



Deaths of four men following Police pursuit in Mangere.

INDEPENDENT POLICE CONDUCT AUTHORITY

INTRODUCTION

1. At about 12.06am on 11 May 2013 a Honda car driven by Dominic Stehlin, aged 19, collided with a parked vehicle while fleeing from Police in Mangere. Mr Stehlin and one of his passengers, Uesetini Akulu To'o To'o, died at the scene. Mr Stehlin's other passengers, George Lomia and Viane Gaga, died later in hospital.
2. The 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

The First Pursuit

3. At about 12am on 11 May 2013 Officers A and B, who were parked in an unmarked Police car on Great South Road, heard a car travelling at speed south along Great South Road in Papatoetoe, Auckland. As the car passed them they were able to see that it was a dark coloured Honda sedan and was travelling at about 70 kph in a 50 kph speed zone.
4. Although this area was well lit the officers were unable to see the occupants or the Honda's registration number, and could not get a better description of the car. It was later established that the Honda was being driven by Dominic Stehlin.
5. The officers saw the Honda go through a red traffic light at the intersection of Tui Road and St George Street and continue along Great South Road. Because of the way that the Honda was being driven the Officers considered that it may have been stolen, or that the driver may have been intoxicated. They decided to stop the Honda to speak to the driver about his manner of driving, carry out a breath alcohol test and carry out an ownership check.

6. Officer A, the driver, activated the patrol car's lights and siren and followed the Honda. He caught up to the Honda near Allenby Park, about one kilometre from where the officers had first noticed it.
7. Near Allenby Park the Honda slowed to between 20 and 30 kph and pulled over to the left hand side of the road as if preparing to stop. This allowed the officers to obtain a better description of the car, and get its registration number. Officer A flashed the patrol car's high beam headlights at the Honda to signal it to stop. However, Mr Stehlin failed to stop and continued south along Great South Road, quickly reaching a speed of 80 kph in a 60 kph zone.
8. Officer B advised the Police Northern Communications Centre (NorthComms) that they were in pursuit of the Honda, and broadcast a description and the registration number of the car as required by Police policy. A NorthComms dispatcher told the officers that *"If there's any unjustified risk to any person you are to abandon pursuit immediately."* Officer B acknowledged the warning.
9. Mr Stehlin continued driving in excess of the 60 kph speed limit, reaching an estimated 110 to 120 kph. He reached the intersection of Great South Road and Te Irirangi Drive, about 1.3 kilometre from Allenby Park, where there was a red traffic light. He slowed to about 30 kph and drove through the intersection before speeding up again. Mr Stehlin continued on to Redoubt Road, then State Highway 20, a 100 kph zone. Here, Mr Stehlin momentarily lost control of his car, striking the left hand barrier before regaining control of his car and continuing along State Highway 20 at speed.
10. Throughout the pursuit Officer B continually advised NorthComms of Mr Stehlin's speed and manner of driving. At 12:03am Officer B reported that the Honda was travelling at a speed of about 160 kph but that there was no traffic on the road.
11. NorthComms immediately directed that the pursuit be abandoned. This order was acknowledged by Officer B. Officer A slowed down, turned off the car's lights and siren and stopped, abandoning the pursuit in accordance with Police policy.
12. The pursuit lasted approximately 3 minutes and covered a distance of 4 kilometres.

The Second Pursuit

13. Following abandonment of the first pursuit Mr Stehlin continued driving north along State Highway 20. His driving was recorded by motorway traffic cameras which show that his speed was well in excess of the 100 kph speed limit.

14. At 12.04:30am Mr Stehlin was nearing the Massey Road off-ramp. Officers C and D were ahead of Mr Stehlin in a marked patrol car, traveling at about 60 kph. Officer C was driving. Officer D advised NorthComms of their location and speed, and said that they believed the fleeing vehicle from the first pursuit was behind them.
15. Officers C and D told the Authority that by this stage they were aware that the first pursuit had been abandoned, and that they believed the vehicle behind them was almost certainly the one involved in the first pursuit.
16. NorthComms requested that the officers continue to observe the vehicle while NorthComms updated Eagle, the Police helicopter, which was en route to the area in order to observe the fleeing vehicle from the air. NorthComms then told the officers *"Don't initiate anything at this stage."* Officer C told the Authority that he did not recall hearing this direction.
17. As Officers C and D continued onto the Massey Road off-ramp, Mr Stehlin drove up behind their patrol car, slowing down and giving the officers the impression that he was going to stop. Officer C slowed the Police car to about 10 kph while Officer D advised NorthComms that they believed the car behind them had stopped.
18. In fact, Mr Stehlin did not stop. After slowing down behind the patrol car he suddenly overtook it and sped off west along Massey Road. Officer C immediately followed the Honda with warning lights and sirens activated, signalling Mr Stehlin to stop so that he could speak to him about his manner of driving.
19. As Mr Stehlin showed no sign of stopping his car, Officer D advised NorthComms that they were commencing a pursuit. Ten seconds later Officer D told NorthComms that Mr Stehlin's speed was 70 kph in a 60 kph zone.
20. About five seconds later, NorthComms directed the officers to abandon the pursuit. Officer D told the Authority that he did not hear this order as, at the same time, he was informing NorthComms that they could see Mr Stehlin overtaking other cars and travelling in the opposite lane and that they were going to abandon the pursuit.
21. NorthComms then repeated the order to abandon the pursuit, which Officer D heard and acknowledged. By this stage the officers were at the intersection of Massey Road and Tidal Road. Officer C turned off the patrol car's lights and sirens and slowed to the posted speed limit, but was unable to stop immediately because of cars parked along Massey Road. The second pursuit lasted approximately 30 seconds and covered a distance of about 350 metres.

22. Following abandonment of the second pursuit Mr Stehlin continued, at speed, west along Massey Road. Officers C and D continued along Massey Road, at the posted speed limit, heading for their base at Auckland Airport. They lost sight of the Honda's taillights a few seconds after the pursuit was abandoned.
23. Just before Mr Stehlin reached Prangley Avenue, about 500 metres from where the pursuit was abandoned, he entered a right hand bend. While travelling through this bend, Mr Stehlin lost control of his car. Its left rear wheel hit the kerb, causing the car to travel sideways onto the opposite side of road where it hit an unoccupied, parked Toyota Hilux.
24. Mr Stehlin and Mr To'o To'o were killed instantly. Mr Lomia died a few hours later in hospital, and Mr Gaga died the next day when he was taken off life support. Post mortem examinations established that all four men died of blunt force injuries.

Dominic Stehlin

25. Mr Stehlin was an unlicensed driver. In February 2013 he had been forbidden to drive by Police, and had been issued with a traffic offence notice in March 2013 for failing to comply with the prohibition order. This offence had not been resolved before Mr Stehlin's death in May 2013.
26. Toxicology reports revealed that Mr Stehlin had 70 milligrams of alcohol per 100 millilitres of blood. The limit for drivers under 20 years of age is zero. Traces of cannabis were also detected in Mr Stehlin's blood.

The Officers

27. Officers A, B C and D were all gold class drivers, meaning that they were authorised to engage in urgent duty driving and pursuits.
28. Officers A and B were driving a Category B unmarked Police vehicle. This type of vehicle is permitted to commence a pursuit but must be replaced by a Category A vehicle as soon as possible.
29. Officers C and D were driving a Category A marked patrol car.

Crash Analysis

30. A Police crash investigator concluded that the main cause of the crash was excessive speed. The Honda's speed was calculated to be between 142 and 154 kph as it travelled around the bend, and the impact speed was estimated to be between 98 and 100 kph.
31. The crash investigator did not find any pre-existing faults with the Honda, nor with the road surface at the crash scene.

THE AUTHORITY'S FINDINGS

The First Pursuit

32. Officers A and B witnessed Mr Stehlin drive through a red traffic light at speed. They were justified under section 114 of the Land Transport Act 1998 in attempting to stop the Honda in order to speak to Mr Stehlin about his manner of driving, and conduct a vehicle and breath alcohol check. They activated the car's lights and sirens in order to signal Mr Stehlin to stop.
33. Because Mr Stehlin failed to stop and attempted to evade apprehension, the officers were entitled under the Police fleeing driver policy to commence a pursuit. Officer B informed NorthComms that the vehicle was "*failing to stop*". NorthComms issued the pursuit warning as required by policy.
34. The fleeing driver policy requires Police to conduct a risk assessment prior to commencing a pursuit. Both officers separately conducted an independent risk assessment in accordance with the policy and Officer B advised NorthComms of the relevant risk factors.
35. As they were gold class drivers both officers were permitted to engage in the pursuit. They were driving a category B vehicle but, given the short duration of the pursuit, there was not enough time to replace it with a category A vehicle.
36. The fleeing driver policy requires officers to drive in a manner that prioritises public safety. In accordance with these policies the officers kept their vehicle's warning lights and sirens activated at all times. Officer A, the driver, also showed due care by slowing down at intersections and in areas of heavier traffic.
37. Officer B continued to communicate with NorthComms throughout the pursuit, updating the pursuit controller on the relevant risk factors.
38. The fleeing driver policy requires Police to abandon a pursuit if the risk to the safety of the public and Police outweighs the immediate need to apprehend the driver. When the speed and manner of Mr Stehlin's driving became too dangerous, the pursuit controller directed the pursuit be abandoned. The officers immediately abandoned the pursuit in accordance with policy.

FINDINGS

Officers A and B complied with law and Police policy in commencing a pursuit of Mr Stehlin.

Police complied with policy with regards to communication, manner of driving, on-going risk assessment and abandonment of the pursuit.

The Second Pursuit

39. Officers C and D witnessed Mr Stehlin drive up behind them on the Massey Road off-ramp and slow down. They were aware that an earlier pursuit with Mr Stehlin had been abandoned and they recognised his vehicle. They both believed that Mr Stehlin was going to stop behind them.
40. The Authority accepts that Officer C did not hear NorthComms' direction not to "*initiate anything*" and so had no reason to believe that he was not entitled to attempt to stop Mr Stehlin or commence a pursuit.
41. When Mr Stehlin suddenly overtook the officers at speed they were entitled, under section 114 of the Land Transport Act 1998, to attempt to stop the Honda in order to speak to Mr Stehlin about his manner of driving.
42. When Mr Stehlin failed to stop, Officer D advised NorthComms that they had commenced a pursuit.
43. Both officers were qualified to engage in pursuits, and both conducted risk assessments prior to doing so. They were driving a category A marked Police car. Officer D advised NorthComms of relevant factors including the reason for the pursuit, the speed of the Honda and the posted speed limit.
44. In accordance with the fleeing driver policy the officers kept their vehicle's warning lights and sirens activated throughout the pursuit.
45. Almost immediately after the commencement of the pursuit the officers decided to abandon it because of the risk posed by the manner of Mr Stehlin's driving. At the same time NorthComms directed the officers to abandon the pursuit. The officers did not hear this order because their radio was in use. NorthComms directed them a second time to abandon the pursuit. Officer D immediately acknowledged this direction, and the officers turned off their lights and siren and slowed to the posted speed limit in accordance with Police policy.
46. The officers were not in pursuit of Mr Stehlin at the time the crash occurred.

FINDINGS

The Authority accepts that Officer C did not hear NorthComms direction not to initiate a pursuit. For this reason, the Authority finds that Officers C and D complied with law and Police policy in commencing a pursuit of Mr Stehlin.

Police complied with policy with regards to communication, manner of driving, on-going risk assessment and abandonment of the pursuit.

CONCLUSIONS

47. This was a tragic accident resulting in the deaths of Mr Stehlin, Mr To'o To'o, Mr Lomia and Mr Gaga.
48. Section 27(1) of the Independent Police Conduct Authority Act 1988 requires the Authority to form an opinion as to whether or not any act, omission, conduct, policy, practice or procedure was contrary to law, unreasonable, unjustified, unfair, or undesirable.
49. The Authority has formed the opinion that the actions of Police in this case complied with law and policy and were justified in the circumstances.

ONGOING DISCUSSIONS WITH POLICE

50. As indicated in other reports, the Authority wishes to confirm that it has begun discussion 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 polices and the reality of a fast-paced, time-pressured situation.



JUDGE SIR DAVID CARRUTHERS

CHAIR

INDEPENDENT POLICE CONDUCT AUTHORITY

27 MARCH 2014

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 employs highly experienced staff who have worked in a range of law enforcement and related roles in New Zealand and overseas.

WHAT ARE THE AUTHORITY'S FUNCTIONS?

Under the Independent Police Conduct Authority Act 1988, the Authority:

- receives complaints alleging misconduct or neglect of duty by Police, or complaints about Police practices, policies and procedures affecting the complainant in a personal capacity;
- investigates, where there are reasonable grounds in the public interest, incidents in which Police actions have caused or appear to have caused death or serious bodily harm.

On completion of an investigation, the Authority must form an opinion on whether any Police conduct, policy, practice or procedure (which was the subject of the complaint) was contrary to law, unreasonable, unjustified, unfair, or undesirable. The Authority may make recommendations to the Commissioner.



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