

Independence

trustworthiness

accountability

vigilance

integrity

Police action following a pursuit
of Raymond John Hansen

June 2013



June 2013

IPCA
Level 8
342 Lambton Quay
PO Box 5025
Wellington 6145
Aotearoa New Zealand
0800 503 728
P +64 4 499 2050
F +64 4 499 2053
www.ipca.govt.nz



Contents

Introduction	3
Background	5
Laws and Policies	19
The Authority's Findings	21
Conclusions	31

Glossary of Officers

Officers	Roles	Comment
Officers A & B Constables	Driver and passenger respectively – unmarked Police pursuit vehicle (Hawera based)	At Hawera Police Station when Nissan left Fat Cow.
Officers C & D Constables	Driver and passenger respectively – marked Police vehicle (Hawera based)	Stationary observations in Princes Street, north of intersection with Furlong Street.
Officer E Constable	Sole occupant – marked Police vehicle (Manaia based)	Stationary observations in Princes Street, south of intersection with Furlong St.
Sergeant F Sergeant	Senior Officer on Duty at Hawera	Had been deployed on an operation in the area. Returned to Hawera on hearing pursuit on Police radio.



Introduction

INDEPENDENT POLICE CONDUCT AUTHORITY

1. At about 1.24am on Sunday 14 August 2005 there was a two vehicle collision on Normanby Bridge on State Highway 3, Normanby, Taranaki. Raymond John Hansen, the driver of a Nissan Cefiro station wagon, drove into the path of a Mitsubishi L300 van carrying five young adults, causing the death of three of the van's occupants and seriously injuring the other two.
2. The three people killed were the rear passengers, Paul Donald Cowper (21 years), Rochelle Lee Meads (22 years) and Aaron Stephen Hurley (22 years); the seriously injured were the driver, Kurt Aaron Johnson (23 years) and the front seat passenger, Erin Christine Downs (21 years).
3. Approximately 30 minutes before the crash the Nissan had been pursued by an unmarked Police car. That pursuit lasted 31 seconds before being abandoned by Police due to Raymond Hansen's dangerous driving.
4. About ten minutes after the abandonment of the pursuit, Police discovered the empty Nissan parked outside the Fat Cow bar in Princes Street, Hawera. Police, planning to apprehend the driver before he re-entered the Nissan, placed the car under surveillance.
5. Whilst Police had the scene under surveillance Mr Hansen left the Fat Cow bar, got into the Nissan and drove off without being apprehended. Approximately eight minutes later the fatal collision occurred.
6. The incident was notified to the Independent Police Conduct Authority and Authority investigators carried out an investigation.
7. This report describes the events that took place on the early morning of 14 August 2005, which culminated in the deaths of Paul Cowper, Rochelle Meads and Aaron Hurley. It examines the actions of the driver of the Nissan, Raymond Hansen, and the actions of the Police officers involved in the pursuit and subsequent surveillance, and considers the relevant law and Police policies.



Background

INDEPENDENT POLICE CONDUCT AUTHORITY

EVENTS OF 14 AUGUST 2005

Events preceding the pursuit

8. In the early hours of 14 August 2005 Raymond John Hansen was driving his Nissan Cefiro Station Wagon from Eltham towards Normanby and then on to Hawera.
9. At about 12.48am Officers A and B, on patrol in an unmarked Police car and travelling in the same direction as the Nissan, were approaching the 75 kilometre per hour right-hand bend leading up to the Normanby Bridge when they noticed a set of headlights in their rear vision mirror.
10. The headlights were those of the Nissan driven by Mr Hansen. It overtook the Police car just north of the Normanby Bridge. Officer A said that the Police car was travelling at about 80 kilometres per hour and that Mr Hansen passed them in a dangerous manoeuvre at “*extreme speed*”, at a point where he would have been unable to see any oncoming vehicles. Officer A decided to stop the Nissan and speak to the driver.

The pursuit

11. Officer B activated the flashing red and blue lights, but not the siren, and the patrol car followed the Nissan through Normanby at speeds in the vicinity of 130kph in a 70kph area.
12. About ten seconds later Officer A instructed Officer B to notify the Central Communications Centre (CentComms) of the pursuit. Officer B advised CentComms that they were in pursuit of a station wagon but were unable to get the registration number, that they were travelling at 170kph along the Normanby Straight heading into Hawera, that the vehicle being pursued was not stopping and was being driven dangerously, and that there was slight drizzle.
13. The Police patrol was unable to catch up to the Nissan until the driver was forced to slow down behind another vehicle travelling towards Hawera. At this point Officer B was able to record the Nissan’s registration number.

14. The Nissan passed the other vehicle in a dangerous, high speed manoeuvre that forced cars travelling in the opposite direction to pull off the road.
15. Officer A immediately advised CentComms they were “pulling out” of the pursuit. Officer B then told CentComms that they were pulling out due to the dangerous driving of the Nissan.
16. The CentComms dispatcher acknowledged this and said that *if there was any unjustified risk to any person they were to abandon the pursuit immediately* and asked if they understood. Officer B advised that they had completely stood down, with sirens and lights off.
17. During the pursuit Mr Hansen drove the Nissan at a speed of between 170 and 180 kilometres per hour. The pursuit lasted just over 30 seconds, and covered a distance of about two kilometres.
18. Except for not activating the siren, the pursuit was conducted in accordance with the Police pursuit policy.

Events following the pursuit

19. CentComms checked the registration number to identify the registered owner and then broadcast the vehicle’s details over the Police radio.
20. The vehicle was described by Officer A at the time as “*a weird looking little Citroen type thing*” of dark grayish colour but he said they did not get a decent look at it as it went “*ripping right past us*”.
21. Officers A and B began searching for the Nissan, together with Officers C and D, and Officer E who had travelled in from nearby Manaia.

The surveillance operation

22. At 12.59am, Officers A and B found the Nissan parked outside the Fat Cow bar in Princes Street, Hawera. Officer B advised CentComms of this.
23. Officer A radioed the Hawera CCTV camera operators (volunteers who man a group of six cameras, operated from the Hawera Police station) and requested that they write down the Nissan’s registration number, advised them where it was parked, asked them to focus a camera on the Nissan and to advise him immediately if it moved.
24. Officers A and B then drove to the Hawera Police station to speak to the CCTV camera operators in person. Officer A confirmed that they were monitoring the correct vehicle and reiterated the instruction that the operators were to inform Officer A saying “*if anybody even goes near the thing, let us know.*”

25. At 1.04am, Officer A advised CentComms that he and Officer B were at the Police Station.
26. Officers A and B then went to the meal room to have a coffee and to “wind down” as they said they were still “hyped up” from the pursuit. Officer A said “I felt I still had an adrenalin surge on and I was conscious of the need to be completely calm if I was going to proficiently carry out my duties during the rest of the evening.”
27. As part of the surveillance plan, Officers A and B directed Officers C and D, and Officer E to take up positions on Princes Street to cover the possible routes of the Nissan from the Fat Cow.
28. Officers C and D discussed the situation and then positioned their car on Princes Street, north of the intersection with Furlong Street, facing north; and Officer E positioned her vehicle close by on Princes Street, but south of the intersection with Furlong Street, also facing north. The distance between the Fat Cow bar and the intersection of Furlong and Princes Streets is 250 metres.
29. A ‘Hawkeye’ (community volunteer) patrol was parked further south on Princes Street, near the corner with South Road, again facing north.
30. One of the CCTV cameras was constantly trained on the Nissan. The camera operators did not know who the driver of the Nissan was, nor did they have a description of him.
31. The Hawera Police Station is approximately 220m from the Fat Cow Bar. Officer A planned that, on receiving a report from the camera operators that somebody was getting into the Nissan, he would be able to get to the Fat Cow and stop the Nissan driving off. In a statement made after the incident, Officer A said “*The Fat Cow is only seconds from the Police Station and I was confident that when acting on this information we would get the car and apprehend the suspect before he had the opportunity to drive off.*”
32. While in the meal room, Officer A spoke to Sergeant F, who had returned to the station, and discussed the surveillance plan with him. Sergeant F approved the plan. In relation to it, he said:

“I checked with the camera operators to determine if they had the vehicle focused on. The operators had focused the camera on the vehicle. I confirmed that two patrol vehicles were in close proximity to the vehicle. There were two patrol vehicles on the street and a third, being [Officers A and B], about to go mobile in Hawera. I placed my trust on the camera operators to observe the vehicle. I believed the amount of police vehicles in Hawera at the time would have been sufficient to stop the driver if he drove from the car park. I believe the course of action taken, of monitoring the

vehicle, was the only practical method of attempting to apprehend and identify the driver. I monitored the situation and decisions made by [Officers A and B], and fully supported them and their actions..."

33. In interview, Officer C recalled that there was an agreement between Officers D, E and himself that *"when the call came out we would each head in different directions to make sure we intercepted the driver"*.
34. Police consideration of tactical options, other than the CCTV camera surveillance and Police cars used on the night, is discussed later in this report (paragraphs 57-82 and 120-139).
35. At about 1.08am the Taranaki Police radio channel suffered interference. This was an echo-type sound that appeared to lock the channel open. At 1.15:17 CentComms discussed the echo with a Waitara-based Police unit. Initially, the replacement of a Waitara portable radio appeared to remedy the problem; however, at 1.16:31am the interference began again and got progressively worse until it finally stopped at 1.17:18am.
36. All officers involved in the incident noted the radio interference and subsequent difficulty in communicating.
37. Mr Hansen returned to the Nissan at 1.15:55am. His return can be seen and timed on the CCTV footage. At 1.16:30am he drove away.
38. At this time, the CentComms recording confirms that Police units were trying to use the radio.
39. In relation to these radio calls, Officer A said:

"There was considerable interference on the radio, however, I thought that I may have heard a faint call from the camera operators and I requested more information but due to the interference I could not hear what was being said and rather than wait around to see if it was them, [Officer B] and I returned to our vehicle and proceeded to the Fat Cow..."
40. When the radio channel finally cleared there was frantic communication between Police and camera volunteers as they attempted to locate the Nissan. None of the three patrols stationed on Princes Street had seen the Nissan drive past.
41. The 'Hawkeye' community patrol began following a car that they believed may have been the Nissan and alerted Hawera patrols to this. Officer E caught up with the car and discovered that it was the wrong one.

42. A search of the northern end of Hawera, and the surrounding areas, failed to locate the Nissan.

Moments before the collision

43. A tanker driver coming from Normanby met a vehicle similar to the Nissan coming towards him on his side of the road. The car was overtaking two other vehicles travelling into Normanby. The tanker driver said that he could “*tell he was motoring*”. On his way into Hawera he saw two Police cars and so stopped and told an officer what he had seen.
44. A woman who was standing outside her house waiting for a friend saw the Nissan “*Come flying past me along Waihi Road. It was travelling north. I thought to myself that that car was travelling far too quick for that road, which I knew was a 70 kph speed area. I can’t really tell exactly what speed he was going but I thought to myself that if he continued at that speed he wouldn’t be able to make the bridge.*”
45. A couple travelling between Wanganui and New Plymouth were passed by the Nissan moments before the collision. The husband estimated that the “*dark coloured station wagon*” passed them at double his speed and said to his wife “*he was flying*”. He then watched the station wagon “*swerve*” through the roundabout and overtake another vehicle just before Normanby. On Normanby Bridge they were the first to arrive upon the crash scene. The husband said:

“The scene was completely black when we drove onto it. The first thing I saw was our headlights shining onto the bare metal of the station wagon. I then parked our vehicle at the end of the bridge, in the northbound lane... I put our hazard lights on and left my headlights on also. I leapt out of the car and told [wife] to get the mobile and to call for help. I ran back to the van because I heard screaming coming from the van...”

The collision

46. The collision was between the Nissan driven by Mr Hansen and a Mitsubishi L300 van carrying five young adults.
47. The driver of the van, Mr Kurt Johnson, said:

“I remember coming up to the Normanby Fibreglass factory. There were no other vehicles around. I slowed down to about 60 kph to take the right hand corner by the factory. I think the recommended speed is 70 kph. I went around the corner and entered onto the Normanby Overbridge. I didn’t notice any other vehicles approaching. I didn’t see any lights (headlights). The first thing I saw of another vehicle was when I was on the bridge itself. I saw some dimmed headlights in the opposite lane approaching me. I am

positive the vehicle approaching hit the left hand side of the bridge as he was facing because I remember one of the lights blowing out. It wasn't a full on crash into the side of the bridge more of a glancing strike, which caused him to drive straight into my lane and hit the front right hand side of the van I was driving. It happened so suddenly that I did not have a chance to do anything."

48. The front seat passenger of the van, Ms Erin Downs, recalled:

"As we came onto the Normanby Overbridge I remember seeing the headlights of a vehicle coming through Normanby, on the straight, towards us. I saw the vehicle snake, as though losing control. Then it crossed the white line and went into our lane, straight towards us. I remember thinking 'that's going to hit us'. I didn't have time to say anything. In the same second that I thought the vehicles going to hit us, it did, it struck us head on, but slightly to the drivers side of the van."

49. In interview, Mr Hansen said:

"I don't recall anything past the racecourse, I don't recall the trip to Normanby, through Normanby, or the crash... I just recall the flames, car, the screaming."

Police action at the crash scene

50. At 1.24:31am Officer E, who was in Normanby searching for the Nissan, called CentComms to advise that she had been "waved down" by a member of public and told that a car had crashed on the bridge and "it looked like it was on fire".
51. Officer E immediately travelled to the scene and was the first Police officer to arrive.
52. Officer E saw two badly damaged vehicles with one, the van, in flames. As she approached the van she could see a male lying approximately one metre in front of it and a female standing immediately in front of the van on the front passenger side. The female was engulfed in smoke.
53. At 1.25:26 Officers A and B arrived at the scene. Officer A advised CentComms that "the car looked to be well alight", and gave the location as Normanby Bridge. Eighteen seconds later he called back to say there were two casualties.
54. At 1.25:57 CentComms advised that Fire and Ambulance were being called.
55. Officer E ran through the smoke and carried the female to a safe area. The officer then returned to the van, grabbed the male by his jersey, and – assisted by Officer A – dragged him to the safe area.

56. Officers A, B and E then returned to the van, which was engulfed in flames, to search for more survivors. A few seconds later the van started to pop and then exploded.

OTHER TACTICAL OPTIONS

57. Tactical options, other than the CCTV camera surveillance and Police cars used on the night, have been considered by the Authority. It is important to set out the response of the Police Officers involved to the use of those other options.

Making enquiries at the Fat Cow Bar

58. Officer A said that he decided against making inquiries at the Fat Cow bar to try to identify the driver, saying: *"I considered this option and deemed it to be impractical because we did not know who we were looking for and the Fat Cow was known by me to house at least 100 patrons on a Friday night."*
59. In interview, six months after the collision, Officer B said that she thought she could recall discussing whether or not to enter the Fat Cow with Officer A. She said: *"Neither of us saw anything of the driver so we had no basis to search for him in the Fat Cow."*

Viewing CCTV footage

60. When asked in interview why he did not view the CCTV footage to try and identify the driver of the Nissan, Officer A said:

"I did not consider reviewing the tape because it takes time, it is not an easy quick process and nine times out of ten you don't get any useful information out of it. The reason I have found reviewing such tapes to be of little help is because the view you get from the live feed from the cameras is good, the recorded view is rubbish. But rubbish I mean that it is very grainy and very hard to make out any details, if it catches the action at all."

61. In relation to the same question, Officer B stated: *"I have been asked whether we gave any thought to reviewing the tape to see if we could identify the driver. I did not. This sort of incident is a reasonably regular occurrence for me and I have never reviewed the tape."*
62. The tape cannot be reviewed and have it record at the same time. If Mr Hansen had left the Fat Cow at the time the tape was being reviewed his actions would not have been recorded.

Making enquiries at the registered owner's address

63. Officer A stated that he did not consider trying to make enquiries at the address of the registered owner of the Nissan to obtain a description of the driver because *"I*

considered the plan already in place was the most effective, furthermore I was conscious that this vehicle was registered to an Eltham address."

64. Officer B said, in a statement made on 15 February 2006:

"I have been asked whether I considered making enquiries at the registered owner's house. I can't recollect whether that was discussed or not, but I think its important to put all of this into perspective, we are talking no more than minutes and I was happy with the plan to have the camera operators advise us if and when the driver tried to move off."

Immobilising the Nissan under section 121 of the Land Transport Act 1998

65. This section provides that an officer may immobilise a vehicle if it is believed that the driver is incapable of proper control of the vehicle.
66. Section 121 (1) and (2)(d) give Police the power to *"...take such steps as may be necessary to render the vehicle immobile or to remove it to a place where it does not constitute a traffic hazard"* if they believe on reasonable grounds that *"a person who is for the time being in charge of a motor vehicle is, because of his or her physical or mental condition (however arising), incapable of having proper control of the vehicle."*
67. In evidence before the Coroner, Officer A agreed that it was *"absolutely essential"* to stop Mr Hansen driving again.
68. When asked to comment on whether he considered it appropriate to immobilise the Nissan whilst it was parked outside the Fat Cow, Officer A said: *"I did not consider that I had any legal authority to do so, but to be fair I felt that the plan we had in place would have been effective, but for the failure of the radios and had not in fact considered this option. Had this option been considered then the only way we could have acted upon it was to park our car in such a way as to obstruct [the Nissan].... Blocking vehicles in such a manner with police cars is not a tactical option adopted by Police."*
69. Officer B, in interview, recalled having a *"vague recollection"* of discussing immobilising the Nissan with Officer A.
70. Officer E, asked in interview about the option of disabling the Nissan, replied: *"I have never had any training or instruction in such an option and did not know that it was an option indeed I don't think it's even an option now."*
71. Sergeant F considered the power to immobilise the Nissan, and concluded that *"if the vehicle was disabled I would be committing an unlawful act by interfering with the motor vehicle."*

Impounding the Nissan under section 123(1)(b) of the Land Transport Act 1998

72. This section gives Police the power to impound a vehicle where they believe on reasonable grounds that the driver has failed to stop when required by a Police officer, with the vehicle being able to be impounded for up to seven days in order to preserve evidence.
73. In interview, Officers A and B said they did not know of the existence of this power.
74. Sergeant F stated, in a report on the incident, that when briefed by Officer A on the pursuit, he considered impounding the Nissan under section 123. He said that he did not take this course as he decided that it was possible that Mr Hansen was not aware that the unmarked vehicle following him was a patrol vehicle, and when listening to the pursuit commentary over the radio he could not recall hearing the siren, and that he therefore did not have reasonable grounds to believe that Mr Hansen was aware he was being pursued.
75. The Authority has confirmed that the powers contained in sections 121 and 123 of the Land Transport Act 1998 are included in the learning syllabus for recruits and are considered part of 'everyday' policing.

Having the Nissan in 'line of sight'

76. Police had the option to maintain vehicle based 'line of sight' observations on the Nissan.
77. When this was put to Officer A, he said he considered that it could only be done covertly, and commented that the unmarked police car was well known in the Hawera area, and has police lights on it and other attachments which make it clear that it is a police car.
78. It does not appear that this option was considered by any other officer.

Maintain observations on foot

79. Police had the option to have officers on foot observe the car from a position that would have enabled them to approach, and arrest, Mr Hansen immediately on his return to the vehicle.
80. Sergeant F considered and discounted this scenario, stating *"I believed this would not have been an option. Hansen, who was unknown to the staff, would have easily seen a member of Police in the vicinity of the vehicle. The member could have potentially waited for a number of hours without locating the driver."*

Cordon

81. It does not appear that the officers gave thought to setting up an effective cordon.

82. Sergeant F, who discussed the tactical plan with Officer A, acknowledged that with the benefit of hindsight he would have *“tightened and ‘formalised’ the cordons”*.

POLICE INVESTIGATIONS

Criminal

83. Police carried out a criminal investigation into the incident, which led to charges being laid against Raymond Hansen.
84. Raymond Hansen later pleaded guilty to three charges of manslaughter, two charges of driving with excess blood alcohol causing injury and one charge of dangerous driving. On 2 November 2005 he was sentenced in the High Court at New Plymouth to nine years imprisonment, with a non-parole period of five years. He was also disqualified from driving for four years to commence on the date of his release from prison.

Internal

85. Contemporaneously, Police started an internal investigation into the actions of Police, focusing on three parts:
- the pursuit;
 - Police action surrounding the observation of the parked vehicle and the subsequent attempt to apprehend Mr Hansen; and
 - Police action at the crash scene.
86. The investigation concluded (among other things) that:
- the pursuit was justified, and was correctly abandoned;
 - the “surveillance” approach taken by Police in observing the Nissan was reasonable;
 - however, an unmarked car should have been positioned to have clear view of the Nissan outside the Fat Cow bar;
 - better use could have been made of the CCTV footage;
 - the actions of Police at the crash scene were heroic, especially those of Officer E.
87. The principal concern Police had with the tactical option taken by the officers was that:

“It provided an opportunity for the driver of the vehicle that had earlier been involved in a pursuit and who had failed to stop, to return to his vehicle and

very likely, get into his vehicle and drive off – which would then have required Police to direct him to stop, mostly likely when he was mobile on Princes Street. I note that [Officer A] in particular, believes that he would have had time to go from the Police Station to Princes Street, which is 190 metres away, to apprehend the driver before he drove off. I do not believe that [Officer A] could be sure that he or any other Police officer could have apprehended the driver before the vehicle was driven off – it was possible, but [Officer A] could not be certain. I note that [Officer E], for example, believed that apprehension would occur once the driver had become mobile.

In this situation this presented some significant risk. Primarily the risk was that the driver would fail to stop on the direction of Police. This driver had previously failed to stop upon the direction of [Officers A and B]. I am sure they believed that the driver had seen the flashing lights of the unmarked police car during the earlier pursuit. It is my view that the police staff involved in apprehending Mr Hansen should not have been confident that he would stop if directed to do so by police officers.”

88. Police did not take any formal disciplinary action against the officers involved.

POLICE CRASH ANALYSIS

89. The Police Serious Crash Unit’s analysis of the crash focused on three principal areas: the environment; the vehicles; and the people involved. It concluded:
- The weather was not a contributing factor in the crash. Although the road surface was wet, it offered good “*drag factor*” between the road surface and the vehicle tyres.
 - Both vehicles were mechanically sound prior to the crash. Therefore, vehicle faults were not a contributing factor.
 - The crash was caused by Mr Hansen travelling too fast and losing control of his vehicle. At the time of the crash, the Nissan’s speed was estimated at between 107 and 125kph. A vehicle in the northbound lane leading to the bridge would be expected to lose control at speeds of 109-113kph, and a vehicle taking the path possibly taken by the Nissan would be expected to lose control at 98-102kph.

DRIVERS

The driver of the Nissan – Raymond Hansen

90. An analysis of blood taken from Mr Hansen at 2.34am, just over one hour after the collision, found that he had 114 milligrams of alcohol per 100 millilitres of blood. The legal limit for a driver is 80 milligrams of alcohol per 100 millilitres of blood.
91. Mr Hansen has two previous convictions for driving with excess blood/breath alcohol, the most recent being in 2003.

The driver of the Van – Kurt Johnson

92. An analysis of blood taken from Mr Johnson found no alcohol.
93. It is clear, that in no way was the collision caused by the driver of the Mitsubishi L300 Van, Kurt Aaron Johnson.

CORONIAL INQUIRY

94. On 12 July 2006, inquests into the deaths of Paul Cowper, Rochelle Meads and Aaron Hurley took place before Coroner Simon Shera. The Coroner found that Paul, Rochelle and Aaron died when the Nissan Cefiro being driven by Mr Hansen was unable to negotiate a moderate right-hand sweeping corner due to his excessive speed.

“He lost control of his vehicle and veered across the centre line into the South Bound lane where he crashed head on with the Mitsubishi Van driven by Kurt Johnson... The impact of the collision caused the van to burst into flames.”

95. In his report issued on 29 June 2009, the Coroner concluded that the causes of the deaths were: *“Death due to conflagration as the result of a motor vehicle collision.”*
96. In relation to Police actions, the Coroner made several findings:

“In general terms, [Officer A] decided to rely on the CCTV cameras, Police radio and the other Patrols to deal with the matter. He returned to the Police station himself and was of the opinion that when advised that the car driver was returning to the vehicle he would be in a position to apprehend him.

I say from the outset that it is my view that in taking this view, [Officer A] was unwise.

97. The Coroner noted that the evidence of the three Police officers parked on Princes Street established that they were all out of the line of sight of the Nissan. He found that

these officers would not have seen the vehicle until it was on the move and there were a number of different routes the Nissan could have taken to leave the area. The Coroner found:

"I believe the involvement of [Officers C, D and E] was reasonable, as I do not believe that they knew the full facts concerning Hansen's previous driving and they would have thought that this was a routine operation to apprehend a possibly offending driver.

The position however to me seems to be different, so far as [Officer A] is concerned. He was aware of the "horrific" driving of the driver of the Nissan Cefiro ...

It also seems that [Officer A] was aware of the possible difficulties with the radio. All in all, it seems to me that there was every likelihood of the driver of the Nissan car evading [Officer A] coming from the Police Station after he had heard that the Driver was returning to the vehicle and of course this is what happened."

98. The Coroner concluded by finding that *"...I am sure that [Officer A] acted with the best possible intentions. But I believe that his tactical plan showed an error of judgement."*
99. The Coroner commented on whether, in situations such as this, the Police emphasis should be on preventing driving to protect the public, or to conduct matters so that the offender can be apprehended and possibly prosecuted.
100. The Coroner noted that, in evidence, Officer A agreed that it was *"absolutely essential"* to stop Mr Hansen driving again.
101. He then made the following recommendation to Police:

"It seems to me however that the plan set in place by [Officer A], to which I have referred above, was addressing more at catching the Driver driving the car rather than preventing him from driving. I recommend to the Police that they look again as to how to deal with the decision to prevent or apprehend, particularly in cases of this type."



Laws and Policies

INDEPENDENT POLICE CONDUCT AUTHORITY

RELEVANT LAWS

102. Section 114 of the Land Transport Act 1998 and sections 314B and 317A of the Crimes Act 1961 empower a Police officer in uniform or in a vehicle displaying flashing lights and sounding a siren to stop a vehicle for traffic enforcement purposes, to conduct a statutory search, or if there are reasonable grounds to suspect the vehicle contains a person who is unlawfully at large or has committed an offence punishable by imprisonment. When such a vehicle fails to stop for Police a pursuit may be commenced.
103. Section 121 of the Land Transport Act 1998 provides that an enforcement officer may immobilise a vehicle if it is believed the driver is incapable of proper control of the vehicle.
104. Section 123(1)(b) of the Land Transport Act 1998 contains the power for Police to impound a vehicle where the driver has failed to stop when required by a Police officer, with the vehicle being able to be impounded for a period not exceeding seven days as is necessary to preserve evidence, if the officer believes on reasonable grounds that the driver has failed to stop in contravention of a signal or request made under section 114(1) or (2).

POLICE POLICIES (PURSUITS)

105. Annex One of Police General Instruction (GI) V001 governs Police Pursuits. This GI had come into effect in 2004.
106. The GI states:

“A pursuit occurs when the driver of a vehicle which has been signalled by a police officer to stop, fails to stop and attempts to evade apprehension, and police take action to apprehend the offender.”

107. The policy assigns primary responsibility for the initiation, continuation and conduct of a pursuit to the officer driving the pursuing Police vehicle. The driver cannot be directed to commence or continue a pursuit against their judgment, and a driver's decision not to commence a pursuit, or to abandon a pursuit in progress, cannot be overridden.

Risk assessment

108. Before commencing a pursuit, an officer must undertake a risk assessment, which involves consideration of a range of factors including speed and other behaviour of the pursued 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"*.

Driver's responsibilities

109. Pursuing drivers must comply with relevant legislation and drive in a manner that prioritises the safety of the public and staff.
110. Other responsibilities of the driver during the course of a pursuit include:
- activating warning devices (lights and siren);
 - informing the communications centre that they have commenced pursuit and maintaining radio contact with the communications centre, providing situation reports regularly and as requested; and
 - continually reassessing the continuation of the pursuit according to the risk framework in paragraph 108 above, which prioritises the safety of all involved.

Abandonment

111. A pursuit must be abandoned if at any stage the risks to safety outweigh the immediate need to apprehend the offender.
112. The policy sets out the steps that must be carried out following a decision to abandon a pursuit. These include: acknowledgement of the direction to abandon; reducing speed; deactivating lights and siren once below the speed limit; stopping as soon as it is safe to do so; and reporting abandonment of the pursuit to the communications centre.



The Authority's Findings

INDEPENDENT POLICE CONDUCT AUTHORITY

ISSUES CONSIDERED

113. The Authority's investigation considered the following issues:

- i) Did Officers A and B comply with the Police pursuit policy – in particular, in relation to initiation, communication, activation of lights and siren, and abandonment?
- ii) Was the 'surveillance' operation adopted by Police, using CCTV cameras and volunteers, the best tactical option to apprehend the Nissan and Mr Hansen?
- iii) Did Police consider other tactical options?
- iv) Was there sufficient planning and communication in relation to the 'surveillance' tactical option chosen by Police?
- v) How was Mr Hansen able to drive away without being apprehended?
- vi) Why did radio communications fail, and was this something that should have been anticipated?
- vii) Once it was discovered that Mr Hansen had driven away, did Police take all reasonable steps to try to locate the Nissan?
- viii) Upon arrival at the crash scene, did Police take all reasonable steps to assist those involved in the collision?

THE PURSUIT

Did Officers A and B comply with the Police pursuit policy – in particular, in relation to initiation, communication, activation of lights and siren, and abandonment?

114. The Authority accepts that the failure to use the siren was inadvertent. However, the use of sirens is especially important when a pursuit is being undertaken in an unmarked Police car.

FINDINGS

Officers A and B engaged in a lawful pursuit of the Nissan. They complied with the Police pursuit policy as it relates to:

- initiation of the pursuit;
- communication with CentComms;
- assessment of risk and consequent abandonment of the pursuit.

Officers A and B did not comply with policy when they failed to activate the siren.

THE SURVEILLANCE OPERATION

Was the ‘surveillance’ operation adopted by Police, using CCTV cameras and volunteers, the best tactical option to apprehend the Nissan and Mr Hansen?

115. Once the Nissan was discovered parked outside the Fat Cow, Officers A and B agreed on a plan to apprehend the driver. This plan was discussed and approved by Sergeant F.

116. Under this plan:

- CCTV cameras and volunteers were used to monitor the Nissan and the movement of people around the car.
- The volunteers were to immediately notify Officer A, via Police radio, of any movement.
- Officers A and B were at the Hawera Police station, approximately 220 metres from the Fat Cow bar.
- Officers A and B, or one of the other Police officers stationed close by on Princes Street (Officers C, D and E), would be able to apprehend and arrest the driver of the Nissan before he drove off.

117. In the Authority’s view the flaws in this plan were:

- The plan focused on apprehending the driver, rather than stopping him from driving.
 - None of the officers had the Nissan within their line of sight.
 - Complete reliance was placed on the volunteers, using CCTV cameras, to advise, via radio, of any movement.
 - If the plan was to work, the volunteers had to identify the driver (who they had never seen) intending to enter the Nissan (as opposed to just milling around or walking to another vehicle) and transmit these details to officers, who then had to arrive at the scene and apprehend the driver. This all had to be done in the few seconds it would take the driver to get into the car and drive away.
 - The plan did not contemplate the Police radio channel being busy.
 - The area outside the Fat Cow bar was busy, with lots of patrons milling around.
 - Neither the volunteers, nor any of the Police officers involved had a description of the person who had been driving the Nissan.
 - Officers C, D and E and two 'Hawkeye' volunteers all had their vehicles parked South of the Fat Cow bar, on Princes Street, and all vehicles were facing north. The northern exit out of town was not covered.
 - The officers did not all have the same understanding of the objective. Officer A was of the view that he would be able to apprehend Mr Hansen whilst the Nissan was still stationary. However, Officer E was of the view that her role was to apprehend the driver after the Nissan became mobile – that is potentially engage in a further pursuit or urgent duty driving.
118. The tactical option chosen by Police relied on CCTV observation and radio transmissions rather than line-of-sight surveillance. It allowed the probability of the driver becoming mobile and then relied on him stopping upon the direction of Police, when he had already failed to stop.
119. In using the option they did, Police employed a tactic commonly used in Hawera to detect potential drink drivers. Clearly this approach can be effective in terms of enforcement, but has some obvious risks. What differentiated this case from the norm was that the officers knew that the driver had driven at extreme speed and had performed two dangerous manoeuvres. The primary objective should have been to prevent him driving again.

FINDINGS

The tactical option chosen by Officers A and B, and approved by Sergeant F, allowed the probability that the Nissan would become mobile before the driver could be apprehended, or even that the driver would escape apprehension all together.

Did Police consider other tactical options?*Making enquiries at the Fat Cow Bar*

120. Officers A and B could have made enquiries at the Fat Cow bar to try to identify the driver of the Nissan.
121. They decided against making enquiries at the Fat Cow bar primarily because they did not know who they were looking for.

FINDINGS

Police should have made enquiries with the staff at the Fat Cow bar to try to ascertain the identity of the driver of the Nissan.

Viewing CCTV footage

122. The officers could have viewed the CCTV footage to try and identify the driver of the Nissan, and then entered the bar to try to find him or her.
123. The officers did not give any thought to reviewing the CCTV tape. This would have stopped the CCTV surveillance. Officer A added that in his experience the recorded view from the cameras is unhelpful and of poor quality.

FINDINGS

The rejection of this option was reasonable in the circumstances.

Making enquiries at the registered owner's address

124. The address of the registered owner was not local. Because of this, visiting the address to make enquiries was not considered an effective tactical option by Officer A.

FINDINGS

The Authority has no criticism of the rejection of this option.

Immobilising the Nissan under section 121 of the Land Transport Act 1998

125. The Authority is of the view that Officers A and B had the required knowledge and belief to use the power available in section 121(2)(d) of the Land Transport Act to immobilise the Nissan.
126. It is clear that some of the officers involved were unaware of the option provided by section 121.

127. The power to immobilise was considered and incorrectly rejected by Sergeant F.

FINDINGS

Officers A and B should have used this power.

Impound the Nissan pursuant to section 123 (1)(b) of the Land Transport Act 1998.

128. Officers A and B said they did not know of the existence of this power, and Sergeant F acknowledged that he was aware of it, but dismissed the use of it as inappropriate in the circumstances.
129. The Police officers involved believed on reasonable grounds that the driver of the Nissan had failed to stop in contravention of a signal - the red and blue flashing lights. They therefore had the power to impound the Nissan pursuant to section 123 of the Land transport Act 1998, whether or not Mr Hansen was aware that he had been signalled to stop.

FINDINGS

Officers A and B could have used this power.

Having the Nissan in 'line of sight'

130. Police had the option to maintain 'line of sight' observations on the Nissan.
131. The recognition of the unmarked car as a Police car, by Mr Hansen or other patrons of the Fat Cow bar, was a possibility. However, there is no reason why recognition of a Police vehicle would have interfered with the plan. The object should have been to prevent Mr Hansen from driving.
132. Using this tactical option would have had Police much closer to the Nissan, which would have provided greater opportunity to apprehend the driver on his return to the vehicle.

FINDINGS

A police car should have been positioned so that an officer had line of sight observation on Mr Hansen's vehicle.

Maintain observations on foot

133. This option would have enabled Police to apprehend Mr Hansen immediately on his return to the vehicle.
134. Sergeant F discounted this scenario, saying that due to the number of people in the area such observation would have been difficult to effect without being seen, and also Police had no idea how long Mr Hansen would be away from his car. On the other hand, a Police officer positioned close to the Nissan would have made it almost impossible for Mr Hansen to drive off.

FINDINGS

Police should not have discounted this option.

Cordon

135. The surveillance option chosen by Officers A and B, and approved by Sergeant F, placed Officers A and B inside the Police station. Officers C, D and E as well as the 'Hawkeye' volunteers were in three separate cars, all on Princes Street, south of the Fat Cow. The Northern exit from the town was not under observation.
136. Once surveillance was chosen as the tactical option, it was imperative that a tight and effective cordon be maintained, especially as no officer had the Nissan within sight.
137. Officers A and B, and Sergeant F did not give enough thought to establishing an effective cordon.
138. Sergeant F, who discussed the tactical plan with Officer A, acknowledged that, with the benefit of hindsight, a more effective cordon should have been established.
139. The officers did not know when the driver would return to the Nissan. Clearly, there was a risk that one or more of the officers would need to be deployed to other incidents. Even if an effective cordon had been put in place, with the available staff there could be no guarantee that it could be maintained.

FINDINGS

Officers A and B, and Sergeant F did not establish an effective cordon.

A cordon was not a realistic option for more than a short period.

Was there sufficient planning and communication in relation to the 'surveillance' tactical option chosen by Police?

140. The 'surveillance' option, in order to be effective, required effective planning and communication. Instead, not all officers involved were aware of the relevant facts, and, as already noted, the officers did not all have the same understanding of the objective.
141. Officers C, D and E believed that Officers A and B were responsible for the Northern exit, and did not realise that they were at the Police station. Officers C, D and E also believed that they were to apprehend the driver of the Nissan once he had driven away from the Fat Cow bar. None of the Officers had any knowledge of or description of the driver.
142. Officer A thought that he and Officer B would be able to get from the station to the Nissan on notification of movement from the CCTV operators, before it was driven off.
143. Neither Officers A and B, nor Sergeant F, had any role in the positioning of the observation vehicles manned by Officers C, D and E, or the 'Hawkeye' volunteers.

144. Sergeant F has said that he would, in hindsight, have placed an officer in the watchhouse to monitor the cameras and would also have tightened and formalised the cordons.

FINDINGS

There were significant deficiencies in the planning and execution of the surveillance operation.

How was Mr Hansen able to drive away without being apprehended?

145. At about 1.17am Mr Hansen reversed out of his parking space outside the Fat Cow bar and headed south along Princes Street (as recorded on CCTV) in the direction of South Road.
146. The Authority is unable to make a finding on what route was taken by Mr Hansen from Princes Street, Hawera, to his arrival at the Normanby crash site, as the actual route driven was never satisfactorily established.
147. At the time Mr Hansen returned to his car, the Police radio communications failed. It was about 30 seconds after he had driven off before the radio transmission fully recommenced.
148. All transmissions between the CCTV camera operators and Police vehicle and portable radios were compromised.
149. The other major factor that enabled Mr Hansen to drive away without being apprehended was the flawed surveillance plan and ineffective cordon.

FINDING

The officers failed to apprehend Mr Hansen because they had not formed an effective cordon, and because of the interruption in radio transmissions.

Why did the radio communications fail, and was this something that should have been anticipated?

150. The CCTV camera operators were using the Taranaki Police radio channel. Their communications could be heard by officers using both vehicle and handheld radios.
151. At 1.08:18am there was a transmitter timeout on the Taranaki radio channel. This occurs when a 'speak' button on a radio is pressed for longer than a minute, and it stops the transmission.
152. At 1.15:17am there was an echo on the channel. Both CentComms and a local Police unit commented on the echo.
153. At 1.16:18am both CentComms and the local unit agreed that the channel was clear. The local unit advised CentComms that he would report his radio as having a fault.

154. Just after this transmission, interference on the radio channel was heard and got progressively worse.
155. At 1.17:29am the channel became clear again, and Officer B can be heard asking the CCTV camera operators “*what direction?*”.
156. Subsequently a Police Radio Operations Engineer concluded that:
- The interference was caused by a faulty Police radio, or one inadvertently held in transmit mode.
 - CentComms were able to override the noise, indicating the interference was of local (Taranaki) origin.
 - Due to the interference, anyone listening to Police radio would not have been able to receive messages transmitted from the Hawera Police station (the CCTV cameras’ location).
 - Local Police could not have predicted that a noisy radio channel would interrupt operational activities.
 - Local Police would have had trouble diagnosing the source of the problem.

FINDINGS

The officers could not have anticipated the radio failure.

Once it was discovered that Mr Hansen had driven away, did Police take all reasonable steps to try to locate the Nissan?

157. As soon as it became apparent that Mr Hansen had driven away from the Fat Cow bar undetected, there was an immediate deployment of all local officers in an effort to locate the Nissan.

FINDINGS

Once it was discovered that Mr Hansen had driven away, Police responded quickly and took all reasonable steps to locate him.

Upon arrival at the crash scene, did Police take all reasonable steps to assist those involved in the collision?

158. The collision occurred shortly before 1.24am. The actions of officers arriving at the scene after the crash are detailed in paragraphs 50-56.

FINDINGS

The officers first on the scene took all reasonable steps to assist those involved in the collision.



Conclusions

INDEPENDENT POLICE CONDUCT AUTHORITY

159. Except for not activating the siren, the initial pursuit was conducted in accordance with the Police pursuit policy.
160. The stated and primary objective of Police was to prevent Mr Hansen from driving his vehicle again.
161. The decision not to go into the Fat Cow to seek information about the identity of the driver or to wait close by the vehicle or to have it immobilized or towed away was a failure to act responsibly. This was not a situation of a suspected intoxicated driver. Rather it was a situation of a driver who had demonstrably driven dangerously and could be arrested for that offence. The pursuit had been so dangerous that Officers A and B abandoned it because of the high degree of risk.
162. The alternative tactical option, chosen by Officers A and B and approved by Sergeant F, was flawed because it allowed the opportunity for Mr Hansen to get back into his vehicle and drive once more, with fatal consequences. No officer was sufficiently close to the vehicle to prevent Mr Hansen from getting into it and reliance on back-up surveillance by volunteers manning a remote video could not prevent the act of driving.
163. Once it was discovered that Mr Hansen had left the Fat Cow car park, Police responded quickly and took all reasonable steps to locate him.
164. The officers first on the scene made every effort to assist those involved in the collision.
165. Police failures did not cause the collision. The primary cause was that Raymond Hansen, intoxicated, drove dangerously at speed and lost control of his vehicle.

JUDGE SIR DAVID CARRUTHERS

CHAIR

INDEPENDENT POLICE CONDUCT AUTHORITY

19 JUNE 2013

About the Authority

WHAT 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 Sir David J. Carruthers.

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.

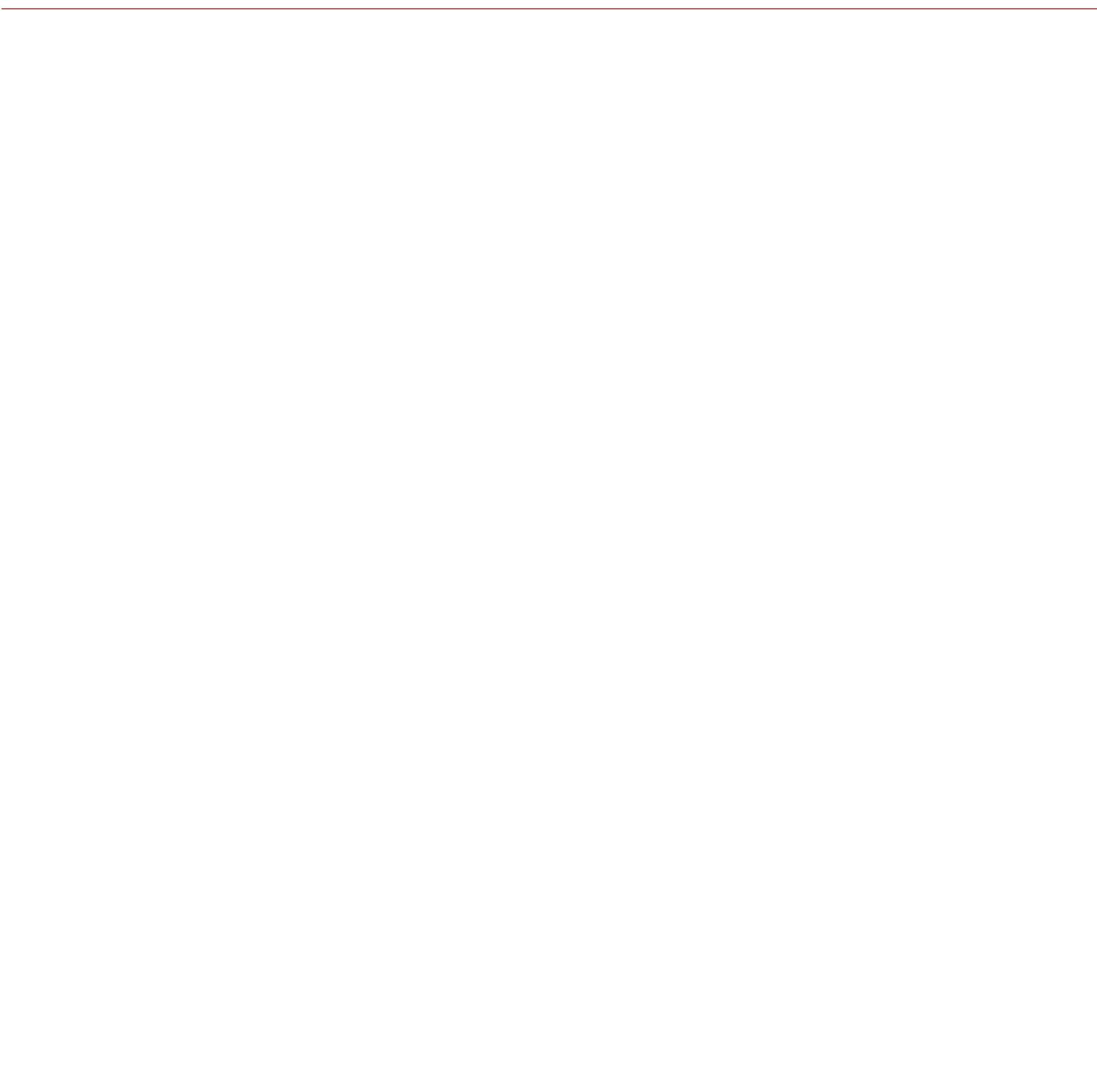
The Authority has highly experienced investigators who have worked in a range of law enforcement roles in New Zealand and overseas.

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 must determine whether any Police actions were contrary to law, unreasonable, unjustified, unfair, or undesirable. The Authority can make recommendations to the Commissioner.





IPCA
Level 8
342 Lambton Quay
PO Box 5025
Wellington 6145
Aotearoa New Zealand
0800 503 728
P +64 4 499 2050
F +64 4 499 2053
www.ipca.govt.nz