

Pedestrian killed by fleeing driver in New Brighton

Outline of Events

1. On 7 August 2019 Mr X was one of three people in a car that failed to stop when signalled to do so by a Police patrol in Christchurch. The car was pursued into the suburb of New Brighton and came to a stop after running over a road sign.
2. Mr X ran from the car into a residential property on Shaw Avenue where a workman's van was parked in the driveway. Mr X got into the van and reversed at speed out of the driveway onto the road. This was observed by Officers A and B who were searching the area in a marked Police SUV.
3. Mr X accelerated forward, ramming the Police SUV that had slowed down to investigate. The contact between the two vehicles caused Mr X to clip a vehicle parked on the side of the road. Mr X continued to speed off along Shaw Ave towards a roundabout, followed by the Police SUV.
4. Standing in the middle of the road on the other side of the roundabout was a pedestrian, Dean Amies, who appeared to be waving out or signalling the van as it approached.
5. Mr X drove through the roundabout and ran over Mr Amies, killing him. Mr X did not stop but drove off at speed, nearly colliding with another Police vehicle carrying Officers D and E who were responding to the earlier pursuit of the car. Officers D and E attempted to catch up to Mr X but abandoned their efforts when Mr X drove through an intersection controlled by a red traffic light.
6. The Authority investigated Police actions from the time the car came to a stop after running over the road sign, to the abandonment of the pursuit of the van after it had hit and killed Mr Amies.

The Authority's Investigation

7. As part of its investigation the Authority interviewed seven officers. It also visited the scene of the activity and interviewed 16 independent civilian witnesses who observed various parts of

the incident. The Authority monitored the Police investigation and reviewed the documentation produced by them.

8. The Authority considered the following issues:
 - 1) What activity occurred on Lonsdale Street and Shaw Avenue and were Police actions appropriate?
 - 2) Did the actions of Officers A and B contribute in any way to the death of Mr Amies?
 - 3) Was it appropriate for Police to pursue Mr X, given he had just stolen a van and killed a pedestrian?

THE AUTHORITY'S FINDINGS

Issue 1: What activity occurred on Lonsdale Street and Shaw Avenue and were Police actions appropriate?

Events leading up to the van being stolen

9. A Police patrol in the area of Avondale, Christchurch, signalled the driver of a car to stop, believing it contained a male who was wanted by Police. The car failed to stop and was pursued by two Police patrols into the suburb of New Brighton.
10. Officers A and B were also in the area at the time, driving a Police SUV dog wagon with Officer A's dog in the back. Officers A and B did not engage directly with the pursuit but remained several hundred meters behind, anticipating that the occupants may abandon the car and run off on foot, in which case Officer A could deploy his Police dog.
11. The car entered the residential area of New Brighton and travelled north along Shaw Avenue before turning into Lonsdale Street where it crashed into a road sign and came to a stop. Mr X and another male ran off into residential properties and a third person was apprehended in the car.
12. When Officers A and B arrived in Lonsdale Street, they were told that Mr X had climbed over a residential fence in the direction of Shaw Avenue and they were directed to drive back into Shaw Avenue to find him.
13. At the same time, another Police patrol driven by Officer C was travelling north along Shaw Avenue, responding to the initial pursuit, when he heard the occupants had run off.
14. Meanwhile, Mr X jumped a fence into the section of 162 Shaw Avenue. Parked in the driveway of this address was a workman's van which was unlocked with its rear and side doors open and keys in the ignition. The owner of the van was standing nearby closer to the road.
15. Mr X got into the van, started it, and began reversing at speed down the driveway. This was witnessed by the owner of the van who at the same time noticed Officer C driving towards him on Shaw Avenue. He signalled Officer C to stop and pointed down the driveway at the van.

The activity proximate to the driveway of 162 Shaw Avenue

16. Officer C came to a stop on the road near the driveway, just as the van was about to enter the road, still reversing at speed. Believing he was about to be rammed by the van, Officer C quickly got out of his patrol car and moved out of the way.
17. As this was happening, Officers A and B were turning into Shaw Avenue and noticed the commotion. Not sure what was happening at 162, Officer A drove the Police SUV towards the driveway, coming to a stop (or near stop) diagonally on the northbound side of the road. It is not clear exactly where the Police SUV came to a stop (or near stop) but it was to the south of the driveway. It was Officer A and B's intention to investigate what was happening and be able to deploy the Police dog if necessary. They saw the van reversing out of the driveway but did not know it was being stolen.
18. Mr X hit the front fence of the property as he reversed the van onto the road, turning it sharply to face south. He did so without hitting Officer C's patrol car. Mr X then accelerated forward towards Officer A and B's SUV which was now in front of him and rammed it on the left-hand side.
19. The activity that occurred between 162 and 166 Shaw Avenue is described differently by several witnesses. The Authority accepts this is a case of honest witnesses having differing perceptions of what they saw, describing the same event differently, in part because things happened so quickly.
20. The Authority has reviewed the Police Crash Analysis Report that examined this part of the incident. The vehicle examinations clearly show the Police SUV received considerable damage along its right side, and the van had similar damage along its left side. Notably, the Police SUV right side mirror was pushed forward, consistent with the van being in forward motion when it rammed the Police SUV.
21. In relation to the scene examination, debris from the Police SUV and the van was found on the road immediately adjacent to the parked car outside 166 Shaw Avenue, consistent with the van ramming the Police SUV before clipping the parked car.
22. The Authority has considered the witness accounts and physical evidence to reach a conclusion about what happened, in general terms, on this stretch of Shaw Avenue.
23. The Authority is satisfied that, after reversing out of the driveway of 162 Shaw Avenue, Mr X accelerated forward and into the side of the Police SUV that had slowed down or stopped to investigate. The vehicles likely travelled some distance while scraping against each other. The contact between the two, variously described by witnesses, caused the van to clip the car parked on the side of the road outside number 166.

The activity from 166 Shaw Avenue to the roundabout

24. Immediately after clipping the parked car Mr X drove onto the correct side of the road and headed for the roundabout. The distance between the driveway of 166 Shaw Avenue and the roundabout is approximately 100 meters.

25. Officers A and B followed the van as it headed to the roundabout. As they did so, Officer B said he attempted three times to call the Police Communications Centre (SouthComms) to advise them of what had just happened, but the channel was blocked with other radio traffic and his transmissions were rejected.
26. There are varying witness accounts regarding the distance between the van and the Police SUV as they approached and entered the roundabout, the speed they were travelling, and the number of vehicles involved. One witness told the Authority that the Police SUV was within a metre of the open back (boot) door of the van. Another witness said there was more than one Police vehicle behind the van as it approached the roundabout, while others said they could not see any Police vehicles behind it at all.
27. The Authority viewed photographs from video footage captured by a nearby car's dashboard camera that shows the two vehicles as they approach and enter the roundabout. This footage clearly shows the Police SUV following the van into the roundabout at what appears to be about 3 or 4 car lengths distance between them. The Police Crash Analyst reviewed this footage and estimated the Police SUV as being between 35 and 70 metres behind the van.
28. When interviewed by the Authority, Officer A said he believed he was only *following* the van as it approached the roundabout, rather the catching up to it. He estimated the Police SUV was traveling between 60 - 70 kph and the van traveling at 80kph. Most of the civilian witnesses estimated the van's speed as being between 70 and 90 kph.

Through the intersection

29. The van continued through the roundabout. As it went through, its right wheels were seen to mount the raised traffic island. It straightened to exit the roundabout and then hit Mr Amies who was standing near the centre of the road. The van hit him head on, propelled him forward before running over him and dragging him along the road where he came to rest about 20 metres from the initial point of impact. Mr X continued to drive off at speed. Officer B immediately called over the radio "*white van, hit a pedestrian, priority, priority, priority, priority!*". He and Officer A then stopped to aid Mr Amies. Together with onlookers, they provided first aid to Mr Amies and called for an ambulance. Mr Amies died at the scene.
30. The Authority analysed the SouthComms audio transmissions and notes that the time between officers reporting to SouthComms that Mr X was running away from the car in Lonsdale Street, and the time Officer B advised SouthComms that Mr Amies had been hit, was 43 seconds.

FINDING ON ISSUE 1

The events that unfolded on Lonsdale Street and Shaw Avenue were fast moving and the actions of Officers A and B were appropriate and in keeping with their duties.

Issue 2: Did the actions of Officers A and B on Shaw Avenue contribute in any way to the death of Mr Amies?

31. Mr X had been in a car that failed to stop for Police. When that car crashed, he ran away before stealing a van from 162 Shaw Avenue. His actions in then ramming the Police SUV, running over

Mr Amies and failing to stop, then continuing to flee Police in the van, demonstrates to the Authority that he was determined to evade Police both *before* and *after* he ran over Mr Amies.

32. The Authority also notes Officers A and B were faced with a very fast-moving situation. They initially arrived in the area to assist with apprehending the occupants of the car following the first pursuit which was entirely in keeping with their duties. They then slowed or stopped when they saw suspicious activity in the driveway of 162 Shaw Avenue which was also entirely appropriate. The ramming of their SUV was unexpected, and it was appropriate they then followed the van (at a distance estimated between 35 and 70 metres) as it sped off toward the roundabout. It is the Authority's view that Mr X was intent on "getting away" and his actions would have been the same whether or not Officers A and B were following him. Officers A and B could not have anticipated the tragedy that what was about to unfold and what did unfold cannot be attributed to them in any way.

FINDING ON ISSUE 2

The actions of Officers A and B on Shaw Avenue were appropriate and did not contribute to the death of Mr Amies.

Issue 3: Was it appropriate for Police to pursue Mr X, given he had just stolen a van and killed a pedestrian?

Officers D and E

33. Officers D and E were at the New Brighton Police Station preparing for their shift when they heard the initial pursuit heading towards the New Brighton area. Like Officer C, they decided to head to the Shaw Avenue area to assist and, if necessary, lay road spikes. They travelled along Seaview Road in an easterly direction towards the New Brighton township. Officer E was driving.
34. Immediately before reaching the intersection with Shaw Avenue, they heard Officer B's priority call. They did not know who made the call (Officers A and B were not local officers) or what the call related to, nor did they know that a van had just been stolen from 162 Shaw Avenue and had just hit Mr Amies. Officer D said she heard the words "*hit, hit, hit*" while Officer E recalled the words "*priority, priority, hit, hit, hit*". When Officer E heard this call, he interpreted it to mean that the fleeing driver had rammed or struck a patrol car. The Authority estimates the time between Officer B's priority call and Officers D and E turning into Shaw Avenue as being between 1 - 3 seconds.
35. As they turned into Shaw Avenue, they saw the van heading straight towards them. Officer D said, "*as we turned left [into Shaw Ave], we could see this van driving really erratically....it looked like it was heading right towards us, so [Officer E] kind of manoeuvred out of its way*". Officer E said "*as I came around the corner [into Shaw Ave], I saw the van, it was a white van with its boot open driving towards me at speed, so obviously my focus was on that, thinking in my mind it had just rammed a Police vehicle, am I going to be next, so trying to figure out a safe way to avoid being hit. As it went past me on my right side at speed it just missed me, narrowly missed my vehicle and then turned right [onto Seaview road]*".

36. They did not have time to see and did not know Mr Amies had just been hit and was lying on the road, although they recalled seeing a Police car stopped near the roundabout [Officers A and B]. Officer E said *"I had no idea I didn't see any pedestrian that had been struck on the road or anything"*.
37. Officer E immediately turned around and entered Seaview Road, travelling in the direction they had come from, and attempted to catch up to the van.
38. As they travelled along Seaview Road, Officer D advised SouthComms over the radio *"Comms, [we're] heading south on Seaview Road.... approaching the roundabout..."*. As will be described further below, SouthComms Officers F and G did not know what this call related to, or what vehicle was involved, but erred on the side of caution and issued a pursuit warning.
39. Officers D and E said they managed to catch up to the van and remained about 40 meters behind it as it travelled through a roundabout onto Pages Road. Tools and other items were falling out of the van's open back door.
40. When the van reached the intersection with Anzac Avenue, it went through a red light, narrowly avoiding a collision with a large truck. Officers D and E abandoned the pursuit, pulled over and stopped. The van continued at speed along Pages Road.

Officer F

41. Officer F was the SouthComms dispatcher during this event. He alerted his supervisor, Officer G, when the initial pursuit of the car commenced. Both officers controlled and monitored the pursuit including the point where the car crashed, and Mr X ran off.
42. Officer F told the Authority he recalled a transmission from the pursuing Police patrol to the effect *"we've got two running"*. He said, from there, *"that's when a lot of confusion started"*. He said he could not recall if he heard Officer B's priority call specifically. He recalled focusing on setting up cordons and directing Police cars into the area, when he heard another unit call up *"get ambos here now!"*. When he heard this, Officer F said he and Officer G looked at each other, as if to say, *"what's going on?"*.
43. Seconds later, Officer F heard Officer D announce the pursuit on Seaview Road which further confused things because, other than Officers A and B, no Police staff knew a van had been stolen. When Officer F requested a situation report from units in the area, including the reason for an ambulance and where it was required, one officer replied that they were still chasing offenders on foot, oblivious it seems, to the subsequent events unfolding. At some stage however, Officer F was advised that a pedestrian had been hit and called an ambulance. He was still unaware however, that this involved a van that had just been stolen. Officer F said there were *"just so many things happening at once"*.

Officer G

44. Officer G was the pursuit Controller during this event. On being alerted by Officer F of the pursuit of the car, he positioned himself beside Officer F so that he could monitor and control what was happening.

45. Officer G recalled a transmission that occupants of the car had run off and were jumping over fences. A short time later he heard a transmission to the effect *“somebody’s been hit we need an ambulance”*. This was followed shortly after by Officer D calling in what appeared to Officer G to be a pursuit on Seaview Road. Officer G said he had no idea what vehicle was being pursued, or if in fact it was a pursuit, but thought it prudent for a pursuit warning to be given, in compliance with policy.
46. Like Officer F, Officer G sought a situation report but did not initially receive a response that clarified what was going on. He said it wasn’t until several minutes later that he and Officer F became aware a pedestrian had been hit by a car and that it was a serious situation. He recalls himself and Officer F looking at each other thinking *“What the hell’s going on out there?”*
47. The Authority notes the following timings:
- From the time Mr X ran off from the car, stole the van, rammed Officers A and B, and hit Mr Amies - 43 seconds;
 - From Mr X hitting Mr Amies to Officer D calling in the pursuit on Seaview Road - 11 seconds;
 - From the pursuit being called in, to it being abandoned - 32 seconds

Therefore, all these events took place over a period of approximately 1 minute and 38 seconds.

48. It is clear to the Authority that, due to multiple events occurring within such a short time frame, the confusion that arose was entirely understandable. Further, this was not a case of Police allowing a pursuit with the knowledge that a pedestrian had just been hit and killed by the driver. Those facts were not known by Officer D, E, F and G at the time.

FINDINGS ON ISSUE 3

Officers D, E, F and G did not know Mr X had stolen a van or that he had hit and killed Mr Amies.

The pursuit that followed was appropriate and properly abandoned.

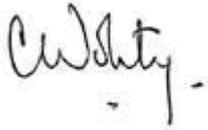
Subsequent Police Action

49. Police located Mr X nine days after this incident and charged him with causing the death of Mr Amies along with other related offences. He pleaded guilty to the charges and was sentenced to a term of imprisonment.

Conclusions

50. The Authority has concluded that:
- 1) The events that unfolded on Lonsdale Street and Shaw Avenue were fast moving and the actions of Officers A and B were appropriate and in keeping with their duties.

- 2) The actions of Officers A and B on Shaw Avenue did not contribute to the death of Mr Amies.
- 3) Officers D, E, F and G did not know Mr X had stolen a van or that he had hit and killed Mr Amies.
- 4) The pursuit that followed was appropriate and properly abandoned.



Judge Colin Doherty

Chair
Independent Police Conduct Authority

8 October 2020

IPCA: 19-0425

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.



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