



Report on the death of Callan Moss following a Police pursuit

INDEPENDENT POLICE CONDUCT AUTHORITY

INTRODUCTION

1. At approximately 1.08am on Saturday 16 March 2013 a car driven by Callan Moss, aged 20, crashed into an on-coming truck following a short Police pursuit in Taupo.
2. Mr Moss was killed in the crash. One of his passengers, Shayde Sharp, was seriously injured although the second passenger, Shane Petersen, was uninjured.
3. Police notified the Independent Police Conduct Authority of the incident, 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

4. In the early hours of the morning of 16 March 2013, Officer A, deployed alone on road policing duties, was driving a marked Police car south on the East Taupo Arterial Road, Taupo.
5. As Officer A approached the Centennial Drive interchange exiting the bend and travelling north, he saw headlights travelling at high speed approaching the interchange from the south.
6. Officer A accelerated from his usual patrol speed of 80 km/h to get past a truck so that the speeding car was the only car in front of him and in the beam of the radar. Officer A's speed was 113 km/h. As he passed the truck, Officer A took the radar off hold and locked on the speed of the approaching car. The radar recorded the speed of the approaching car as 122 km/h.
7. Officer A then activated his lights and siren as the speeding car was approaching him. The car went past and Officer A executed a U-turn. Officer A saw that the car was not

stopping but instead was accelerating away. Before deciding to pursue Officer A undertook a risk assessment, including the speed of the offending car, which he estimated was between 130 km/h to 140 km/h prior to being locked on, the fact that the road was open with wide lanes and very good visibility, traffic at the time was light and there were no pedestrians. Officer A was a gold class driver and authorised to undertake pursuits.

8. Officer A called Officer B who was also working and waited for a reply. Officer A then called the Central communications centre ('CentComms') to advise them that he had a fleeing driver situation. CentComms acknowledged Officer A's call sign but before Officer A could transmit again he witnessed the car collide with an on-coming truck. Witnesses have explained to the Authority that Mr Moss attempted to overtake a truck and then pulled back in behind the truck. Mr Moss clipped the back of the truck causing his car to spin out onto the opposite lane into the path of an oncoming truck causing the collision.
9. Officer A immediately made a request to CentComms for an ambulance, parked his own vehicle and approached the crashed car. The front seat passenger, Mr Petersen, was conscious and talking. Officer A checked the driver, Mr Moss, who was trapped in the car and he showed no sign of life. Another officer arrived and after establishing that there were three occupants discovered Ms Sharp in the back seat. She was roused and sat up of her own accord. Both passengers were placed in the back of Officer A's vehicle. Further patrols, and fire and ambulance crews were dispatched to the scene to assist.

Callan Moss

10. At the time of the incident Mr Moss was a suspended restricted driver.
11. Analysis of a sample of Mr Moss' blood and urine showed alcohol in the blood (105 milligrams per 100 millilitres) and urine (157 milligrams per 100 millilitres). The legal blood alcohol limit for a New Zealand driver 20 years old or over is 80 milligrams per 100 millilitres.

Police crash analysis

12. The crash analysis report concluded the following:
 - the road was straight, flat and was in good condition;
 - there was good visibility;
 - vehicle faults were not a factor in this crash;
 - Mr Moss attempting to evade Police was a factor;
 - alcohol was a factor;

- excessive speed was a factor (a minimum speed of 125 km/h was calculated for the car at the time of the initial braking, however, it is likely Mr Moss was travelling at a greater speed).

LAWS AND POLICIES

Legislative authority for pursuits

13. Under the Land Transport Act 1998, Police are empowered to stop vehicles for traffic enforcement purposes. Under the Crimes Act 1961, 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.

Fleeing driver policy

14. Under the policy, a fleeing driver incident 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. The police tactic to apprehend is referred to as a pursuit.
15. The policy requires the pursuing officer to carry out a risk assessment both prior to initiation and during a pursuit. This must be based on consideration of the speed limit and manner of driving by the offending vehicle; identity and other characteristics of the occupants of the offending vehicle; weather conditions; the environment, including the location, road type and potential hazards; traffic conditions, including vehicle and pedestrian as well as time of day; and capabilities of the police driver and vehicle.
16. The policy requires the officers involved in the pursuit to notify Comms when a pursuit commences and to provide situation reports to the pursuit controller (i.e. the shift commander at the Police communications centre) in a timely manner to enable the pursuit controller to make an independent assessment of the risks and manage the pursuit including whether to direct the abandonment of the pursuit.
17. Under the policy, the driver of the lead Police vehicle has primary responsibility for the initiation, continuation and conduct of a pursuit. The driver must comply with relevant legislation, ensure lights and siren are activated, drive in a manner that prioritises public and police safety, continue to undertake risk assessments throughout the pursuit, maintain constant communication with Comms and comply with all directions from the pursuit controller.

THE AUTHORITY'S FINDINGS

18. As Officer A saw the car speeding towards him he locked its speed at 122 km/h in a 100 km/h posted area. He was empowered to stop Mr Moss, whom he did not know, for traffic enforcement purposes.
19. Officer A activated his red and blue warning lights and his siren. This was a clear signal for Mr Moss to stop. According to the passengers, Mr Moss was aware of the Police presence and failed to stop. Mr Moss then took steps to evade Police by increasing his speed. Officer A called for assistance and tried to notify CentComms of the commencement of the pursuit. He accelerated to follow the car. These were steps taken to apprehend Mr Moss.
20. This pursuit was of an extremely short duration and distance, a matter of seconds. Mr Moss' car had crashed before Officer A had time to notify CentComms of the commencement of the pursuit.
21. Officer A stepped through the correct risk assessment process before initiating the pursuit.
22. Officer A immediately called for medical assistance and went to the aid of the car's occupants after the crash occurred.

FINDING

For the extremely short duration of this pursuit, Officer A complied with the Land Transport Act 1998, and with the fleeing driver policy. The officer did consider all relevant risk factors before commencing the pursuit.

CONCLUSIONS

23. This was a tragic accident resulting in the death of Mr Moss, aged 20, and serious injuries sustained by one of the passengers, Ms Sharp.
24. Section 27(1) of the Independent Police Conduct Authority Act 1988 (the Act), requires the Authority to form an opinion as to whether or not any act, omission, conduct policy, practice or procedure which was the subject-matter of the investigation was contrary to law, unreasonable, unjustified, unfair or undesirable.
25. The Authority has formed the opinion that there were no breaches of policy or neglect of duty. The actions of Officer A in commencing the pursuit were reasonable and justified. No Police act or omission was unlawful, unreasonable, unjustified, unfair, or undesirable.

ONGOING DISCUSSIONS WITH POLICE

26. While in this instance the Authority has not found any breaches of policy, the Authority wishes to confirm that it has begun discussions with Police about a review of policies connected with the pursuit of fleeing drivers. This is due to the conflict between the often prescriptive nature of the relevant policies and the reality of a fast paced, time-pressured pursuit.



JUDGE SIR DAVID CARRUTHERS

CHAIR

INDEPENDENT POLICE CONDUCT AUTHORITY

8 August 2013

About the Authority

WHO IS THE INDEPENDENT POLICE CONDUCT AUTHORITY?

The Independent Police Conduct Authority is an independent body set up by Parliament to provide civilian oversight of Police conduct.

It is not part of the Police – the law requires it to be fully independent. The Authority is overseen by a Board, which is chaired by Judge 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

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