



Independence
trustworthiness
accountability
vigilance

Fatal Police pursuit of Tama Dobson, Shannon Smiler and Karleane Magon

INDEPENDENT POLICE CONDUCT AUTHORITY

INTRODUCTION

1. At 1.45am on 10 July 2010, a car driven by Tama Regan Dobson (also known as Tama Wikiriwhi), aged 27, crashed into a street light pole in central Christchurch following a short Police pursuit. There were five passengers in the vehicle, including Shannon Daoudihemira Smiler, aged 26, and Karleane Marie Magon, aged 20. Mr Smiler died at the scene of the crash, and Mr Dobson and Ms Magon died in hospital several weeks later.
2. The Police notified the Independent Police Conduct Authority of 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 about 1.40am on Saturday 10 July 2010, Mr Dobson was driving a Mitsubishi Lancer Evolution southward on Manchester Street in central Christchurch.¹ There were five passengers in the vehicle. Mr Smiler was in the front passenger seat, and Ms Magon was sitting on the lap of the rear left seat passenger. The group had just left a bar where they had been drinking alcohol.
4. Officer A and Officer B were on patrol in Manchester Street at this time, driving northward in a category A uniform patrol car. A category A car is authorised to undertake pursuits.
5. Officer A was the driver of the Police car. She is certified as a gold licence holder and has served with the New Zealand Police for five years. Officer B has 2 years service and was responsible for operating the radio.

¹ The Mitsubishi was owned by one of the passengers, and was registered to that man's parents.

6. As the officers drove past the Mitsubishi, they saw that it was overloaded with passengers and decided to pull the car over and speak to the driver.² At this stage, neither Officer A nor B knew the identity of any of the occupants of the Mitsubishi.
7. After completing a U turn, Officer A activated the patrol car's warning lights to signal that she required the Mitsubishi's driver, Mr Dobson, to stop. Mr Dobson pulled his vehicle over to the side of the road and stopped just past the intersection of Manchester Street and Tuam Street. The patrol car then pulled up behind the Mitsubishi.
8. While Officer B radioed the Southern Communications Centre (SouthComms) to request a registration check on the Mitsubishi, Officer A got out of the patrol car and walked forward to speak with the driver. Suddenly Mr Dobson accelerated heavily and sped away along Manchester Street, running a red light in the process. According to the surviving passengers, Mr Dobson ignored their pleas for him to pull over and stop.
9. Officer A quickly returned to the patrol car and began following the Mitsubishi with warning lights and siren activated. The Mitsubishi was already several hundred metres ahead of the patrol car.
10. Meanwhile Officer B advised the SouthComms dispatcher that the vehicle had failed to stop and they were in pursuit; he also advised the location, direction of travel and that the driver of the Mitsubishi had run a red light.
11. Police pursuit policy requires that once a pursuit has been commenced, the communications centre dispatcher must give the warning, *"If there is any unjustified risk to any person you are to abandon pursuit immediately, acknowledge."* In this pursuit the dispatcher immediately gave the warning and Officer B acknowledged it. In the same transmission, Officer B also advised SouthComms that they were driving a 'category A' vehicle and that Officer A was a 'gold class' driver.
12. At the intersection of Manchester Street and Moorhouse Avenue, Mr Dobson lost control of the Mitsubishi as he attempted to make a right turn. The car slid through a traffic light pole and then crashed sideways into a concrete street light pole. The major impact of the crash was on the left side of the vehicle, where Mr Smiler was seated.
13. Officers A and B saw the tail lights of the Mitsubishi turn right into Moorhouse Avenue, but were too far behind to witness the vehicle crash.

² See clause 7.1 of the Land Transport (Road User) Rule 2004 – "Riding dangerously".

14. Witnesses to the accident confirmed that the Mitsubishi appeared to be driving excessively fast (at an estimated speed of 70-80 kph), and that there was some distance between it and the Police car when it crashed.
15. As soon as they came upon the crash scene, Officer B radioed SouthComms advising of the crash and called for the emergency services to attend. Officers A and B assisted the passengers in the car for a few minutes until the ambulances arrived.
16. The pursuit had lasted approximately 30 seconds over a distance of 550 metres.
17. Mr Smiler died at the scene, and Mr Dobson and Ms Magon died in hospital from their injuries several weeks later. The other passengers suffered various injuries that were not life-threatening.

Crash analysis

18. Manchester Street and Moorhouse Avenue are multi-laned roads in central Christchurch with excellent sealed road surfaces and street lighting. The speed limit for these roads is 50 kph. At the time of the crash, the weather conditions were cold and overcast, and the road was wet from earlier rain. Due to the time of night, there was only light traffic.
19. An independent vehicle inspector found that the Mitsubishi's rear tyres had little or no tread, which would have contributed to the loss of traction when the vehicle was driven at speed on a wet road.
20. The crash investigator determined that the most likely causes of the crash were: the speed at which the vehicle was driven, the tyre defects, and the alcohol impairment of the driver.

Tama Dobson

21. Mr Dobson had an extensive list of criminal convictions, including driving under the influence of alcohol. He was an unlicensed driver and had been forbidden to drive by Police, since June 2000, until he gained a current New Zealand driver licence. He had four outstanding warrants for his arrest, and was aware that Police were searching for him in relation to these warrants.
22. Blood taken from Mr Dobson approximately three and a half hours after the crash was found to contain 118 milligrams of alcohol per 100 millilitres of blood³. The legal blood

³ The blood was taken from Mr Dobson after he had been given two litres of saline. Given this fact, and the three and a half hour time delay, Mr Dobson's blood alcohol reading would have been significantly higher at the time of the crash.

alcohol limit for a driver in New Zealand aged 20 years and over is 80 milligrams per 100 millilitres.

Cause of death

23. A Pathologist concluded that the cause of Mr Smiler's death was *"high energy impact injury to head and chest organs indicative of road vehicle crash"*. Mr Dobson and Ms Magon both died due to severe traumatic brain injuries.

LAWS AND POLICIES

Legislative authority for pursuits

24. 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

25. 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

26. 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."*
27. The driver of a Police vehicle has the primary responsibility for the initiation, continuation and conduct of a pursuit. Further, before commencing a pursuit an officer is required to first undertake a risk assessment. The driver must then determine whether the need to immediately apprehend the offender is outweighed by the potential risks of a pursuit. If there is no need to immediately apprehend the offender, or the risks are too great, the pursuit must not be commenced.

THE AUTHORITY'S FINDINGS

Commencement of pursuit

28. Mr Dobson was driving a vehicle that was overloaded with passengers. Officer A and Officer B were empowered to stop Mr Dobson and speak to him for traffic enforcement purposes.
29. Mr Dobson initially complied when the officers signalled for him to pull over to the side of the road. He then decided to flee, which prompted Officer's A and B to begin a pursuit.
30. Officer A considered the risks of conducting the pursuit. In a statement she said:

"There was no pedestrian traffic that I could see. I didn't recall initially seeing any traffic on the road. The weather was fine but the road was damp drizzle. The road was in good condition. I decided to follow the vehicle."

31. Officer A and the patrol vehicle were certified to conduct pursuits under the Police Professional Driver Programme. Officer A was a 'gold' rated driver.

FINDING

The officers complied with the law and Police policy in commencing this pursuit.

Communication

32. Officer B immediately notified SouthComms that the Mitsubishi had failed to stop, and confirmed that they were in pursuit. He also provided the dispatcher with details about the speed and direction of the offending vehicle.
33. The dispatcher then gave the officers the safety warning required under the pursuits policy (see paragraph 11). Officer B acknowledged this warning and told the dispatcher that the driving classification was "A vehicle, Gold Class driver".

FINDING

Officer B complied with the pursuit policy in respect of communication.

Speed and manner of driving

34. The Police car's warning lights and siren were activated during the pursuit, and the maximum speed reached by the officers was estimated to be 70-80 kph.
35. The Police car was still several hundred metres behind the Mitsubishi when it crashed.

FINDING

Officers A and B complied with the pursuit policy in relation to speed and manner of driving.

Ongoing risk assessment/abandonment

36. The pursuit only lasted for approximately 30 seconds. There was no opportunity for the officers to reassess the risk factors involved or consider abandoning the pursuit before they discovered that the Mitsubishi had crashed.

FINDING

Due to the short duration of the pursuit, there was no opportunity for the officers to comply with pursuit policy in respect of ongoing risk assessment and abandonment.

CONCLUSIONS

37. Police complied with policy, insofar as they were able, during this short pursuit.
38. Pursuant to section 27(1) of the Independent Police Conduct Authority Act 1988, the Authority has formed the opinion that none of the actions of the officers involved were contrary to law, unreasonable, unjustified, unfair or undesirable.
39. The Authority makes no recommendations pursuant to section 27(2) of the Act.



HON JUSTICE L P GODDARD

CHAIR

INDEPENDENT POLICE CONDUCT AUTHORITY

DECEMBER 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 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 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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