



Police pursuit resulting in the death of Paige Patricia Timothy

INDEPENDENT POLICE CONDUCT AUTHORITY

INTRODUCTION

1. At approximately 9.35pm on 20 March 2008 a stolen Mitsubishi Legnum station wagon driven by Michael Raymond Norton aged 16 crashed in Christchurch following a Police pursuit. Paige Patricia Timothy, aged 16, a front seat passenger in the car, died later from the injuries she sustained. A rear seat passenger suffered head injuries and fractures.
2. As required by section 13 of the Independent Police Conduct Authority Act 1988, the Police notified the Authority of the death and the serious bodily harm resulting from the pursuit, and the Authority conducted an independent investigation. This report sets out the results of that investigation and the Authority's findings.

BACKGROUND

Summary of events

3. At approximately 9.30pm on 20 March 2008, Michael Norton and his two passengers stole a Mitsubishi Legnum from a driveway in Saunders Place, Christchurch after they were disturbed at the scene of a burglary.
4. Two officers attending the burglary in nearby Rossiter Avenue saw the Legnum driven round the Sturrocks Road corner at speed, brake heavily and cross to the other side of the road before being driven off at speed. As the officers were otherwise occupied with a burglary they were not at that time able to pursue the Legnum.
5. A short time later the officers were in their unmarked vehicle when the Legnum drove past them in the other direction, again erratically and at speed.
6. The officers decided to stop the Legnum due to the dangerous nature of the driving and the clear risk to other road users. At this stage they did not know that the occupants

had been involved in the attempted burglary or that the car had been stolen from a nearby property.

7. Officer A was the driver of the Police vehicle and Officer B the passenger with responsibility for radio communications.
8. The officers began to follow the Legnum with warning lights and siren activated. When it became clear that the Legnum was not going to stop, at 9.33.35pm Officer B advised the Southern Communications Centre (SouthComms) of a *“failing to stop”*.
9. Michael Norton later stated that, once the pursuit had commenced, he deliberately turned his lights off, overtook cars on the wrong side of the road, and drove as fast as the car could go *“cause that’s what you do to get away from the Police.”* It was Officer A’s recollection that the Legnum’s lights were on throughout the pursuit, although one of its tail lights was broken.
10. During the pursuit, the Legnum was reportedly driven at speeds between 150 and 170kph, and was outpacing the Police car. The maximum speed of the Police vehicle was reported by Officer A as 150kph in an 80kph zone.
11. Because of the speed at which Michael Norton was driving the Legnum, he lost control of it at the ‘T’ intersection of Styx Mill Road and Gardiners Road. The vehicle went through the intersection, hitting a tree before plunging into the Styx River.
12. The pursuit had lasted approximately 1 minute 36 seconds over a distance of just over 3 kilometres.
13. Paige Timothy survived the crash but died in hospital the following day. Neither she nor the rear seat passenger was wearing a seatbelt.
14. Michael Norton was uninjured. He fled the scene but was arrested soon afterwards.

Father’s concerns

15. The rear seat passenger’s father raised the following concerns with the Authority’s investigator:
 - Why the pursuit was not abandoned when the pursued vehicle drove on the wrong side of the road, reached speeds between 150 and 170 kph and had its lights turned out?
 - Why a Police dog unit was on the scene so fast? Had it participated in the pursuit?
16. These concerns are addressed in this report.

Police Crash Analysis

17. The Legnum was found to have no mechanical defects or other condition that would have contributed to the crash. It had a current warrant of fitness.
18. Expert analysis determined that the driver of the Legnum had braked some 500 metres from the intersection but had nevertheless travelled straight through the intersection on reaching it.
19. The Serious Crash investigator concluded: *“The most likely cause of the crash was a combination of: intoxication, inexperience and speed.”*

Michael Norton

20. Michael Norton did not have a driver’s licence. He has several convictions for driving offences, dishonesty and violence.
21. He was charged with and pleaded guilty to the manslaughter of Ms Timothy; and was sentenced to five years’ imprisonment and four and a half years’ disqualification.
22. He was also dealt with in the Youth Court for burglary, unlawfully taking a motor vehicle, failing to stop for Police, failing to ascertain injury following the crash, driving with excess breath alcohol and reckless driving causing injury.

Toxicology

23. A breath test determined that Michael Norton had 781 micrograms of alcohol per litre of breath — almost five times the legal limit for a driver of his age. He also admitted having smoked cannabis before unlawfully taking the Legnum.
24. Officer A was not breath-tested.

Environment

25. The roads travelled during the pursuit are well sealed. Styx Mill Road is in a rural area with a speed limit of 80kph. There was little other traffic.
26. There was normal night-time visibility without street lights, but the intersection at which the crash took place is well lit with street lights on its approaches and around the intersection itself.
27. It was overcast and dry at the time of the crash.

Cause of death

28. A post mortem examination concluded that Paige Timothy died from head and multiple other injuries.

LAWS AND POLICIES

Legislative authority for pursuits

29. Under the Land Transport Act 1988, the Police are empowered to stop vehicles for traffic enforcement purposes. Under the Crimes Act 1961, the Police are empowered to stop vehicles in order to conduct a statutory search or when there are reasonable grounds to believe that an occupant of the vehicle is unlawfully at large or has committed an offence punishable by imprisonment. Where such a vehicle fails to stop, the Police may begin a pursuit.

Police pursuit policy

Definition

30. A pursuit occurs when (i) the driver of a vehicle has been signalled by Police to stop; (ii) the driver fails to stop and attempts to evade apprehension; and (iii) Police take action to apprehend the driver.

Overriding principle

31. Under the Police pursuit policy, the overriding principle for conduct and management of pursuits is: *“Public and staff safety takes precedence over the immediate apprehension of the offender.”*

Risk assessment

32. Under the policy that applied at the time of this crash (a new policy was introduced on 10 July 2009), before commencing a pursuit an officer was required to first undertake a risk assessment. This involved consideration of the speed and other behaviour of the offending vehicle, traffic and weather conditions, the identity and other characteristics of the people in the pursued vehicle, the environment, and the capabilities of the Police driver and vehicle. The officer must then determine whether *“the need to effect immediate apprehension of the offender is outweighed by the risks posed by a pursuit to the public, the occupants of the pursued vehicle, or police”*.
33. Throughout a pursuit, Police must continue to assess the risks involved and they must abandon it if the risks to safety outweigh the immediate need to apprehend the offender.

Communication requirements

34. When a pursuit commences, the communications centre must be notified. The communications centre must provide the following warning: *“If there is any unjustified risk to any person you are to abandon pursuit immediately.”* The pursuing officers must acknowledge this warning. The pursuing officers must provide information about the pursued vehicle, location, direction of travel and reason for pursuit. The communications centre must prompt for information about speed, road conditions, traffic and weather conditions, manner of driving and driver identity, and Police driver and vehicle classifications.

Roles and responsibilities

35. Under the policy, the driver of a Police vehicle has primary responsibility for the initiation, continuation and conduct of a pursuit. The driver must comply with relevant legislation, drive in a manner that prioritises public and Police safety, comply with all directions from the pursuit controller (i.e. the shift commander at the Police communications centre), and comply with all directions from a Police passenger if the passenger is senior in rank or service.
36. The passenger in a pursuing vehicle must assist the driver by operating the radio and advising of environmental and other considerations. If senior in rank or service, the passenger may also direct the driver to abandon the pursuit.
37. The dispatcher at the Police communications centre must maintain radio communications with staff involved in the pursuit, give the safety reminder referred to in paragraph 34, request information from pursuing officers, and communicate instructions from the pursuit controller.
38. The pursuit controller (i.e. the shift commander at the communications centre) is responsible for supervising the pursuit and coordinating the overall Police response, and for selecting and implementing appropriate tactics. When a shift commander is unavailable, a communications centre team leader may take over as pursuit controller.
39. The policy does not authorise dispatchers to order the abandonment of the pursuit.

Other requirements

40. The policy also set out tactics that may be used, and procedures for abandoning and restarting pursuits.

THE AUTHORITY'S FINDINGS

Commencement of the pursuit

41. Officer A and the patrol vehicle were appropriately classified to conduct pursuits under the Police Professional Driver Programme.
42. The officers initiated the pursuit because of the dangerous driving they observed. Officer A said that he carried out the required risk assessment at the commencement of the pursuit and concluded that the immediate need to apprehend the offender outweighed the risks involved in continuing the pursuit.

FINDING

The officers were legally justified and within policy in commencing the pursuit, given the erratic manner of driving at speed and failure to stop when signalled to do so.

Speed and manner of driving of Police vehicle

43. The pursuit policy requires officers to drive in a manner that prioritises the safety of the public and staff.
44. Officer A later stated that, when he realised his speed had reached 150kph in an 80kph area, he slowed down.
45. The officer was unfamiliar with the road.
46. Officer A said that he flashed his headlights from full to dip several times to warn motorists and to try and read the Legnum's registration number.

FINDING

The speed at which the Police vehicle was driven was undesirable, given the speed zone, the presence of other traffic, and the officer's unfamiliarity with the road.

Police communications

47. After advising SouthComms of a failure to stop, Officer B did not then provide sufficient information to allow the communications centre to make a satisfactory assessment of the situation as it developed.
48. The officer did not:
 - give a clear reason for the initiation of the pursuit;

- report vehicle speeds;
 - give the class of the Police car or the qualification of the driver (Officer A) so SouthComms was unaware that the pursuit vehicle was unmarked;
 - report risk factors, such as the manner of driving of the pursued vehicle, traffic or weather conditions.
49. Thirty-two seconds into the pursuit, the SouthComms dispatcher gave the safety warning required under the pursuit policy (see paragraph 34). This was acknowledged by Officer B.
50. It was 65 seconds before SouthComms became aware of the reason for the pursuit when Officer A took over the radio and said: *“His manner of driving was dangerous”*
51. The dispatcher should have prompted for further information required under the policy (see paragraph 34) when it was not provided.

FINDING

While it is accepted that the pursuit was of short duration, neither Officer B nor SouthComms complied fully with policy in respect of the information required during the pursuit.

Control of the pursuit by SouthComms

52. At the beginning of the commentary on the pursuit the dispatcher called the SouthComms shift commander.
53. Having assessed the situation, the shift commander took command 1 minute and 20 seconds into the pursuit – too late to influence the outcome.
54. Even an instant decision to abandon the pursuit was, at that stage, unlikely to have averted the crash.

FINDING

The shift commander did not have time to take control of the pursuit.

The option of abandoning the pursuit

55. Officer A said that, throughout the pursuit, he carried out an ongoing assessment of the risks (though he did not convey his assessments to SouthComms). As the pursuing officers did not know the identities of the occupants of the Legnum and had not been

able to read the license plate number, they did not consider the option of abandoning the pursuit and locating the occupants later.

56. Due to the lack of information provided by the pursuing officers, and the short duration of the pursuit, SouthComms was not in a position to assess the risks and determine whether it should be continued or abandoned.
57. Largely due to the short duration of the pursuit, neither the pursuing officers nor SouthComms considered tactical options for terminating the pursuit safely.
58. As the pursuit continued, several risks arose that should have been part of an ongoing assessment. These included the continuing high speed and aggressive driving by Michael Norton, the high speed of the pursuing vehicle, reduced night-time visibility, and the lower visibility of the unmarked Police vehicle. The pursuing officers did not know, during the pursuit, that the Legnum's occupants had been involved in a burglary or that it had been stolen. The rationale for the pursuit was to apprehend an unknown driver for erratic driving and excessive speed.
59. By the time the pursuit speed reached 150kph in an 80kph area, the officers should have considered whether the seriousness of the offending and need to immediately apprehend the occupants of the Legnum outweighed the risks. By that time, despite limited traffic, the risks to the public and to those in both vehicles were unacceptably high.

FINDING

The officers should have given more consideration to the risks involved in continuing the pursuit. The manner in which the Legnum was driven, the speeds involved, the limited night time visibility, and the fact the Police vehicle was unmarked, were all factors which supported abandonment. By the time the pursuing vehicle reached a speed of 150kph in an 80kph zone, the pursuit should have been abandoned.

The involvement of a Police Dog Unit

60. Michael Norton ran from the crash site and was apprehended soon afterwards by a Police dog unit. The unit was in the vicinity because of the reported burglary and had not been involved in the pursuit.

FINDING

The dog unit was not actively involved in the pursuit.

CONCLUSIONS

61. The actions of the officers involved were lawful and the decision to commence the pursuit was within policy.
62. Given the clear risk factors, the pursuit should have been abandoned.
63. Whilst there were breaches in Police pursuit policy, the actions of the officers involved did not amount to misconduct or neglect of duty.

POLICE REMEDIAL ACTION

64. Officer A has attended a Professional Police Driver Panel training session. Officer B has since left the Police, for unrelated reasons.
65. Pursuit policy refresher training has been delivered to all SouthComms staff and frontline field staff and supervisors.
66. SouthComms has set up prompts for dispatchers regarding information vitally required for risk assessment.

RECOMMENDATION

67. The Authority reiterates its recommendations in earlier reports that Police develop policy and procedures for compulsory drug and alcohol testing of officers involved in critical incidents.



HON JUSTICE L P GODDARD

CHAIR

INDEPENDENT POLICE CONDUCT AUTHORITY

May 2010

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 chaired by a High Court Judge and has two other members.

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 has two investigating teams, made up of highly experienced investigators who have worked in a range of law enforcement 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;
- 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 can make findings and recommendations about Police conduct.



IPCA

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