



nudge the Toyota off the road, which was also unsuccessful.<sup>1</sup> Once the pursuit was on Great South Road, Officer Q, the shift commander at the Northern Communications Centre (NorthComms), directed Police to abandon the pursuit.<sup>2</sup> Shortly after, the Toyota came to a stop outside a residential address and the occupants ran from the vehicle.

8. The pursuit lasted about 33 minutes and covered about 40.4 kilometres.
9. A Police dog handler, Officer P, who had been engaged in pursuing the Toyota, saw Mr V exit the driver's door and pulled his Police car up alongside the vehicle to prevent his escape. Officer P's car hit Mr V who bounced off the bonnet.
10. Police arrested two of the occupants by the Toyota. Mr V and the other two occupants jumped over a fence and ran into a golf course behind the residential area. Officer P and other Police officers pursued them on foot. Officer P ordered his Police dog to engage (bite) Mr V who then surrendered. The second passenger was arrested without incident and the third passenger, Mr W, jumped over a fence. Officer P ordered his Police dog to engage him and the injury caused by the dog bite required surgery and a four days' recovery in hospital.
11. Police investigated the actions of Officers F, G, P and Q and made a number of findings and recommendations, including that the preferred approach for Officer Q as the NorthComms shift commander would have been not to pursue, instead giving the offenders the opportunity to dump the car and run and then using Eagle to assist in locating and arresting them. Police advised the Authority that Officers A, B, C, D, E and J were not considered in the initial investigation "*due to a lack of coordination of the various district and workgroups involved*".

## THE AUTHORITY'S INVESTIGATION

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12. The Authority interviewed:
  - Eight officers who were directly involved in the pursuit;
  - Officer Q who was the shift commander at NorthComms;
  - the constable who provided the commentary from Eagle during the incident; and
  - the shift supervisor in the District Command Centre during the incident.
13. The Authority identified and considered the following issues:
  - 1) Was the command and control of the incident adequate?

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<sup>1</sup> A moving block is a tactic in which two or more Police vehicles are driven in specific formation (behind and in front of the offending vehicle) to moderate an offending vehicle's speed and bring it to a halt. This tactic is no longer included in Police policy and officers are not trained to use it. Police sometimes refer to it as a 'tactical block'.

<sup>2</sup> There are three Communications Centres based in Auckland (NorthComms), Wellington (CentComms) and Christchurch (SouthComms).

- 2) Did Officer Q authorise the deployment of tyre deflation devices in accordance with Policy?
- 3) Did Police commence the pursuit in accordance with policy?
- 4) Should Police have followed the fleeing driver on the correct side of the motorway?
- 5) Was Officer F's traffic stop an approved manoeuvre?
- 6) Was the Police attempt to use a moving block and nudge the Toyota off the road appropriate?
- 7) Was the force used by Officer P when the Toyota had stopped justified?

## THE AUTHORITY'S FINDINGS

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### Issue 1: Was the command and control of the incident adequate?

14. For the duration of the incident, Officer Q was the shift commander at NorthComms and therefore responsible for managing the incident. To the extent that there was a pursuit, he was the pursuit controller. Under Police 'Fleeing driver' policy the pursuit controller supervises the pursuit and co-ordinates the overall response, including the appropriate tactical options. He has told the Authority that he was able to view Eagle footage from around 11.29am, which was shortly after the successful spiking referred to at paragraph 22.

#### *Authorisation of spikes without a pursuit*

15. Eagle located the stolen Toyota at 11.13am on the way to Brookby and started relaying its observations to NorthComms and other Police vehicles from this point.

16. At 11.18am NorthComms gave permission to units to lay tyre deflation devices (spikes) if they felt safe to do so.<sup>3</sup> At 11.21am NorthComms advised "*prefer try spikes in the first instance if you guys can get in position before trying a pursuit*". The reason that Police wanted to stop the Toyota was that it had been stolen the previous day in an aggravated robbery and they reasonably assumed that Mr V was involved in that robbery.

17. Officers B and C were in separate marked police cars. They parked opposite the school on Alfriston Road and agreed to each lay spikes to cover the whole width of the road. Officer B took cover behind a Captiva car parked immediately in front of the school, while Officer C stood on the opposite side of the road between the two Police cars. They were both in full uniform and wearing high visibility vests. The Authority accepts that Officer B turned his mind to the

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<sup>3</sup> TDDs, commonly known as road spikes, are an approved Police tool used by officers to deflate the tyres of fleeing vehicles. They are essentially an extendable cord with spikes embedded at regular intervals along its length. So as not to cause the spiked vehicle to immediately lose control, the spikes' construction ensures a slow but controlled rate of tyre deflation. This controlled deflation increasingly affects a vehicle's handling characteristics and traction, and should force a fleeing driver to slowly reduce the vehicle's speed. When the tyre(s) are completely deflated, the vehicle can continue with compromised handling. At this point, the tyre will begin to heat and shred, leaving the fleeing vehicle operating only on its rim.

likelihood that children would all be in class at that time of day. However, it is of the view is that Police should avoid laying spikes in front a school during or close to school hours to minimise the risk of harm to children who may be entering or leaving school outside of the regular window.

18. At 11.25am Officer A observed the Toyota approaching the school, noted that it was not driving recklessly and did not believe the people in the Toyota were aware that Eagle was tracking them. Officer B does not recall signalling for the car to stop, but felt that it was implied by the presence of the road spikes and two officers in high visibility vests. The Authority believes that this did not constitute a signal to stop under the Land Transport Act 1998 because Officers A and B had taken cover and were not therefore in plain view.
19. The Toyota slowed right down as it approached the spikes and Officer A thought it was going to stop or turn around. Mr V then revved its engine and drove off the road, onto the footpath and grass verge and through the gap between the parked Captiva and the school fence. In doing so, Mr V drove the Toyota straight towards Officer B, who was forced to jump out of the way to avoid being hit. The Toyota avoided the spikes.
20. Following the attempted spiking the Toyota then drove back onto the road, continuing towards the roundabout and turned left down Mill Road towards Papakura. Mr V increased the Toyota's speed and began driving more recklessly, overtaking on the wrong side of the road and weaving into oncoming traffic.
21. Shortly after, at 11.26am, NorthComms directed "*no units are to engage with this vehicle in a pursuit*" but that units could still attempt to spike the vehicle, with officers' safety being the first priority.
22. At 11.27am Officer D successfully spiked the rear tyre of the Toyota at the intersection of Mill Road and Airfield Road.
23. The legal ground for Police deployment of spikes is section 39 of the Crimes Act 1961, which permits the use of force in executing a process or arrest and protects from criminal responsibility a person who uses reasonable force to overcome resistance to that process or arrest. Police are responsible for their actions and must not place themselves, colleagues or members of the public at unjustified risk.
24. Police policy on the use of spikes provides that they can be deployed where no other, less dangerous, means of stopping a vehicle is reasonably available, and where they can be deployed without unjustified risk to any person and on the authority of the Pursuit Controller. They are therefore generally only deployed in the context of pursuits, where a driver is fleeing after being signalled to stop by Police and failing to do so. Police advise that it is only when the driving (or some other action of the occupants) is egregious that an officer's risk assessment may permit him to deploy spikes without first signalling a car to stop.<sup>4</sup> However, in view of the fact that there

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<sup>4</sup> Police policy provides a framework for officers to assess, reassess, manage and respond to use of force situations, ensuring the response (use of force) is necessary and proportionate given the level of threat and risk to themselves and the public. Police refer to this as the TENR (Threat, Exposure, Necessity and Response) assessment.

is no published policy on the use of spikes outside of a pursuit there is understandably confusion around it.

25. Police policy does make clear, however, that spikes should be used only where no other, less dangerous, means of stopping a vehicle is reasonably available. Here, signalling to stop was a reasonably available means that should have been attempted before spiking. The Authority accepts that it was reasonable for Police to assume that the occupants of the Toyota had been involved in an aggravated robbery the previous day, but this was not a sufficient reason for them to fail to signal Mr V to stop and give him the opportunity to stop before they attempted to spike the Toyota.
26. Officer Q's decision to authorise a tactic generally reserved for fleeing drivers likely contributed to the confusion among officers as to whether the incident in fact constituted a pursuit. Officer Q told the Authority that in his mind it was not a fleeing driver situation, so at no stage did he turn his mind to whether there should be a signal to stop before the deployment of spikes.
27. Not only was the authorising of spikes not justified by Policy policy, but tactically it was not the most prudent decision. Up until the first attempted spiking Mr V was not driving the Toyota in a dangerous or reckless manner and was not posing any immediate threat to public safety, despite knowing that he was being tracked by Eagle and Officer A. The attempted and successful spikings had the effect of pressuring Mr V to begin driving dangerously. In the circumstances the Authority believes that the best tactical option was to use Eagle by continuing to track the car until it reached its destination. At that point the occupants could be apprehended.
28. On looking at the Eagle footage during the interview with the Authority, Officer Q reached a similar conclusion, saying that with hindsight he probably would have:
  - 28.1 directed Eagle to maintain observation on the stolen car, keeping its distance;
  - 28.2 directed all Police cars not to engage and to stay out of sight; and
  - 28.3 directed attempts to spike the stolen car.
29. Setting aside the last tactic for reasons just stated, if Officer Q had taken this approach it is possible that Mr V would have continued to drive in a relatively safe manner, as he did before the first attempted spiking. This would have posed the least threat to the public and with the assistance of Eagle still may have resulted in the apprehension of the occupants. The Authority acknowledges that the benefit of hindsight is not available when decisions are being made under pressure. However, there were several minutes in which Eagle was tracking and providing commentary and the Toyota was being driven sedately, during which time Officer Q had the opportunity to formulate a sound tactical plan.

#### *Command and control of commencement of pursuit*

30. The first Police car to follow the Toyota was driven by Officer A who, on hearing about the stolen car on the radio, made his way to Clevedon in a marked patrol car. Several minutes before the first attempted spiking described above, Officer A saw the car travel past him in the opposite

direction and noted that the driving of the car was good, and the driver was not speeding. He did a U-turn to follow the car and drove about 50 - 150 metres behind it, with two or three civilian cars between them. He did not activate lights or siren and did not signal the driver to stop.

31. When the Authority spoke to Mr V he stated that he was aware that Eagle was following them from Clevedon, which was the time that Eagle first started tracking the car. He was also aware of Officer A following them from the time he conducted a U-turn on Fitzgerald Road. However, the way in which Officer A followed at this point did not constitute a pursuit. The manner of Mr V's driving in the early stages supports the notion that at this point he did not perceive that a pursuit was underway.
32. At 11.30am the Toyota veered right on Broadway at the intersection of Railway Street. Officer E, travelling in a marked Police car, activated her lights and siren and began following the Toyota.
33. Officer E told the Authority that she believed there were already possibly two cars in pursuit at the time. Her recollection is that she fell in behind the other Police cars that were following the Toyota, which also had their lights and siren on. Officer E said that the other officer in the car told her to follow the pursuit and *"I didn't think twice about that, I just got involved and felt it was necessary to continue following it"*.
34. Police 'Fleeing driver' policy states that other Police cars in the vicinity of a pursuit must not actively participate unless they are preparing tactical options or other specified tasks and must not follow unless directed or approved to do so by the Pursuit Controller. Officer E did not appear to turn her mind to her reason for joining the pursuit and her decision was not based on any particular plan to execute a tactical option. She did not seek Officer Q's permission to do join. This was contrary to Police policy.
35. At 11.30am Eagle footage shows that at least two Police cars were following close behind the Toyota and were about to overtake into oncoming traffic to stay behind it, until NorthComms told them to back off. The first car was a wagon, driven by Officer A and the second car was a sedan driven by Officer E. Officer A told the Authority that he did not have lights and siren activated because he was aware that NorthComms had directed Police not to engage in a pursuit. This conflicts with Officer E's account that the other pursuing Police cars did have lights and siren on. It is not clear from Eagle footage whether Officer A's lights were on.
36. Officer A stopped following the car soon after NorthComms issued a direction to back off at 11.30am. Officer E said that she does not recall hearing NorthComms direction to pull back, and that she continued to follow the Toyota because she *"just believed that at the time it was necessary to assist in any way that [she] could"*. Given that no pursuit had been called, neither Officer A nor Officer E should have been in a position close behind the Toyota that necessitated NorthComms directing them to pull back.

37. Mr V was a fleeing driver from the time that at least Officer E turned her lights and siren on at 11.30am and he failed to stop.<sup>5</sup> The Authority has found that from this point a pursuit was underway, despite the view of Officer Q at NorthComms that there was no pursuit. There were at least two Police vehicles following close behind the Toyota, at least one of which had lights and sirens activated, a fact that Officer Q may not have been aware of at the time. The manner of Mr V's driving and the way he described the situation to the Authority clearly show that he was under the impression that the Police were pursuing him at this point. This contrasts with his relatively sedate driving when Eagle and Officer A first started tracking the Toyota in Clevedon.
38. Police policy requires that before pursuing a vehicle, officers consider the threat posed by the person or people they are pursuing, the necessity of responding, the exposure of Police and members of the public, and their appropriate response in those circumstances. Police policy also indicates that if the identities of the person or people in the fleeing vehicle are known, and they do not pose an immediate threat, it is preferable to not pursue, but rather to use other means of enquiry to find those people and arrest them.
39. The identity of the driver and occupants were not known to Police at any stage during the incident. However, Police knew that five young people had been involved in the aggravated robbery of the car the day before and believed that those same young people were in the car. Police therefore had reasonable grounds to arrest the occupants. The driver had failed to stop when Officer E activated lights and siren. Police therefore did have lawful grounds to commence a pursuit. However, given that Eagle was already overhead at this point it would have been a better tactical option for Eagle to continue to track the Toyota rather than Police commencing a pursuit (paragraph 29).
40. Police 'Fleeing driver' policy is set out at paragraphs 108 to 127 and includes a number of responsibilities for the lead driver and for the Pursuit Controller (here, Officer Q). The lead driver at this point was Officer A but because of directions from Officer Q not to pursue, he did not believe there was a pursuit and so did not call it in as required. Indeed, no pursuit was called in and no pursuit warning was given at any stage during this incident.
41. Furthermore, it appears that no one either pursuing or at NorthComms turned their mind to the age of the driver of the car when formulating their risk assessments, despite a radio communication at 11.28am stating "*just confirm male driver, Maori, about 15 to 17 years*". From this point all officers involved in the pursuit should have been aware that the driver was most likely a young person.
42. Neither the pursuing officers nor Officer Q fulfilled their responsibilities under the 'Fleeing driver' policy in the way they commenced the pursuit.
43. Officer E continued to follow the Toyota. Meanwhile, Officer P, a dog handler who was aiming to be in the vicinity if the occupants abandoned the car and attempted to flee on foot, pulled

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<sup>5</sup> Section 114 of the Land Transport Act 1998 states that the activation of lights or siren on a Police car constitutes a signal to a driver to stop.

into a petrol station on the southbound side of Great South Road in Takanini to wait for the Toyota.

44. When the Toyota drove past at 11.32am, Officer P turned right out of the petrol station to pursue it. He told the Authority that he was “*pretty sure*” that his red and blue lights were on at this time, although it is not clear from Eagle footage whether they were. Mr V then drove the Toyota off the road, onto a footpath and through a carpark on the left-hand side of Great South Road before continuing through a roundabout to remain on Great South Road. Officer P continued to pursue the Toyota, including by overtaking into oncoming traffic, until Officer Q instructed Officer P to pull back, which he did. Officer P told the Authority that he understood that a pursuit had been authorised before he started following the Toyota, which again demonstrates the confusion among officers on the ground.
45. Mr V continued to drive the Toyota recklessly, travelling over 100kph in a 60 kph zone, overtaking into oncoming traffic and on the median strip and driving through two red light intersections on the wrong side of the road.

#### *Command and control of incident on motorway*

46. At 11.34am Mr V entered a motorway by driving the wrong way up the Takanini exit ramp and continued to drive on the wrong side of the motorway into oncoming traffic for approximately nine kilometres. Specific elements of the pursuit on the motorway are dealt with further at paragraphs 56 to 62.
47. The Authority is concerned about Officer Q’s relative silence and lack of command and control decisions as the incident unfolded, particularly while the Toyota was fleeing on the wrong side of the motorway. When the Authority asked Officer Q what he was thinking during this time he said “*There’s nothing we can do. What can we do?...I just wish everyone good luck*”. However, he then went on to tell the Authority various measures he would normally take if someone goes onto the wrong side of the motorway, including that he would:
  - almost immediately give a command to abandon the pursuit;
  - keep up observations or set up tyre deflation devices at exits;
  - give an instruction to units to block traffic;
  - or put up a sign to block traffic.
48. These are all appropriate tactics and this response indicates that Officer Q was aware of various tactical options available to him in the situation. However, his response at the time was that there was nothing he could do as pursuit controller. He acknowledged to the Authority that he could have managed the risk to other motorists on the motorway, for example by instructing Police units to block traffic, but that the dispatchers on the various Police channels were quite experienced and could take their own initiative. The Authority believes that this attitude reflects a failure by Officer Q to provide the command and control that his role required. In the event, it was Eagle who asked NorthComms at 11.38am whether JTOC could adjust the signboards on the



side of the road to advise motorists in the southbound lane that there was an oncoming vehicle.<sup>6</sup> This would have been a targeted and effective means of communicating to motorists and demonstrated that Eagle was attempting to fill the command and control gap created by Officer Q's silence.

### *Command and control of incident after the Toyota left the motorway*

49. The Toyota left the motorway at 11.41am at East Tamaki Road, using the on-ramp. Just after this, Eagle said to NorthComms *"This is going to be imperative to stop this vehicle. Is there a plan to stop it or are we just going to follow it?"*. This was an indication that units involved in the pursuit were looking for guidance from Officer Q at NorthComms and that once again Eagle was attempting to fill the gap in command and control. In response, at 11.42am NorthComms authorised a "moving block".
50. The Authority considers the use of the moving block in more detail at paragraphs 63 to 66 and concludes it should not have been authorised because it was not an approved Police tactic and the pursuing officers did not have training in it. Officer Q told the Authority that he believed that the way the Toyota was being driven created a risk of grievous bodily harm or death. He said that his understanding of the moving block technique was that it could only be employed by a trained Armed Offender Squad member but that he tries not to restrict Police tactical options too much, so Police officers have to use their own initiative in neutralising the risk. He told the Authority that he used the term "moving block" because if he had not done so, people would have got confused.
51. The Authority feels that on the contrary, it was his authorising of the manoeuvre that may have marred the judgment of the officers because:
  - (a) Police officers felt emboldened to employ the "moving block" tactic because they had been authorised to do so even though it was not an approved Police tactic and they were not trained to use it; and
  - (b) all of the Police officers that the Authority interviewed who were involved in the incident understood that a pursuit was underway at least from the time the moving block was authorised. This understanding then influenced their TENR assessment for the remainder of the incident.

### *Overall failure of Officer Q to manage the incident*

52. At no stage was a pursuit called in or a pursuit warning given. When the Authority spoke to Officer Q, he stated that in his mind there was no pursuit at any stage, even though spikes were deployed twice, and he authorised a moving block. He then accepted that he probably should have completed a pursuit notification form.
53. Officer Q's lack of clarity around whether the incident constituted a pursuit even with the benefit of hindsight, was reflected in the confusion among the pursuing officers at the time of the event,

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<sup>6</sup> JTOC is Auckland's Joint Transport Operations Centre which monitors and manages Auckland traffic flows.

as to whether a pursuit was in progress. At least Officers E and P were under the impression that there was a pursuit by the time they started following the Toyota. This inevitably would have influenced their individual TENR assessments during the incident.

54. Officer Q was able to watch the Eagle footage from a point four minutes after the first attempted spiking. He therefore had the opportunity, and obligation, to formulate tactical options at the time of the incident but instead it appears that he largely adopted a mindset that there was nothing he could do. Furthermore, Officer Q did not appear to turn his mind to the question of how Police behaviour was increasing the risk to the public. With the benefit of Eagle footage he should have appreciated the potential impact of several Police cars pursuing the Toyota before and after it was on the motorway, as well as the impact of several Police cars travelling up the correct side of the motorway as covered from paragraph 56.
55. The Authority has found that Officer Q did not fulfil his obligations as incident/pursuit controller because he did not co-ordinate the overall response, including the appropriate tactical options, as required by Police policy. He did not exercise command and control throughout the incident and did not communicate effectively with field officers. While individual officers are responsible for conducting their own TENR assessments, the lack of effective command and control by Officer Q, and directions to employ tactics (spikes and “moving block”) that were not authorised under Police policy, were significant contributing factors to the poor decisions outlined in this report that were made by officers who were involved in following the Toyota.

#### FINDINGS ON ISSUE 1

It was not appropriate for Officer Q to authorise the deployment of spikes before Police had signalled for the Toyota to stop.

The pursuit was not commenced in accordance with policy.

A lack of adequate command and control from Officer Q during this incident was a significant contributing factor in the poor decisions made by pursuing officers.

A lack of adequate command and control from Officer Q led to the pursuit posing a significant risk to other motorists using the roads during the incident.

Officer E’s decision to join the pursuit was not consistent with Police policy.

#### Issue 2: Was it appropriate for Police to follow the Toyota down the motorway on the other carriageway?

56. When the Toyota entered the motorway, travelling north on the southbound lanes (paragraph 46), at least two Police cars, driven by Officers B and E, followed in the northbound (correct) lanes with their lights and siren on. Officer E stated that her purpose in entering the motorway with lights and siren was “*just following, at that stage that was all that was in my mind, to follow it*”. Officer B stated that he attempted to catch up and use his lights and siren to warn the oncoming traffic that there was a vehicle driving towards them.
57. Officers B and E were conducting urgent duty driving, travelling at speed with lights and siren on. Police policy states that urgent duty driving must be able to be justified in response to the

threat and Police must use the Police risk assessment tool TENR (paragraph 24) when deciding whether to commence and continue urgent duty driving.

58. Officer B's aim of warning oncoming traffic by using lights and siren was questionable. The Police cars were on the other side of the road from the cars that were threatened by the oncoming Toyota. Those cars would have been unaware that the lights and sirens were aimed as a warning to them. Officer E's rationale of "*just following*" the Toyota also failed to justify the use of urgent duty driving. Eagle had observation on the car. The presence of several Police cars driving with lights and sirens activated travelling in the northbound lanes was likely to have the effect of distracting southbound drivers from the actual threat, which was the car travelling towards them on their side of the road.

## FINDING ON ISSUE 2

It was not necessary for Police to follow the Toyota at speed on the motorway as Eagle had observation and their doing so was likely to create more confusion and risk for motorists.

### Issue 3: Was Officer F's traffic stop on the motorway an appropriate manoeuvre?

59. Officer F was monitoring the situation on the Police radio as he drove southbound on the motorway in a marked Police car on an unrelated task. He told the Authority that as he approached the area in which the Toyota was, he realised that it would be driving on his side of the motorway, but in the wrong direction into oncoming traffic. Officer F stated that he decided to turn on his car's flashing lights, slow down and when it was safe to do so, weave across the lanes in order to slow and stop the traffic in the hope that it would help to keep the public safe from the Toyota, and possibly also block its path.
60. Officer F did successfully stop all the traffic behind him, but when the Toyota came nearer it turned into the service, or construction lane on the side of the motorway. At this point Officer F did a U-turn to follow the Toyota travelling in the wrong direction up the construction lane. He told the Authority that he was not pursuing the car because it was "*miles*" in front of him and because NorthComms had told Police cars to keep their distance. He said that he knew there were no cars in the construction lane and that he believed that the Toyota would be forced to stop at the end of it where it was blocked off. Officer F continued up the construction lane behind the Toyota until the road got too narrow and the tyres of Officer F's car started to scrape on the concrete walls on either side of the lane. At that point he stopped and reversed out of the construction lane. The Toyota was able to drive to the end of the lane, where it drove through some signs and re-entered the main lanes of the motorway.
61. Eagle footage at the time shows Officer F successfully stopping the traffic before commencing a U-turn. His car is not seen after this, which suggests he was a substantial distance behind the Toyota. He told NorthComms that he was about 300 metres behind with his lights off.
62. The initial traffic block that Officer F created did safely stop the traffic and was appropriate in the circumstances. Similarly, Officer F's decision to complete a U-turn and follow the Toyota up the construction lane was justified and fell within the general exceptions to the Land Transport

(Road User) Rule (set out at paragraph 97) because it was necessary in the execution of his duty as an enforcement officer.

### FINDING ON ISSUE 3

Officer F's traffic block and U-turn were appropriate in the circumstances.

#### Issue 4: Did Police conduct the pursuit in accordance with Policy after the Toyota left the motorway?

63. After the Toyota left the motorway, Eagle told NorthComms that there were four Police vehicles following the Toyota. At least three of these vehicles can be seen in Eagle footage, with lights activated. Officer G told the Authority that by this time he had become the lead car, and that there was a Police dog-handler's wagon (Officer P) behind him. Mr V continued to drive the Toyota at speeds of between 80 and 100kph through suburban streets with a 50kph limit, with the four Police cars close behind. When the Toyota turned left onto Ashton Avenue from Bairds Avenue, Officer G followed but was travelling too fast to make the turn and ended up on the wrong side of the road on Ashton Avenue.
64. As described at paragraph 49 Officer Q at NorthComms authorised a "moving block" at 11.42am. A moving block is a tactic in which two or more Police vehicles are driven in specific formation (behind and in front of the offending vehicle) to moderate an offending vehicle's speed and bring it to a halt. At the time of the event, this tactic was no longer included in Police policy and officers were not trained to use it.
65. At 11.44am Officer P said over the radio "Wait for him to slow down boys. If you get the opportunity, take him out, just wait for him to slow down a little bit on corners". Officer G tried to get ahead of the Toyota to slow it down, but Mr V kept veering to the right and left, preventing him from doing this.
66. The Authority accepts that there were the confused messages coming from NorthComms at the time and acknowledges the dangerous nature of Mr V's driving, but ultimately, Officer G and the other pursuing officers were responsible for their own risk assessments. The risk involved in trying a manoeuvre that was not an approved Police tactic and which the officers were not trained in, let alone when the Toyota was travelling at high speed through a residential area in the middle of the day and the driver was likely a young person, made it a poor tactical option.
67. Officer G stated that he then decided to nudge the Toyota to stop it from getting back on the motorway. At 11.45am the Police cars approached the intersection of Ashton Avenue and Otara Road. As they turned right, Officer G used the front of his Police car to hit the rear passenger side of the Toyota. The contact caused Officer G to overshoot the intersection and his car briefly entered the verge before he regained control.
68. Ramming an offender's vehicle is not an approved tactic in Police policy. However, section 39 of the Crimes Act 1961 allowed Officer G to use such force as may be necessary to arrest the driver of the Toyota, unless the arrest could have been made by reasonable means in a less violent manner. Police policy states that the use of any force must be considered, timely, proportionate and appropriate given the circumstances known at the time.

69. Police had limited options to stop the Toyota, which by this time had been posing a serious risk to the safety of road users despite the use of road spikes. However, the way in which Officer G executed the manoeuvre demonstrated a failure to conduct an appropriate TENR risk assessment. He nudged the Toyota at an intersection where there was traffic coming from several different directions. Although Eagle had said that the intersection was “*fairly clear*”, three civilian vehicles had to take evasive action as the two cars came around the corner. It was close to two busy intersections and in the middle of a Friday when traffic levels were reasonably high. The Toyota was still travelling at high speeds and its occupants were leaning out the windows. The Authority believes that these risk factors, combined with Eagle’s continued tracking of the Toyota, meant that Officer G should not have attempted to hit the car. He also failed to seek authorisation from NorthComms to do so.
70. Following contact between the Toyota and Officer G’s car, Mr V continued to drive the Toyota at high speed along Otara Road. Officer G and Officer P maintained their pursuit, driving at high speed through two red lights on East Tamaki Road, including one on the wrong side of the road and overtaking into oncoming traffic. Officer G told the Authority that he felt that it was safe to drive on the wrong side of East Tamaki Road because he could see that the road was clear, and he did not have the space to pull back in on the left-hand side. However, the Authority’s view is that the driving of Officers G and P at this point was unnecessarily dangerous, posing a serious and significant risk to members of the public near that intersection.

#### *Abandonment of the pursuit*

71. At 11.46am NorthComms directed the pursuing Police cars to abandon the pursuit with the words “*All units NorthComm Alpha abandon...I repeat abandon all units pull back*”. The Authority acknowledges that this command opened the potential for some confusion as ‘abandon’ and ‘pull back’ have two different meanings, however pursuing officers appear to have understood that it was a direction to abandon the pursuit. Police ‘Fleeing driver policy’ contains several requirements (set out at paragraphs 119 - 127 ) for when a pursuit is abandoned, including that all units engaged in the pursuit must immediately reduce speed, stop when it is safe to do so and turn off lights and siren.
72. Officer G told the Authority that he had already decided to abandon the pursuit at this stage because they were coming into a town centre and it was no longer safe, with a lot of traffic and people about. Officer G told the Authority that he pulled over and stopped near the Mobil petrol station, which is consistent with Police ‘Fleeing driver’ policy when abandoning a pursuit. However, one of the Police recruits who was travelling in the car with Officer G recalled that Officer G pulled back but did not pull over and stop.
73. Shortly after, Eagle reported the Police cars were around 200-250m behind the Toyota. Eagle footage shows that immediately after Mr V brought the Toyota to a stop as described below at paragraph 75 , two other Police cars in addition to Officer P arrived. This makes it clear that contrary to Police policy which required them to stop and cease following the Toyota entirely when a pursuit is abandoned, several cars continued to follow the Toyota at speed. This was a significant breach of policy.

74. Officer P told the Authority that he heard the direction from NorthComms to abandon the pursuit and that he turned his lights and siren off and slowed down. He said he could not remember whether he came to a complete stop in accordance with policy. Regardless of whether he did come to a stop he then proceeded to continue to follow the Toyota and activated his lights when turning onto Great South Road from East Tamaki Road. The speed at which he was travelling when he hit Mr V (paragraph 75) also suggests that he had continued to travel above the speed limit in order to pull up alongside the Toyota before the occupants had even had time to run from the car.

#### FINDING ON ISSUE 4

The pursuit controller should not have authorised a moving block because it was no longer an approved Police tactic and was not tactically sound.

Officer G and the other officers at the scene did not apply the correct TENR risk assessment in deciding to attempt the moving block.

Officer G was not justified under section 39 in attempting to hit the Toyota to force it off the road. This tactic put other road users at risk and was an excessive use of force.

Officer G, Officer P, and possibly other officers did not abandon the pursuit when directed to do so, in breach of Police policy.

#### Issue 5: Was Officer P's use of force in arresting the occupants of the Toyota justified?

75. At 11.47am Mr V brought the Toyota to a stop on Great South Road. Eagle footage shows four occupants fleeing the car. As the driver, Mr V, got out of the car, Officer P drove at speed, although braking, close to the front of the Toyota. In doing so his Police wagon hit Mr V, who bounced off the bonnet before running down a driveway between adjoining houses.
76. Officers are required to complete a Tactical Options Report (TOR) in certain circumstances when they use force during an incident. Officer P recorded in his TOR that his TENR assessment included that the occupants of the vehicle had likely been involved in an aggravated robbery and had been engaging in reckless driving and aggravated failure to stop. He said that when he saw the car coming to a stop he realised they were about to abandon the car so moved forward in his car to try and position it to stop the driver's door from opening to stop the occupants from fleeing. He also said

“as I have come to a stop the driver has got out seeing my vehicle jumped on top of the bonnet as I have been braking causing him to slide off the bonnet before running away into properties...”

77. In his interview with the Authority Officer P admitted that Mr V had not jumped on his bonnet but that he was hit by Officer P's car as he came to a stop. When the Authority viewed the Eagle footage, it was clear that Officer P was travelling too fast to safely and successfully execute the manoeuvre. Not only did he therefore breach Police policy on pursuit abandonment but he then drove his car dangerously close, and at speed, to the Toyota at a point when he knew that its

occupants would be exiting the car. This constituted careless driving under the Land Transport Act 1998. His poor judgment resulted in his car hitting Mr V.

78. Officer P stated in his TOR that when he saw three occupants fleeing from the Toyota his risk assessment led him to deploy his Police dog to track and locate them. The occupants of the car fled down driveways between houses and onto the golf course. Officer P stated that he identified himself as a dog handler and challenged the offenders. He said that his risk assessment led him to conclude that he should use his dog to assist in arresting the occupants before they escaped. He commanded his dog to engage Mr V, which he did by biting him on the right bicep. Mr V began punching the dog in the head and using his left arm to try and choke the dog. Officer P said that he feared harm to the dog so when verbal commands to the offender failed, he struck Mr V with a closed fist, which was enough to stop him. There is no Eagle footage of this arrest.
79. Officer P then took the second occupant into custody without issue before being directed by Eagle to the third and final offender (Mr W), who he could see talking to the resident of a house. Officer P said that he verbally challenged Mr W and identified himself as a Police dog handler. He said that Mr W ignored him and began climbing over a fence.
80. Officer P stated that he was concerned that if Mr W was able to get around the corner of the house he would be able to escape. He wrote in his TOR that it is common for car thieves to carry weapons of opportunity which can make them a threat to Police if confronted. Based on his risk assessment he gave the dog the command to engage Mr W. The dog jumped the fence and Eagle footage shows Mr W backing away with his arms and fists clenched against his chest in a defensive posture. The dog proceeded to bite Mr W on the right calf. While the dog was biting Mr W's leg, Officer P went to untangle the long dog leash which he said had caught on the fence when the dog jumped it. The dog then continued to engage because Officer P stated that he saw a metallic object in Mr W's hand which he believed might have been a pocket knife. He said that he told Mr W to drop the object, which he did, and then removed the dog from him. Eagle footage shows the dog engaged for at least 10 seconds before the camera pans away, and the Authority does not know how much longer the engagement lasted. Officer P told the Police investigation that the object was a lighter and he did not take possession of it.
81. The owner of the home in whose backyard the arrest occurred said that he did not notice anything in Mr W's hands when he was talking to him and did not find any foreign objects in the area after the event. The owner also said that he could hear Officer P praising the dog but did not hear him telling Mr W to drop anything.
82. Mr W was hospitalised for four days and required surgery, including a skin graft, to treat injuries to his right ankle and calf from the dog bites.
83. Sections 39 and 40 allow Police officers to use "*such force as may be necessary*" to overcome any force used in resisting arrest, or to prevent the escape of a person attempting to avoid arrest unless the process "*can be carried out by reasonable means in a less violent manner.*" The Authority is satisfied that the occupants of the car had probably been involved in an aggravated robbery, had been engaged in a dangerous pursuit and were now trying to evade Police on foot. Their identities were not known. According to Officer P he gave the warnings required by policy

before commanding his dog to engage. The Authority believes that in these circumstances the way in which Officer P used his dog to effect the arrest of Mr V was justified. In respect of Mr W, the initial engagement by the dog may have been justified, although once Mr W began to back away defensively Officer P could arguably have called his dog off and effected the arrest.

84. The Authority believes that it was unreasonable to leave the dog engaged while Officer P untangled the dog leash and is not satisfied that the unspecified metallic object justified delaying releasing the dog still further. The length of time Officer P allowed his dog to remain engaged, and the injuries suffered by Mr W were not justified by the circumstances and were an excessive use of force and in breach of Police 'Dog policy'.

#### FINDING ON ISSUE 5

The way in which Officer P used his vehicle to try and prevent the escape of Mr V was not justified, dangerous and an unreasonable use of force.

Officer P was justified in deploying his dog to assist in the arrest and prevent the escape of Mr V.

Officer P may have been justified in deploying his dog to assist in the arrest and prevent the escape of Mr W, but the length of time that he allowed the dog to continue biting was excessive and was an unreasonable use of force.

#### SUBSEQUENT POLICE ACTION

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85. Police investigated Officer G's attempt to conduct a moving block, nudge the Toyota off the road and then pursue it through two red lights. They found that he had breached Police 'Fleeing Driver Policy' although acknowledged the confusion surrounding the whole event caused by poor command and control. They found that the confusion did not entitle Officer G to relinquish responsibility for public safety.
86. Police investigated Officer F's traffic stop on the motorway, and subsequent following of the Toyota up the construction lane of the motorway. They found that while the U-turn was a breach of Land Transport (Road User) Rule 2004 2.12(4) the circumstances met the general exceptions and Officer F was 'not at fault'.
87. Police investigated Officer P's use of his car to block Mr V, his description of that event in his TOR and his use of his dog to effect the arrest of Mr W. They found that he was not liable for any offence under the Crimes Act 1961, although they did criticise his failure to stop when the Pursuit Controller ordered units to abandon the pursuit.
88. Police conducted a review into Officer Q's handling of the event as pursuit controller and made several recommendations on command and control and gaps in Police 'Fleeing Driver Policy'. That review also found that the preferred approach would have been to not pursue, therefore giving the offenders the opportunity to dump the car and run and then using Eagle to assist in locating and arresting them.



## CONCLUSIONS

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89. The Authority has found that Police should not have conducted a pursuit. Eagle was tracking the Toyota and could have continued to do so to assist in locating and apprehending the occupants. The Pursuit Controller (Officer Q) should have instructed Police cars to remain out of sight of the Toyota and focussed on ensuring that sufficient resources would be available to apprehend the occupants when they stopped and abandoned the Toyota. Before the first attempted spiking Mr V was not driving the Toyota dangerously. The incident occurred late on a Friday morning and there was substantial traffic on the roads. The number of cars involved in the incident and the tactics employed were inappropriate and only served to increase the risk to everyone.
90. Officer Q did not fulfil his command and control responsibilities. His failure to formulate a plan or make appropriate decisions created an atmosphere of confusion and was a significant contributing factor in the poor tactical decisions that were made by other officers involved in the incident.
91. The Authority also concluded that:
- 1) it was not appropriate for Officer Q to authorise the deployment of spikes before Police had signalled for the Toyota to stop;
  - 2) the pursuit was not commenced in accordance with policy;
  - 3) Officer E's decision to join the pursuit was not consistent with Police policy;
  - 4) it was not necessary for Police to follow the Toyota at speed on the motorway as Eagle had observation and their doing so was likely to create more confusion and risk for motorists;
  - 5) Officer F's traffic block and U-turn were appropriate in the circumstances;
  - 6) The pursuit controller should not have authorised a moving block because it was no longer an approved Police tactic and was not tactically sound;
  - 7) Officer G and the other officers at the scene did not apply the correct TENR risk assessment in deciding to attempt the moving block;
  - 8) Officer G was not justified under section 39 in attempting to hit the stolen Toyota to force it off the road. This tactic put other road users at risk and was an excessive use of force;
  - 9) Officer G, Officer P, and possibly other officers did not abandon the pursuit when directed to do so, in breach of Police policy;
  - 10) the way in which Officer P used his vehicle to try and prevent the escape of Mr V was not justified, dangerous and an unreasonable use of force;

- 11) Officer P was justified in deploying his dog to assist in the arrest and prevent the escape of Mr V; and
  - 12) Officer P may have been justified in deploying his dog to assist in the arrest and prevent the escape of Mr W, but the length of time that he allowed the dog to continue biting was excessive and was an unreasonable use of force.
92. This incident occurred in September 2017, at the time the Authority was conducting a joint review with Police on fleeing drivers. The Fleeing Driver Report was released in March 2019 and considers many of the issues raised in this report. For example, it highlights the need for greater clarity around the role that the tactical flight operator on board Eagle can, and should, play in command and control during a pursuit. It also considers Eagle's role when a pursuit has been abandoned.



**Judge Colin Doherty**

Chair  
Independent Police Conduct Authority

**8 October 2019**

**IPCA: 17-0774**

### Legislation

93. Section 7 of the Land Transport Act 1998 states that a person must not drive a motor vehicle at a speed or in a manner which, having regard to all the circumstances, is or might be dangerous to the public or to the person.
94. Section 8 of the Land Transport Act 1998 states that a person may not drive a vehicle, or cause a vehicle to be driven, carelessly or without reasonable consideration for other persons.
95. Under section 114 of the Land Transport Act 1998 Police are empowered to stop vehicles for traffic enforcement purposes by the following means:
  - an enforcement officer who is in uniform, or wearing a distinctive cap, hat, or helmet, with a badge of authority affixed to it, may signal or request the driver of a vehicle to stop the vehicle as soon as is practicable; and
  - an enforcement officer in a vehicle following another vehicle may, by displaying flashing blue, or blue and red, lights or sounding a siren, require the driver of the other vehicle to stop.
96. The Land Transport (Road User) Rule 2004, 5.1 states that drivers must not exceed speed limits. Rule 5.1(3) provides a defence for enforcement officers to drive at speed while engaging in urgent duty driving with activated lights and siren. However, this Rule does not permit careless, dangerous or reckless driving, or driving at a dangerous speed.
97. The Land Transport (Road User) Rule 2004, 2.12 states that a driver must not make a U-turn on a motorway. 1.18 provides general exceptions to the rule, including where in the case of an act or omission done by an enforcement officer, it was necessary in the execution of the person's duty.
98. Section 39 of the Crimes Act 1961 provides for law enforcement officers to use reasonable force in the execution of their duties such as arrests and enforcement of warrants. Specifically, it provides that officers may use *"such force as may be necessary"* to overcome any force used in resisting the law enforcement process unless the process *"can be carried out by reasonable means in a less violent manner."*
99. Section 40(1) of the Crimes Act 1961 provides for Police officers to use reasonable force to *"prevent the escape of that other person if he takes flight in order to avoid arrest"*.
100. Section 48 of the Crimes Act 1961 states: "Everyone is justified in using, in the defence of himself or herself or another, such force as, in the circumstances as he or she believes them to be, it is reasonable to use."
101. Under section 62 of the Act, anyone who is authorised by law to use force is criminally responsible for any excessive use of force.

### *Urgent duty driving policy*

102. Urgent duty driving is when an enforcement officer on duty is driving above the speed limit or the natural flow of traffic and may not be complying with certain traffic rules when responding to a critical incident, gathering evidence of an alleged offence or apprehending a fleeing driver.
103. Enforcement officers must be able to justify their manner of driving taking into account all of the circumstances that existed at the time. An enforcement officer who is a passenger in the vehicle is responsible for operating the radio if communications are required.
104. The policy acknowledges that urgent duty driving poses risks to public and Police safety and is always subject to considerable scrutiny. The overarching principle is that public and police employee safety takes precedence over the necessity to undertake urgent duty driving.
105. While undertaking urgent duty driving, Police must use red and blue flashing lights and siren at all times, continuously, unless making a 'tactical approach'. Police must not rely on road users to take evasive action when warning lights and sirens are activated. They do not guarantee safety.
106. In addition, enforcement officers:
  - must drive at a speed and manner appropriate to the circumstances, and will use a risk based assessment
  - are individually legally responsible for their actions
  - must conduct urgent duty driving in the safest possible manner
107. No duty is so urgent that it requires the public or Police to be placed at unjustified risk.

### *Fleeing driver policy*

108. The overriding principle of the Police fleeing driver policy is that: "Public and staff safety takes precedence over the immediate apprehension of the offender".
109. It is the responsibility of the lead vehicle driver, or Police passenger, to notify Police Communications as soon as practicable and when it is safe to do so, that a vehicle has failed to stop, the location, direction, fleeing vehicle description, and reason that it is being pursued (failure to stop is not a reason).
110. Under the Police 'Fleeing driver' policy, the pursuing officer[s] must carry out a TENR (Threat-Exposure-Necessity-Response) risk assessment when deciding to commence or continue a pursuit. The assessment required of officers includes consideration of the following:
  - a) The threat, by any individual or action which is likely to cause harm to Police in the course of their duties.
  - b) Exposure refers to the potential for harm (physical or otherwise) to people, places, or things. Exposure can be mitigated through assessment and planning.

- c) Necessity is the assessment to determine if there is a need for the operation or intervention to proceed now, later, or at all.
- d) Response must be a proportionate and timely execution of Police duties aided by the appropriate use of tactics and tactical options.

111. The TENR risk assessment must weigh up:

“... the ongoing exposure to harm that the fleeing driver incident poses, or is creating, with the current threat that the fleeing driver poses and the necessity to respond.”

112. During a pursuit, warning lights and siren must be simultaneously activated at all times. The Communications Centre must also be advised immediately if there is a fleeing driver and that a pursuit has been initiated.

113. The fleeing driver policy outlines that Police officers responsible for the fleeing driver communications should provide the Pursuit Controller with timely and uniform situation reports (when safe to do so). They must advise Police Communications of their location, direction of travel, description of the fleeing vehicle, and reason for pursuit.

114. Police Communications transmits pursuit warning to all vehicles involved: “{Call sign} if there is any unjustified risk to any person you must abandon pursuit immediately. Acknowledge”

115. 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.

116. Fleeing driver incidents must be managed in the safest possible manner. A pursuit will only be commenced and/or continued when the seriousness of the offence and the necessity of immediate apprehension outweigh the risk of pursuing. The fact that a driver is fleeing does not in itself justify engaging in a pursuit.

117. 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 conditions change,
- there is a sustained loss of contact between the primary units and the Communications Centre.

#### *Responsibilities of pursuit controller*

118. The policy sets out the responsibilities of the pursuit controller to actively manage and monitor the pursuit and, where appropriate, order abandonment:

<b>Step</b>	<b>Action</b>
1	<i>Ensure the pursuit warning is given by the dispatcher and acknowledged by the lead vehicle (and secondary vehicle if present).</i>
2	<i>If the officer and vehicle classification allow, appoint the Police vehicle that initiated the pursuit as the lead vehicle. Replace unmarked vehicles (category B) in a fleeing driver pursuit with marked vehicles (category A) at the earliest opportunity. Ensure a secondary vehicle takes over the pursuit commentary if the lead vehicle is single-crewed.</i>
3	<i>Arrange aerial surveillance where available and if tactically appropriate.</i>
4	<ul style="list-style-type: none"> <li>• <i>Maintain regular communications in accordance with the Police Communications procedure. Given the speed at which fleeing driver incidents initiate and change, there may not be time for this procedure to be completed in its entirety.</i></li> <li>• <i>Monitor the situation reports (sit-reps) to ensure sufficient and relevant information is provided to enable informed decision making.</i></li> <li>• <i>Where there is a continued failure by the lead vehicle (or secondary vehicle if appropriate) to provide sufficient relevant information in a timely manner, consider instructing abandonment of the fleeing driver pursuit.</i></li> </ul>
5	<i>Regularly assess the risk to determine whether the need to immediately apprehend the driver is outweighed by the risks posed by the continuation of the fleeing driver pursuit. If sufficient doubt about the safe continuation of the fleeing driver pursuit exists, direct abandonment.</i>
6	<i>Direct abandonment of the fleeing driver pursuit if the identity of the fleeing driver becomes known, the fleeing driver does not pose an immediate threat to public or police employee safety, and they can be apprehended later.</i>
7	<i>Limit the number of Police vehicles following to no more than two, unless tactically appropriate.</i>
8	<i>Coordinate tactical vehicles and options, where appropriate, to support the lead and secondary vehicles, and control traffic at critical points to maximise safety.</i>

### *Abandonment*

119. Officers in the lead or secondary Police vehicles, the field supervisor and the pursuit controller are all authorised to abandon pursuit.

120. Field staff should notify the Police Communications Centre of the abandonment, the reason for it and their current location. Once the decision to abandon has been made, the pursuit controller must advise all vehicles involved that the pursuit has been abandoned by stating *“All vehicles, abandon pursuit now.”*
121. Where aerial surveillance is involved, this direction must specify whether the aircraft must abandon observations or assist with an inquiry phase.
122. The ‘Fleeing driver’ policy also states:

*“The pursuit controller must direct abandonment if the identity of the fleeing driver becomes known, the fleeing driver does not pose an immediate threat to the public or police employee safety, and they can be apprehended later.”*

123. The policy sets out the steps that must be carried out following a decision to abandon a pursuit:

<b>Step</b>	<b>Action</b>
1	<i>Acknowledge any direction to abandon the fleeing driver pursuit, or advise the Pursuit Controller that the pursuit has been abandoned.</i>
2	<i>Immediately reduce speed to increase the distance between the fleeing vehicle and their own.</i>
3	<i>Deactivate warning devices once below the speed limit.</i>
4	<i>Stop as soon as it is safe to do so. If stopping in an area such as a motorway, safety may necessitate that the warning lights remain activated until the vehicle is mobile again.</i>
5	<i>Confirm to the Pursuit Controller they are stationary and state their specific location.</i>
6	<i>Undertake inquiry phase as directed by the field supervisor.</i>

### *Inquiry phase*

124. If Police do not apprehend the fleeing driver:

*“... all viable lines of inquiry to identify and hold the fleeing driver accountable should be exhausted. The inquiry phase should be dealt with as a priority prevention activity.”*

125. Officers are not permitted to engage in urgent duty driving (i.e. driving with warning lights and sirens activated) just because they are undertaking an ‘inquiry phase’.
126. All drivers apprehended for failing to stop should be considered for prosecution.

### *Re-engagement*

127. Officers must obtain permission from the pursuit controller before they *“engage”* a fleeing driver after abandonment. Permission to attempt to stop the fleeing driver again will only be

given if the pursuit controller is satisfied that any risks have decreased or the situation has changed. If the fleeing driver again fails to stop, Police may commence a new pursuit.

#### *Tyre deflation device policy*

128. Tyre deflation devices (TDD) can be used under section 39 of the Crimes Act 1961.
129. Police policy on spikes provides that they can be deployed where no other, less dangerous, means of stopping the vehicle are reasonably available, and where they can be deployed without unjustified risk to any person and on the authority of the Pursuit Controller.

#### *Use of a Police dog*

130. Police dog handlers must consider all tactical options in situations that require use of force. They must consider whether a lesser, more appropriate use of force is available before deploying a Police dog. The law sees little difference between dogs, when used as a means of force, and other methods and implements used by Police, such as firearms, Taser and batons.
131. Police officers operating a Police dog are personally responsible for the use of force by the dog. They must be satisfied, before releasing the dog, that the use of force is justified in the circumstances. They must call on the person to desist unless impracticable to do so and ensure that the extent of the force used by the dog is kept to a minimum possible in the circumstances.
132. Police dog handlers must have control of their dog at all times during deployment. Control means that the dog is under immediate physical or voice control and the dog responds to that control.



## ABOUT THE AUTHORITY

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### Who is the Independent Police Conduct Authority?

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

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

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

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

### What are the Authority's functions?

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

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

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

### This report

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



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