

**REPORT BY THE POLICE COMPLAINTS AUTHORITY
INTO THE DEATH OF PETER JOHN PRATTELY
IN TIMARU ON 15 NOVEMBER 1995**

Introduction

Peter John Prattley (43), (hereinafter referred to sometimes as the deceased), met his death at 1.22 am on Wednesday 15 November 1995 when the vehicle he was driving, a 1978 Ford Cortina Station-wagon, registration number IY4185, collided with a Mercedes Benz truck, registration number SL7147. The fatal collision occurred at the end of a Police pursuit extending over approximately 27kms of State Highway 1 and extending a further 9kms through the streets of Timaru, a total of approximately 36kms. Two maps on which the course of the pursuit is indicated are attached at the rear of this report.

Report to the Police Complaints Authority

I was notified at 9.17 am on 15 November 1995 by a telephone call from an officer in Internal Affairs in Police National Headquarters of the death of Peter Prattley and the surrounding circumstances. This was in accordance with Section 13 of the Police Complaints Authority Act 1988 which requires the immediate notification to the Authority by the Commissioner of Police of any incident in which death or serious bodily harm is caused to any person where a member of Police was acting in the execution of a duty. Clearly the death of Peter Prattley fell within those criteria and the notification was necessary.

I was advised that a Police investigation into the incident had begun.

There has been no complaint about this incident lodged with the Police Complaints Authority.

Action Taken

I informed the Commissioner that I would oversee the Police investigation of the incident and I immediately arranged for a senior investigating officer of my staff to travel to Timaru the next day.

His task was to enquire into the circumstances surrounding and leading to the death of Peter Prattley and to make a preliminary assessment of the incident. In doing so he met with the Police officer who was conducting the internal Police investigation and visited the scene of the fatal collision. The documentary material that had up until then been generated in the investigation was examined.

That portion of the route of the pursuit that had traversed the streets of Timaru was driven over by the Police Complaints Authority officer and the Police investigator. The PCA officer later drove over that portion of the pursuit route between the outskirts of Timaru and the point at which the pursuit had first been joined.

The wrecked Ford Cortina was seen by the PCA officer. Some attention was paid to the condition and level of deflation of the tyres of the Ford and this aspect of the incident will be addressed in detail later in this report.

Aim of this Report

This report will describe in narrative form the events of 14 and 15 November 1995 that preceded the fatal collision in which Peter Prattley died. It will address his actions and the actions of the Police officers who became involved in the incident either directly in pursuing the Ford, or indirectly in the deployment of road spikes, or elsewhere.

As provided by Section 27 of the Police Complaints Authority Act 1988 the report will also examine the Police policies, procedures and practices relating to the conduct of Police operations in respect of vehicle pursuits. It will assess the effectiveness of their application to this incident.

Finally the report will attempt to draw conclusions on the action taken by the Police during the incident. It will make such recommendations as appear appropriate in the light of those conclusions.

Narrative of Events

At about 1.00am on 15 November 1995 Constable J W Mawhinney was driving a marked Police patrol car north on State Highway 1 towards Orari. Constable Mawhinney was Stationed at Temuka. At a point close to, but south of Orari, Constable Mawhinney saw vehicle headlights approaching in the opposite direction round a bend, in a southerly direction. As he got closer to the approaching vehicle another set of lights appeared on the right of the first set in an overtaking manoeuvre. The two sets of lights were abreast of each other as they came towards the car driven by Constable Mawhinney.

The second set of headlights then swerved back on to the correct side of the road, still in a southerly direction, having completed the overtaking manoeuvre. The first vehicle, a truck, was flashing its lights. A not unfamiliar expression of disapproval of another's driving, but there is no confirmation. As Constable Mawhinney got closer he could see that the overtaking vehicle was swerving about on the road. The Constable cautiously pulled off the road and watched the vehicle that had overtaken the truck go past him. This, it later emerged, was the Ford Cortina Station-wagon driven by Peter Prattley.

Constable Mawhinney turned the Police car round and, with red and blue incident lights and siren operating, set off after the Ford. The Ford was travelling at about 100kph. Constable Mawhinney was able to distinguish the Ford's registration number, IY4185. At 1.03am he reported by radio to Timaru Police Station Watchhouse that he was in pursuit following the Ford. By the time the Constable spoke to Timaru the Ford was travelling at 120kph.

At Timaru Sergeant E M Ainsley was on duty operating there a staff of three constables. Constable McKenzie was the Watchhouse Keeper. Constables King and Pickworth were out on patrol operating the single Police patrol car in Timaru at that time. This car had the identifying call-sign of TUI, and it will be referred to by that call sign throughout this report. All the Police entities which became involved in this incident were in radio contact with each other. These were TUI containing Constables King and Pickworth , Constable Mawhinney , Sergeant Ainsley who later left the Police Station in another Police patrol car and Constable Mackenzie in the Timaru Police Station Watchhouse

It is appropriate to mention here that there is no Control Room in this part of the District as exists in the larger centres. The General Instructions on pursuits at V6, 'Driver Responsibility' seems to acknowledge, without specifically saying so, that pursuits will take place where there is no formal supervision through a Control Room. Police General Instruction V6(2) provides that:

"When a pursuit is considered necessary the officer shall:

- (a) *Advise the control room or supervisor (as appropriate);*
- (b) *Drive carefully and skilfully;*
- (c) *Drive with total control and concentration and, at all times , retain the ability to make a safe emergency stop;*
- (d) *Use warning lights and siren;*
- (e) *Reduce speed at intersections and other dangerous places;*
- (f) *Maintain radio contact with the control room or supervisor (as appropriate);*
- (g) *Discontinue the pursuit immediately it becomes likely that it is likely to endanger life;”*

It would appear in this particular pursuit Sergeant Ainsley, as the senior officer, maintained a *de facto* supervision on the pursuit from his own vehicle through radio communications whilst at the same time partaking in the pursuit. This seemed a sensible course in the circumstances. I return to this aspect later in the report.

Sergeant Ainsley from the Police Station responded to Constable Mawhinney's message, telling him to keep following the Ford, to back off a little bit and that someone would come out to meet him. He told Constable Mawhinney to give a commentary every now and then as to his location.

Constable Mawhinney relayed the Ford's registration number adding that the Ford was not going to stop. The owner was found to be recorded as Peter Pratley. Sergeant Ainsley told Constable Mawhinney to back off expressing the hope that the Ford would then slow down.

Sergeant Ainsley advised Constable Mawhinney that he would come out with some road spikes. He then left the Police Station with a set of road spikes and drove to a point on the outskirts of Timaru about 50 metres north of the junction of State Highway 1 with State Highway 8 in the vicinity of Washdyke. At this point State Highway 1 is also known as the Hilton Highway.

Sergeant Ainsley instructed TUI to go to a point still further north near the Timaru Racecourse on the Hilton Highway. The intention of this placement was to enable south-bound motorists to be alerted by the officers to the presence of extended road spikes further down the road. Sergeant Ainsley then extended the road spikes across the road and secured them to a lamp post at one end and to a peg driven into the ground at the other. Sergeant Ainsley had been

trained in the correct method of deploying the road spike device. Motorists travelling south and north, respectively, were waved to the side of the road by Sergeant Ainsley to prevent them inadvertently driving over the spikes.

Whilst these preparations to stop the Ford by means of the road spikes were being made Constable Mawhinney was still following the Ford. He reported its progress and noted that it was swerving over the whole width of the road whenever Constable Mawhinney got close to it. On three occasions Constable Mawhinney warned oncoming north-bound vehicles of the danger posed by the south-bound Ford by pulling to the right and flashing the headlights of the Police car. This was a cautious manoeuvre.

The Ford was travelling at speeds between 120-140kph. Constable Mawhinney settled back to a point about 500 metres behind it. He reported by radio that he had backed off.

As the Ford and Constable Mawhinney came in sight Constable King, on the instructions of Sergeant Ainsley, drove TUI back to the vicinity of the position of the road spikes and parked in a driveway.

Peter Prattley in the Ford passed over the spikes at about 140kph and seemingly the spikes had no effect, but examination later revealed some tyre damage. However at that point the Ford simply sped on until the crash some 9 kilometres further on.

Constable King drove off in TUI after the Ford had passed over the road spikes and before Constable Mawhinney had reached that point on Hilton Highway. This seems to confirm that Constable Mawhinney had dropped back a fair distance. The order of the pursuit was then the Ford followed by TUI followed by Constable Mawhinney.

The Ford had approached the extended spikes at a speed estimated by Sergeant Ainsley at about 140kph. It made no attempt to slow or brake as it approached or after it crossed over the spikes as stated. It did not appear to incur any apparent tyre damage. It continued at high speed south towards the centre of Timaru followed by the two Police cars. The Ford was seen to cross to the wrong side of the road at several points. its speed ranging from 80-100kph in areas governed by a 70 and then a 50kph speed limit.

Shortly after the Ford and Police cars had left the Washdyke area Sergeant Ainsley radioed to ask the pursuing officers what speed the Ford was maintaining. TUI reported this to be 140kph. Sergeant Ainsley instructed the pursuing Police cars to "*Back off through the town*

because we don't want him doing that speed through the town". The response was that the Ford had gone right on the other side of the road, at which Sergeant Ainsley repeated "Back right off", and moments later "Back right off and try to keep him in sight. He's only a drunk driver probably. I'd rather not hurt anyone".

The speeds then diminished and TUI reported that the Ford had slowed down considerably but that it was still on the other side of the road at the time.

Constable King in TUI later stated "*As soon as Sergeant Ainsley advised us to back off, we did. We had to be in a position to see him and I didn't want him to get away from me, but I didn't want to get too close to him either. Subsequently once we had contact we maintained it, but at a distance and I didn't want to push him. We were horrified at his driving and concerned he was going to have an accident with an oncoming car".*

Constable King driving TUI was at a distance he estimated at 100 metres behind the Ford, Constable Mawhinney later stated, "*Sergeant Ainsley directed us to pull back and allow him some space. TUI and myself both did so. TUI was the Police vehicle in front of me".*

At about this stage of the pursuit the Ford narrowly missed colliding with a car travelling in the opposite direction along Evans Street, this being the route taken by State Highway 1 as it passes through the central downtown area of Timaru. The driver of this car later stated that the Ford "*...was right on the white line, but not in my lane. The car was travelling over 100kph. I thought it was going to wipe me out.*" The witness went on to state that the Ford was closely followed by two Police cars with their lights and sirens going, "*...right on his bumper*".

Speeds then dropped. On Evans Street and its continuation Stafford Street the Ford then travelled on the wrong side of the road at several points, and weaved back and forth across both sides of the road. The speed of the Ford fluctuated between 60 and 100kph. The rear of the Ford was swaying causing Constable King to think that the rear tyres were deflating but not sufficiently to cause the Ford's driver to stop.

From the erratic progress of the Ford it appeared to Constable King that the driver was having difficulty controlling it. The Ford overtook a truck in Stafford Street, a shopping street running through central Timaru and a continuation of State Highway 1/Hutton Highway. At a fork in the road where Stafford Street separates into High Street to the left and King Street to

the right the Ford went left along High Street slowing to about 60kph to turn right from High Street into Domain Avenue. The truck it had overtaken went to the right along King Street.

At this point some thought was given by Constable King to executing a moving block manoeuvre to force the Ford to stop. Permission to do so was requested of Sergeant Ainsley. Having asked Constable King whether he had been trained in the manoeuvre and receiving an affirmative answer, Sergeant Ainsley gave his permission.

However, before a moving block manoeuvre could be executed the Ford drove onto the intersection of Domain Avenue with King Street and into the path of the truck it had overtaken in Stafford Street. The truck was seen by the pursuing Police officers to brake heavily and smoke was seen to issue from the truck's tyres as its driver attempted to stop.

The Ford, which was said not to have been travelling very fast by this point, made no attempt to brake and was struck on the right hand side. It was said by Constable King to have been accelerating at the time of the impact. The driver of the Ford, Peter Prattley, sustained head injuries and died immediately.

The collision was immediately reported to Timaru Watchhouse. The three constables in two vehicles who had pursued the Ford directed traffic and assisted at the scene of the collision. Arrangements were made to remove the deceased and the damaged vehicles.

Personal Details - Deceased Driver

Subsequent analysis of the deceased's blood found it to contain 236 milligrams of alcohol per 100 millilitres of blood. A urine sample was found to contain 291 milligrams of alcohol per 100 millilitres of urine. Urine samples normally give a higher reading than blood samples. These are very high readings.

The blood/alcohol reading was consistent with the observed condition of Peter Prattley later described by a witness who saw him at ten minutes past midnight immediately prior to his driving off in the Ford.

This witness stated that, '*He was really drunk. He was unsteady on his feet. He was laughing around and in a good mood.....He then staggered out the door. He didn't say anything.He even crashed into the hedge up my driveway here last night as well.'*

The witness referred to above lives in Ashburton and the conversation referred to took place at his home where the deceased had called some hours previously on the night of 14 November where he had left his car. The witness did not spend the evening with the deceased.

The deceased resided in Ashburton and it is not known where he was heading when he drove south that night. The distance between Ashburton and Orari where he was first observed by Constable Mawhinney is about 45 kilometres.

At an inquest into the death of Peter Prattley held at Timaru on 25 March 1996 the Coroner found:

"That the deceased died at Timaru on 15 November 1995 from head injury sustained when the Station-wagon driven by him collided with a truck" The Coroner added "It seems the deceased had a death wish. It was fortunate no other people were injured".

Road Spikes

The decision by Sergeant Ainsley to locate and extend the road spikes at a point on State Highway 1 on the outskirts of Timaru was sound. The apparent inability of the road spikes to bring the Ford to an early standstill after it had been driven over them was a matter of some concern and is referred to hereafter.

Had the spikes fulfilled their designed and expected purpose the Ford would have been halted safely within a few hundred metres. Any risk to vehicles or pedestrians abroad in Timaru at that hour by the passage of the Ford through the town centre at a high speed and in erratic fashion would have been avoided. The apparent failure of the road spikes must therefore be carefully be examined.

At the site of the collision, 9 kilometres beyond the point at which the Ford had passed over the road spikes, all four of its tyres were found to be deflated. A Vehicle Testing New Zealand vehicle inspector examined each of the tyres with particular care, given the concern about the apparent failure of the road spikes to achieve their intended effect.

The inspector found that only two of the tyres, the right rear and the front left, displayed spike damage each having two puncture holes attributed to identifiable spike damage. The remaining two tyres gave no obvious indication of the reason for their being deflated and

distortion of the wheel rims in the collision was considered by the vehicle inspector to have possibly been the reason.

The road spike device comprises an extendable base into which are fitted the individual spikes. It was found that the spikes deployed at Timaru were of an older and less efficient type than those in current use. The road spike device was manufactured in 1980. The individual spikes, or 'fangs' were inferior in manufacture to the newer model. The castings were reportedly poor and the tips of the individual spikes comprising the device did not always point upwards. This clearly affected the efficiency of the device and its ability to pierce the tyres of a vehicle driven over it.

The deficiencies described had been perceived as inherent in that type but not as sufficient to warrant its withdrawal. A package was available by which this older type of spike could be upgraded to current standards. An advice note from Police National Headquarters to all Police Regional and District Commanders, Regional Training Officers and District Traffic Safety Branch Coordinators dated 16 December 1993 notified them of deficiencies in the road spike devices manufactured in 1980 and of the items of equipment which were available by which it could be overcome. In this instance the device deployed at Timaru was evidently of the older, unimproved, type.

The Ford was said by witnesses to have crossed the spikes at a sharp swerving angle with its weight on the left hand side of the vehicle. This would tend to sweep the spikes to the side and push the upright individual spikes sideways from their mounting thereby reducing their tyre piercing capability.

The apparent failure of the road spikes effectively to pierce all of the tyres on the Ford and thereby force it to a halt is, as stated, of concern. After the fatal collision only two of the tyres were found by the vehicle inspector to have been so pierced. According to the conclusions drawn by the inspector after his inspection of the Ford and in particular of its tyres, there was no obvious cause for the deflation of the other two tyres, the left rear and right front. He suggested that distortion of those two wheel rims at the time of the impact with the truck may have caused the two tyres to deflate.

Doubt has been cast by a senior officer at Police National Headquarters on the vehicle inspector's conclusion as to the causes of the deflation of each tyre. He discounted the view that rim distortion would have resulted in the deflation of the tyres. However, one is bound to prefer the evidence of the vehicle inspector who actually examined the vehicle and the tyres.

General Instructions on Police Pursuits

It is necessary at this point in this report to examine the pursuit and the actions of the Police officers involved in terms of the Police General Instructions governing this area of Police operations. Police General Instruction V2 setting out the basic principles states:

"(1) A sustained pursuit will not be justified except in very exceptional circumstances and only where:

- (a) an offender's continued liberty would constitute a greater danger than the continued pursuit; or*
- (b) the offence is serious and constitutes a danger or serious threat to the public or the police."*

First, there can be no doubt that this was a sustained pursuit in that it extended approximately 36 kilometres and lasted 22 minutes.

The manner in which the Ford was being driven observed by Constable Mawhinney before and during the pursuit before it reached the outskirts of Timaru was, I find, such as to constitute a danger or serious threat to other road users and the public. It was a dangerous driving incident when first observed by an officer in which the deceased overtook a truck in hazardous circumstances drawing the attention of Constable Mawhinney to the Ford.

The Constable was sufficiently alarmed by the onward progress of the Ford towards him to pull off the road in the Police patrol car to keep clear of the swerving Ford as it approached from the opposite direction.

I find that the situation described by the Constable constituted a danger or serious threat to the public or Police and in the terms of Police General Instruction V2(1)(b) a basic principle governing a sustained pursuit was met. In the circumstances existing in this incident I find that a sustained pursuit of the Ford was justified.

The measures taken by the officers on duty in Timaru to bring the Ford to a halt safely and before it had reached the winding and restricted streets of Timaru were, had the road spikes performed their function more adequately, sensible and timely.

Supervision

The Police General Instruction concerning the duties of supervisors in regard to Police pursuits are as follows:

"V5 Duties of Supervisors

- (1) *Supervisors shall, at all times, strictly supervise members who are involved in ‘pursuits’ and shall ensure that the members maintain a high standard of driving behaviour at all times.*
- (2) *Supervisors shall pay particular attention to the deployment of moderator patrols where these can be used to warn and protect the public, and road blocks and the deployment of the hollow spike strip.*
- (3) *In areas serviced by control rooms, the control room supervisor shall be responsible for the control of the pursuit.*
- (4) *When notified of a pursuit the supervising officer or NCO shall:*
 - (a) *ensure that the pursuit is justified according to the criteria specified in the paragraph titled Basic Principles;*
 - (b) *limit the number of vehicles following the offender to not more than two unless there is good reason to authorise additional pursuit vehicles;*
 - (c) *constantly review the justification for the continuation of the pursuit, and, where the circumstances no longer warrant the pursuit, order its abandonment;*
 - (d) *ensure the officer engaged in the pursuit is regularly questioned about the road and traffic conditions. This will compel the officer to take notice of these, and other similar matters and help to overcome the problem of ‘tunnel vision’ and to keep controllers informed;*
 - (e) *where a crash occurs involving the member’s and or the offender’s vehicle a supervisor is to attend the scene and report;*
 - (f) *require the pursuing officer to furnish a pursuit report; if a member is unable to do this a supervisor is to undertake this action on their behalf using *PURSUE.”*

Timaru is not a busy major population centre and the Timaru Police Station Watchhouse, where Constable Mackenzie was the sole Police officer on duty during the pursuit, is not configured as a Police Control Room as in a major centre where radio communications with a number of deployed Police units are maintained by several despatchers under the overall supervision of a senior Police officer. I have already referred to this earlier and to General Instruction V6.

In this instance supervision was exercised by Sergeant Ainsley over the three constables involved in the pursuit by radio from another Police patrol car. The requirements of the situation with which he was confronted demanded his presence away from the Police Station

to take and deploy the road spikes on the outskirts of Timaru. The transcript and tape recording of the Police radio and telephone communications maintained during the pursuit examined in the course of the review of the Police investigation of this pursuit indicate that Sergeant Ainsley fulfilled those requirements of this Instruction that were relevant to the situation confronting him.

It is clear from the transcript that as soon as the Sergeant was made aware by Constable Mawhinney's first message of the pursuit situation which was developing he immediately conveyed in his response to Constable Mawhinney the need for the Constable to remain at a safe distance behind the Ford, to continue to report in commentary form of the progress of the pursuit and to ascertain the registration number of the Ford.

To illustrate, there were frequent messages from him to the officers in the two cars maintaining the pursuit in which he instructed them to back off from the Ford. His very first transmission in response to that of Constable Mawhinney reporting the commencement of the pursuit was, "*Just keep following, back off a little bit and we'll get someone heading towards you. Just give us a commentary every now and then as to where you are and try to get a number*". Later, Constable Mawhinney was asked his position several times and reminded to give a regular update on his progress.

Sergeant Ainsley's supervision of the Police officers and cars pursuing the Ford reflected the essence of the requirements placed on supervisors by Police General Instruction V5. His decision to utilise the road spikes was in accordance with the provision of Police General Instruction V5(2) which draws the attention of supervisors to the deployment of that device.

After the Ford had passed over the road spikes, apparently without mishap, the pursuing Police cars were told by Sergeant Ainsley to back off. The Sergeant referred in his messages to a need to keep the speed down in the town and the need not to hurt anyone. The officers in the cars for their part passed constant radio reports of the progress of the pursuit and the behaviour of the pursued driver to the Sergeant and to the Watchhouse. Constable Mackenzie in the Watchhouse had alerted Police further south to the pursuit in case the pursuit had continued through Timaru and further on to the south on State Highway 1.

When the execution of a moving block was felt possible Constable King, who intended to carry out this manoeuvre, first put the question to Sergeant Ainsley. It was not in fact executed.

I am satisfied that an effective level of supervisory control was exercised by Sergeant Ainsley throughout the duration of this pursuit and that the officers in the pursuing Police cars maintained a flow of information on the progress of the pursuit to the Sergeant and the Timaru Watchhouse such that all were aware of the development and progress of the pursuit.

Summary

Peter Prattley was driving a Ford Cortina Station-wagon South on State Highway 1 shortly after midnight on 15 November 1996. He was in a very intoxicated condition judged by his driving and by the post mortem blood analysis of alcohol level. There is also the statement of the witness who observed him a short time before he embarked on the fatal journey.

His erratic and dangerous progress drew the attention of a Police patrol which followed Prattley.

His driving constituted a danger or serious threat to other road users and to the general public. A sustained pursuit of the Ford was justified under the provisions of Police General Instruction V2(1)(b).

His driving continued to be dangerous as he passed thorough Temuka and approached Timaru and three vehicles were obliged to drive off the road for safety.

Police decided to stop Prattley on the northern outskirts of Timaru by use of a road spike device. He drove over the device without being brought to a halt. He then drove into the central streets of Timaru in an erratic and dangerous manner and at speeds in excess of the speed limit, although reduced from those reached on the open highway.

The vehicle Prattley was driving collided with a truck and he died at the scene.

Conclusion

It is a very perplexing task to review a Police pursuit, as prior Reports by me testify. I have examined in detail the way the respective officers carried out their duties that night in the pursuit. I have stood back to take an overall view endeavouring to balance the conflicting public safety issues that pursuits nearly always raise. As I have said in the body of this Report, the officers were required to conduct a sustained pursuit and throughout kept public safety to the forefront which is the first obligation. I offer no criticism of the Police officers and to all intents and purposes the existing General Instructions were followed.

The driver of the Ford was the sole author of his own death in the collision

Perhaps the single most concerning factor arising out of this review is the palpable failure of the road spike device that enabled the fleeing vehicle to travel 9 kilometres after passing over the spikes. Even then the end was brought about by a violent collision. I also detect an unsatisfactory state with Police administration in that greater effort had not been made to ensure the Timaru road spike device was upgraded to ensure it fulfilled its expected purpose.

Recommendations

The Commissioner of Police is invited to take such steps as are necessary to ensure that all older road spike devices presently on issue to Police units are modified to conform to the level of efficiency of the most recent models of the device.

This report to be seen by the Sergeant and four Constables who together conducted the pursuit.

(Sir John Jeffries)
POLICE COMPLAINTS AUTHORITY
17 June 1996