into another property.

22. As Officer A got out of the Police car to give chase, he saw one of the road workers drag another road worker away from the Mitsubishi onto the grass verge. Officer A said it appeared that the road worker had been hit by the Mitsubishi.
23. Officer A immediately checked the road worker's injuries and then radioed CentComms to request an ambulance, advising that the Mitsubishi had crashed, a road worker was hit and all the occupants of the fleeing car had ran off.
24. The total duration of the pursuit was 55 seconds and covered a distance of about 1.3 kilometres. Although the pursuit controller at CentComms had been notified of the pursuit by the dispatcher as required, it was over before he arrived at the dispatcher's desk to supervise the incident.
25. As a result of the crash, the road worker received moderate injuries including fractured ribs, skull and arm. The road worker remained in hospital for two nights and was required to wear a cast on his right arm for six weeks. He has since made a full recovery.
26. At the time of the pursuit, the driver was unlicensed to drive. As a result of this incident Police charged the driver with a variety of charges, which have been dealt with by the Lower Hutt Youth Court.

LAWS AND POLICIES

Power to require a driver to stop

27. Section 114 of the Land Transport Act 1998 provides that a Police officer may signal or request the driver of a vehicle to stop the vehicle as soon as is practicable.
28. Section 9 of the Search and Surveillance Act 2012 provides that a Police officer may stop a vehicle without a warrant to arrest a person if the constable has reasonable grounds:
 - a) to suspect that a person—
 - is unlawfully at large; or
 - has committed an offence punishable by imprisonment; and
 - b) to believe that the person is in or on the vehicle.

Fleeing driver policy

29. The overriding principle of the Police fleeing driver policy is that: *“public and staff safety takes precedence over the immediate apprehension of the offender”*.
30. During a pursuit, warning lights and siren must be activated at all times. The Police Communication Centre must also be advised immediately if there is a fleeing driver and that a pursuit has been initiated.

31. The dispatcher must provide the following warning to the pursuing officers: *“If there is any unjustified risk to any person you must abandon pursuit immediately”*.
32. The pursuing officers must acknowledge the pursuit warning; and provide information about their location and direction of travel. The Communications Centre must prompt for information about the reason for the pursuit, vehicle description, driving speed and posted speed limit, road and traffic conditions, weather, the offender’s manner of driving and identity, and the police driver and vehicle classifications, as well as confirmation that warning devices are activated on the police car.
33. Officers are required to carry out risk assessments before and during a pursuit in order to determine whether the need to immediately apprehend the fleeing offender is outweighed by the potential risks of a pursuit to the public, the occupants of the pursued vehicle, and/or the occupants of the Police vehicle.
34. Unless there is an immediate threat to public or staff safety, a pursuit must be abandoned if:
 - the identity of the offender becomes known,
 - the distance between the primary unit and the offending vehicle is too great,
 - any of the risk assessment criteria conditions change, and
 - there is a sustained loss of contact between the primary units and the Police Communications Centre.

THE AUTHORITY’S FINDINGS

Issue 1: Were Police justified in commencing a pursuit?

35. Officers A and B were dispatched to Delaney Park in Stokes Valley following a report that several young men, who members of the public suspected were involved in a number of robberies, were loitering in the area.
36. When the officers neared Delaney Park, they saw a Mitsubishi leave Chittick Street. Officer B said his attention was drawn to the Mitsubishi because the occupants were all young men and because the driver ducked his head as if to avoid being identified. As a result, Officer B suggested to Officer A that they stop the car to speak to the driver.
37. The officers then saw the Mitsubishi accelerate onto Stokes Valley Road and overtake another car on the left. The officers were justified under section 114 of the Land Transport Act 1998 in attempting to stop the car in order to speak to the driver about his speed and manner of driving.
38. When the driver failed to stop and attempted to evade Police, the officers were justified under the Police fleeing driver policy to commence a pursuit.

FINDING

Officers A and B were justified in commencing a pursuit.

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

39. The fleeing driver policy requires an officer initiating a pursuit to notify the Communications Centre that they are in pursuit. When the officers drove along Stokes Valley Road, Officer B notified CentComms that the Mitsubishi was, “*failing to stop*”, and the dispatcher issued the pursuit warning as required by policy (see to paragraph 31).
40. Officer B acknowledged the warning and provided CentComms with the location, direction of travel, a description of the fleeing vehicle and the driver and vehicle classification. Given the short duration of the pursuit (55 seconds), there was not enough time for Officer B to notify CentComms about the Mitsubishi’s overtaking manoeuvre or the officer’s decision to abandon pursuit. There was also insufficient time for the pursuit controller at CentComms to provide oversight while the pursuit was in progress.
41. When he realised that the Mitsubishi had crashed, Officer A quickly notified the dispatcher of the crash and that a road worker had been hit, and asked for an ambulance to attend.

FINDING

Police complied with policy in respect of communication.

Issue 3: Was Officer A’s speed and manner of driving during the pursuit appropriate and did the officers adequately assess the ongoing risks?

42. The fleeing driver policy requires Police to conduct a risk assessment before and during a pursuit. If the risk to the safety of the public and Police outweighs the immediate need to apprehend the driver, Police must abandon the pursuit. In accordance with policy, the officers assessed the risks involved in pursuing the Mitsubishi when it overtook another car on the left. Due to the wide road and lack of other traffic on the road, the officers determined that it was safe to commence the pursuit.
43. Although there was a gap between the officers and the Mitsubishi of about 350 metres, Officer A decided to maintain his speed at 80kph because he did not want the driver of the Mitsubishi to feel pressured into driving at higher speeds and he did not want to increase the risk to themselves and the public. The Authority is of the view that this speed was reasonable in the circumstances.
44. When the officers passed the local shops, Officer A believed that there was “*very little risk to the pedestrians in the shops*” due to the distance between them and road. The officers also considered other factors as part of their risk assessment, including the fleeing driver’s manner of driving, the road conditions, the weather, the road layout and the volume of traffic (refer to paragraph 16).

45. However, when the officers saw the Mitsubishi overtake a car near Kapuranga Grove and then travel out of sight towards a busier section of Stokes Valley, they decided to abandon the pursuit as the increased risk to the public outweighed their need to continue pursuing.
46. When abandoning a pursuit, officers must immediately reduce their speed, deactivate the Police car's red and blue flashing lights and siren and stop as soon as it is safe to do so. When Officer A decided to abandon the pursuit he immediately slowed down. By the time Officer A slowed down to 20kph, he was unable to pull over and come to a complete stop due to another car travelling on the shoulder of the road and because of the Glen Road intersection.
47. While Officer A was looking for a suitable place to stop, he noticed dust in the distance and believed that the Mitsubishi may have crashed. Officer A then accelerated and continued around the next bend with his Police car's lights and sirens still activated, so the officers could provide immediate assistance if required.
48. When the officers arrived at the scene and Officer A saw the injured road worker, he advised CentComms that the Mitsubishi had crashed and that an ambulance was required.
49. During this short pursuit, Officer A kept the Police car's red and blue flashing lights and siren activated at all times.

FINDING

Officer A's speed and manner of driving were appropriate in the circumstances.

The officers adequately assessed the ongoing risks during the short pursuit. They had just decided to abandon pursuit when the crash occurred.

CONCLUSIONS

50. The Authority finds that Officers A and B were justified in commencing a pursuit and that Police complied with law and Police policy, in so far as they were able, during the short pursuit.



Judge Sir David Carruthers

Chair
Independent Police Conduct Authority

24 November 2016

IPCA: 15-1947

ABOUT THE AUTHORITY

Who is the Independent Police Conduct Authority?

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

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

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

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

WHAT ARE THE AUTHORITY'S FUNCTIONS?

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

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

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



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