

Police car stolen in Gore after officer leaves key in ignition

Outline of Events

1. On the evening of 14 August 2019, Officers A and B were on patrol on the outskirts of Gore when a car, driven by Mr X, drove past them in the opposite direction on Reaby Road. The car was missing its front grill and number plate. By the time Officers A and B had turned around and caught up to the car, it had entered a residential area and come to a stop on Beattie Street.
2. When Officers A and B came to a stop behind the car, Mr X reversed at speed and rammed the front of the Police car. Mr X then got out of the car and ran into a residential property, chased by Officers A and B.
3. Mr X ran around the property and back onto the street where he got into the driver's seat of Officer A and B's patrol car, that still had its keys in the ignition. He then drove away and rammed a second Police car that had come to assist, before abandoning the patrol car in a nearby street. He ran off, taking with him two 9mm Glock pistols from a locked box in the patrol car.
4. The Authority investigated Officer A and B's actions and the activity that occurred from the time Mr X drove past them on Reaby Road, to the recovery of their patrol car after it was abandoned by Mr X.

The Authority's Investigation

5. As part of its investigation the Authority interviewed Officers A and B and reviewed the Police investigation file including the evidential statements of Police Officers and civilians to the incident. The Authority analysed the Southern Communications Centre (SouthComms) radio transmissions of the incident and reviewed police policy and practice relating to the security of vehicle and gun safe keys.
6. The Authority identified and considered the following issue:
 1. Was Officer A's failure to remove the cars keys from the ignition a breach of Police policy or practice?

The Authority's Findings

Background

Events leading up to the patrol car being rammed by Mr X in Beattie Street

7. On the evening of 14 August 2019, Officers A and B commenced duty as the night shift patrol in the township of Gore. Officer A was the driver of their patrol car. At the time, it was standard practice for the patrol cars in Gore to have both the car keys and the car firearm safe keys held together on the same key ring.
8. As they were driving along Reaby Road, a car, driven by Mr X, past them in the opposite direction. They noticed the car was missing its front grill and number plate, so they decided to turn around and stop the car to speak to the driver.
9. Officer A conducted a three-point turn and headed back along Reaby Road towards the township. Officer A saw that one of the car's taillights wasn't working but they lost sight of it due to its distance ahead and the undulating nature of the road. Because of this, Officer B radioed the Gore late shift patrol, Officers C and D, and asked that they head towards the area to help look for the car.
10. As Officers A and B found the car as it was about to turn right into Broughton Street. It was here that Officer A activated the patrol car's red and blue lights.
11. Officers A and B turned into Broughton Street and saw the car turn left into Beattie Street, a no exit cul-de-sac. It was apparent to the Officers that the car was attempting to avoid them.
12. When Officers A and B turned into Beattie Street, they saw the car had driven over the curb on the wrong side of the road and stopped across a grass verge with its nose nudging a hedge. Officer A stopped the patrol car about ten metres behind the car with the intention of getting out and speaking with the driver.
13. As Officer A was unbuckling his seatbelt, he saw the car start to reverse, so he decided to drive the patrol car forward and turn around at the cul-de-sac. After completing the turn, Officers A and B saw that the car was in the centre of the road facing towards Broughton Street. Both vehicles were now stationary on the road about five metres apart, facing in the same direction.
14. The car then reversed at speed directly towards Officers A and B. Officer A tried to place the Police car in reverse but could not do so in time. The car crashed into the front of the patrol car, causing it to shunt backwards and locking the two cars together.
15. Mr X then got out of the car and stood on the road by the driver's door. Officer A told the Authority *"The driver's door flung open and the male faced directly towards us with shoulders puffed out.... he waved his arms in a threatening manner and was facing directly towards me.... I thought he was going to come for us"*. Officer A said that he believed he recognised Mr X as a person known to Police with a criminal history including for violence. Officer B told the Authority he did not recognise Mr X at that stage.

Chase through residential property

16. As Officers A and B were getting out of their car, Mr X ran across the road and up the driveway of a residential property. Both officers gave chase. Officer A told the Authority he could not recall if he turned off the car ignition before he ran after Mr X, although he said it was his normal practice to do so.
17. As they ran up the driveway Officer B tripped and fell while Officer A chased Mr X to the rear of the property. Here, Officer A drew his Taser and challenged Mr X to stop. Mr X continued to run around the house back towards the road with Officer A in pursuit. Officer B by this stage had recovered from his fall but was a short distance behind.

Officer A and B's action back on Beattie Street

18. When Officer A reached the road, he saw Mr X get into the Police car through the driver's door and close it. By the time Officer A reached the driver's door, Mr X had locked the doors and the engine was running. Officer A later reported *"It was at this point I ran my hand over my vest and with horror, realised that I had left the keys to the Police vehicle inside it"*.
19. Officer A yelled at Mr X to get out of the Police car and tried to open the driver's door. Unable to do so, he tried to break the driver's window by kicking it with his boot. Officer B had arrived and seen Officer A's attempt to open the door and break the window. Officer B recognised Mr X through the window as a person he had had previous dealings with and who was well known to Police. He told the Authority he was concerned that Mr X may steal the patrol car and access the firearms from the lock box.
20. Officer B then swung his Maglite torch and smashed the driver's window. He told the Authority he did this to enable Officer A to Taser Mr X through the broken window, to prevent him from stealing the Police car. The Authority considers Officer B's actions in smashing the window as reasonable in the circumstances.
21. Officer A warned Mr X by yelling *"Get out, Taser 50 thousand volts"* but Mr X did not comply. Officer A said he also tried to grab Mr X through the broken window, but Mr X leaned away and in doing so activated the car's siren.
22. Officer A discharged his Taser at Mr X. However, Mr X was wearing a puffer type jacket causing the Taser probes to have no effect. Officer A discharged the Taser a second time but again this had no effect on Mr X. Mr X then reversed the patrol car a few metres and drove forward around the car, narrowly missing Officer B who jumped out of the way.
23. Police Policy states that a Taser should only be deployed when a person is 'assaultive' on the Tactical Options Framework. Although Mr X was seated in the driver's seat of the patrol car at the time, the Authority considers his actions up to that point indicated he was of that disposition and there was a real risk he might steal the Police car. The Authority therefore considers the discharge of the Taser was a reasonable use of force in the circumstances.¹

¹ See paragraphs 41 and 42 for relevant policy on Tasers.

Mr X steals Police car

24. Mr X drove off at speed and turned right into Broughton Street towards Reaby Road. Officer B ran on foot in the same direction and yelled on his radio that Mr X was in their patrol car. This call was heard by Officer C and D who were approaching Broughton Street. It is evident to the Authority from the SouthComms audio however that this transmission was not clearly understood, due mainly to Officer B running and transmitting at the same time, and there was initially some confusion by Officers C and D as to whether Mr X was still being chased on foot.
25. As Officers C and D approached the intersection with Broughton Street, they saw the stolen patrol car stopped at the intersection with its lights flashing and siren sounding. They could not see inside it. Officer C was driving, and she stopped short of the intersection.
26. Mr X drove the patrol car slowly across the intersection and into Waimea Street. Officers C and D followed, now more suspicious that it had in fact been stolen.

Ramming of second patrol car

27. Mr X drove the patrol car into Waimea Street about 15 metres and then stopped in the right hand lane. Believing that Mr X was about to run off on foot, Officer C drove up to its left hand side and stopped about 3 metres ahead, parking on an angle slightly to the front of the stolen patrol car. Mr X then accelerated forward at speed into the driver's door of Officer C and D's patrol car, shunting it sideways towards the curb. Believing that Mr X may ram them again, Officer C accelerated down Waimea Street to create some space between them. They then stopped to arm themselves.
28. Mr X did not follow however but did a U turn and turned left out of Waimea Street, heading towards the Gore township.

Recovery of patrol car and arrest of Mr X

29. Having armed themselves and ensured they were familiar with fire orders, Officers C and D then uplifted Officer A near the top of Broughton Street. Mr X was now out of sight. As they drove along Crew Street towards the township, they found the stolen patrol car abandoned with the driver's door open on the corner of George Street. The car lights and siren were still activated and there was no sign of Mr X. When Officer A looked inside the car, he saw that the pistol lock box was open, with the keys in the lock, and both pistols missing.
30. In the hours that followed, a Police operation was launched, including the deployment of the Armed Offenders Squad. Mr X was not located that night. He was arrested three days later. One of the pistols was recovered at the time of his arrest, the other three months later following further investigation.

Issue: Was Officer A's failure to remove the cars keys from the ignition a breach of Police policy?

31. Police have advised the Authority that at the time of this incident there was no specific policy requiring officers to remove ignition keys when leaving a Police car unoccupied.² Therefore, Officer A did not breach any Police policy.
32. Officer A told the Authority that it was his normal practice when getting out of a Police car to turn the engine off, remove the keys from the ignition and attach them to the lanyard on his vest. He said he could not recall why he did not do so on this occasion.
33. It was Officer A's responsibility as the driver to ensure he removed the keys from the patrol car before giving chase to Mr X. His failure to do so was the only reason Mr X was able to steal the car and the Glock pistols.
34. The Authority however is mindful of the circumstances giving rise to this omission. Mr X was clearly intent on evading Officers A and B, and his actions in ramming their patrol car and alighting from it were unexpected and fast moving. Officer A's intention was to arrest and apprehend Mr X and it was reasonable that he reacted by giving chase immediately. Although these circumstances do not absolve Officer A of his responsibilities, the Authority is understanding of the situation he faced.

FINDING ON ISSUE

Officer A did not breach any policy by leaving the keys in the Police car ignition. However, he should have removed them and his failure to do so enabled Mr X to steal the car and the Glock pistols.

Subsequent Police Action

35. Since this incident, Police have introduced a national instruction that is explicit in requiring Police employees to ensure that the ignition and firearm security keys are not left in the vehicle when unoccupied, and the vehicle is locked and secured.
36. Separately, Southern District Police have also undertaken a review of their practices and have made improvements to the manual handling of car and gun safe keys before officers start each shift. Nationally, practices around the carriage of keys will be further enhanced next year when new items of personal uniform are issued.
37. From a technical perspective, the current preferred process for the security of vehicles and firearms is the Anti-Theft Ignition System (ATIS). This system forms part of Police training including the Police Professional Driving Programme.
38. In conjunction with the Royal New Zealand Police College, Police are now developing a training package on vehicle security that will be included as part of the cyclical tactical training for front line officers.

² See paragraphs 43 to 46 for relevant policy.

39. Police National Headquarters are also developing a standalone policy that will incorporate existing policies regarding the use of ATIS and vehicle security.

Conclusion

40. Officer A did not breach any policy by leaving the keys in the Police car ignition. However, he should have removed them and his failure to do so enabled Mr X to steal the car and the Glock pistols.

A handwritten signature in black ink, appearing to read 'C. Doherty', with a horizontal line underneath.

Judge Colin Doherty

Chair
Independent Police Conduct Authority

2 July 2020

IPCA: 19-0536

Appendix – Policies

'TASER' POLICY

41. Using a Taser is a use of force, therefore, it must be *“necessary, proportionate and reasonable in the circumstances”*. It can be used where an officer fears imminent physical harm to themselves or some other person. If there is no longer the likelihood of physical harm the use of a Taser is not necessary or reasonable.
42. A Taser is one of a number of tactical options available for use within the Police’s Tactical Options Framework. An officer may use the Taser when their Perceived Cumulative Assessment makes them honestly believe that someone poses an imminent threat of physical harm to a person. A Taser can never be used on a person whose behaviour is below the ‘assaultive’ range, for example when someone is merely actively or passively resistant.

'FIREARMS' POLICY

43. The security of firearms is paramount. Police must *“maintain robust security measures for Police firearms at all times”*.

'PHYSICAL SECURITY' POLICY

44. Each Police district must ensure they implement physical security measures which minimise or remove the risk of people being harmed, and of *“assets being compromised, made inoperable or inaccessible”*.
45. Some key critical points are:
 - *“Occupational Health and Safety considerations arising from hazards and security measures must be applied to all physical security environments.*
 - *Access to Police premises and assets must be controlled.”*
46. Physical security measures are dependent upon attentive personnel.

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 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.



Mana Whanonga Pirihimana Motuhake

PO Box 25221, Wellington 6140

Freephone 0800 503 728

www.ipca.govt.nz
