

Summary Report

Serious injuries following the pursuit of a fleeing motorcycle rider

INTRODUCTION

1. At 2.08pm on Sunday 13 October 2013, the male rider of a Harley Davidson motorcycle lost control, hit a lamp post and crashed down an embankment while fleeing from Police between Upper Hutt and Whitby, Porirua. The fleeing rider was seriously injured.
2. The fleeing rider was pursued by Officers A and B, who are experienced members of the Wellington District Road Policing Group. Both officers were in unmarked Police cars and experienced significant radio difficulties during the pursuit.
3. The pursuit covered a distance of approximately 13km and took just over 7 minutes. Most of the pursuit took place in a 100kph speed zone.
4. 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

Police communication

5. The nature and configuration of Police radio communications had a significant influence on this incident. The following paragraphs set out an explanation of the communication factors that impacted on this pursuit.
6. The majority of this incident took place along State Highway 58 (SH58) which connects Upper Hutt with Porirua to the west. From a communications perspective it was controlled by the Police Central Communications Centre (CentComms).

7. SH58 is known by Police to have limited coverage from the Police radio network. This is partly because SH58 is located at the intersection of the Hutt and Mana Police radio channels,¹ and is also due to the hilly terrain interfering with the radio signal. Police field staff moving through the area will experience breaks in clear radio communication when a Police car's radio moves in and out of coverage range of the radio channel they are tuned to.
8. When driving along SH58, officers are required to manually switch the radio in their Police car from one channel to the other. A few seconds when no one is transmitting on the new channel is required for the radio unit to successfully link to the new radio channel.
9. Since this incident occurred, the Authority has been advised by the New Zealand Police Information and Communications Technology Service Centre that officers travelling from Upper Hutt to Porirua along SH58 should ideally change channel at the summit of Haywards Hill in order to maintain good radio contact with CentComms. However, the Authority understands that field and communication staff had not been advised of this at the time of the pursuit.
10. The Wellington region uses the Police trunked digital radio network². This only permits one user to successfully transmit on a radio channel at one time. If a radio user attempts to transmit a message when the channel is busy, they will hear a "busy" signal. This is standard with all trunked digital radio networks.

Radio transmitters

11. Each Police radio channel is supported by a number of radio transmitters located around the Wellington region. The Normandale and Mount Climie radio transmitters support the Hutt radio channel. The Colonial Knob and Pukerua Bay transmitters supported the Mana channel at the time of this incident.
12. Police car radios are constantly searching for the strongest radio transmitter signal. As a Police car's radio moves out of a particular radio channel's coverage area, the strongest signals will be offered by transmitters that do not support that radio channel. The Police car's radio cannot receive transmissions from these transmitters unless the Police car's radio unit has been manually adjusted to transmit on the new radio channel.

Radio difficulties experienced by Officers A and B

13. The two officers involved in this pursuit, Officers A and B, had poor radio contact with CentComms and each other during this incident.

¹ The Police radio channels in the Wellington region have been reconfigured since this incident. Kapiti-Mana and Wellington communications are now on the same radio channel. The Mana radio channel is now referred to as the Wellington-Kapiti-Mana channel.

² A trunked radio network is a complex type of computer-controlled two-way radio system that allows sharing of relatively few radio frequency channels among a large group of users

14. Officer A's Police car radio was on the Hutt radio channel and using the Normandale radio transmitter at the start of this incident³. Officer A remained on the Hutt radio channel throughout the pursuit.
15. The New Zealand Police Information and Communications Technology Service Centre provided an Authority with a log of the radio activity from Officer A and B's vehicles.
16. The radio log shows that Officer A's Police car radio made several attempts to move from the Normandale radio transmitter to other transmitter sites in order to acquire a better signal, probably due to the increasingly poor coverage from the Normandale transmitter. Officer A's radio experienced several outages associated with these transmitter searches.
17. Radio logs show that Officer A made at least two attempts to contact CentComms which failed because the dispatcher was transmitting at the time (see paragraph 10).
18. Officer B's Police car radio was on the Hutt radio channel and using the Mount Climie radio transmitter at the start of this incident. The radio also made attempts to search for a more usable transmitter before Officer B switched his radio to the Mana radio channel.
19. The radio log shows that Officer B attempted but failed to contact CentComms multiple times before and after switching to the Mana radio channel when he reached a straight section of road at Judgeford. These attempts are likely to have failed because his radio was seeking a more usable transmitter or other people were already speaking at the times when Officer B attempted to contact CentComms.

Summary of events

20. At about 2pm on Sunday 13 October 2013, Officer A was parked in his unmarked category B patrol car on the side of the northbound lanes of State Highway 2 (SH2) in Lower Hutt, approximately two kilometres south of the intersection with SH58. The traffic was very light and the weather was fine.
21. Officer A is a member of the Wellington District Road Policing Group, and was operating a radar speed detector at the time.
22. Officer A saw the headlights of two motorcycles approach at speed from behind him in his wing and rear view mirrors. Both motorcycles were in the outside lane, but the motorcycle closest to the wire median barrier accelerated away from the other. Officer A's radar detected that the speed of this motorcycle was 124kph in a 100kph zone.
23. Officer A immediately activated his red and blue lights and pulled out onto SH2 to follow both motorcycles. The motorcycle which Officer A had detected accelerated again, while the other slowed and moved into the inside lane. Officer A activated his siren and moved into the outside lane behind the accelerating motorcycle, indicating for it to pull over and stop.

³ Neither field nor communications staff are aware which radio transmitter a Police car radio is using at a particular time.

24. Officer A could not identify the rider of the motorcycle. The rider wore a black helmet, sunglasses and black clothing with no distinctive markings.
25. Officer B, another member of the Wellington District Road Policing Group, had parked his unmarked category B patrol car a few hundred metres to the north on SH2. He was also operating a radar speed detector.
26. Officer B's radar detected the same motorcycle travelling at speed; he activated his lights and siren and pulled onto the road behind Officer A's vehicle.
27. At 2:01:54pm Officer A radioed CentComms on the Hutt radio channel and advised the dispatcher that he had *"a motorcycle failing to stop northbound approaching Haywards."* Haywards Hill describes SH58, which connects Upper Hutt with Porirua to the west.
28. The dispatcher on the Hutt radio channel acknowledged Officer A at 2:02:09pm and provided the warning contained in the Police fleeing driver policy *"if there's any unjustified risk to any person you abandon immediately, acknowledge?"* Officer A acknowledged and told the dispatcher that he would try to get the motorcycle's number plate. Officer A's intention was to abandon the pursuit if he could obtain the registration details, as having these details meant he could follow up with the rider at a later time.
29. Officer A says he also advised CentComms that he was a Gold class driver and was driving a category B car. Officer B recalls hearing this radio transmission, however it is not recorded on the CentComms audio recording.
30. At 2:02:22pm as they approached the major intersection with SH58, Officer A reported that the motorcycle was travelling at 124kph and was *"now going over the Haywards."* Officer A managed to close to within 20 metres of the motorcycle, and radioed what he thought was the number plate to the dispatcher. However, when a vehicle check was conducted, it was found that the registration number did not match the model of motorcycle later reported by Officer A. These inconsistent details meant that ownership could not be verified and precluded Officer A following up at a later time.
31. As required by Police policy, Officer A conducted a risk assessment which included low traffic volumes, good weather and road conditions on approach to the intersection. Two cars were preparing to turn left on to SH58, using the dedicated free turning lane. Other vehicles were stopped at both northbound lanes by the traffic lights.
32. The motorcycle moved into the left-hand turning lane, slowed to approximately 30kph and turned left onto SH58, passing the two cars who were also turning left. Officers A and B followed slowly through the intersection, and the traffic pulled over so that both Police cars could pass them safely.
33. The motorcycle climbed Haywards Hill during which the rider passed traffic ahead by driving slowly over the edge of a raised traffic island and then passing two vehicles on the left. The rider then accelerated away at approximately 70kph and disappeared from view around a corner.

34. Officer A advised CentComms of his speed, that Officer B was behind him and that he was pursuing a Harley Davidson motorcycle with a single rider.
35. Officer A remained behind the traffic which the rider had already passed, travelling at a speed of approximately 60kph because he judged that it was not safe to pass. Officer A formed the belief that the rider of the motorcycle was experienced given the skill with which he was able to manoeuvre over the traffic island. Officer A did not know that the rider did not hold a motorcycle licence.
36. At 2:03.23pm the dispatcher on the Hutt channel informed Officer A that his radio signal was becoming unclear. Radio communication was then lost between the two Police vehicles and CentComms for approximately one minute.
37. During this time, the dispatcher on the Mana radio channel directed marked patrol units in Porirua to intercept the fleeing rider from the Porirua side of SH58.
38. Officer A caught up to the motorcycle which had been forced to slow down because of traffic in a temporary 70kph speed zone. The motorcycle overtook these vehicles by crossing the double yellow centre line. Officer A considered the increased risk to other road users from this manoeuvre and advised the Authority that he would have abandoned the pursuit had this manoeuvre been executed while there was oncoming traffic.
39. Officer A says that he attempted to advise CentComms of this manoeuvre but the radio signal was “jammed” and he could not get through. He could see Officer B talking into his radio in his rear view mirror.
40. Officer A was not able to pass this traffic safely until the cars pulled over at the intersection with Harris Road, approximately 4.5 kilometres from the beginning of SH58 at Upper Hutt. However, he was able to see the motorcyclist travel through the s-bends in the road ahead of him at approximately 80kph.
41. Officer A next saw the motorcycle when it had reached the bottom of the Haywards Hill and was performing another overtaking manoeuvre by crossing double yellow lines into the passing lane on the wrong side of the road. Again, since there was no oncoming traffic, Officer A decided not to abandon the pursuit.
42. At 2:05:36pm despite the poor radio reception, Officer B successfully advised CentComms on the Hutt radio channel that they were passing the Judgeford golf course and that the motorcycle was approximately 100 metres ahead. Officer A’s earlier attempt to provide a location update on the same radio channel had not been received by CentComms.
43. At 2:06:01pm Officer B radioed Officer A on the Hutt radio channel to ask if he should take over the pursuit commentary. However, Officer A did not hear this radio transmission.

44. Seventeen seconds later the dispatcher on the Hutt radio channel directed Officer B to take over the commentary using the Mana radio channel because of the poor signal. Officer B acknowledged this direction and switched to the Mana radio channel at approximately 2:07:09pm. He remained in position behind Officer A's Police car. CentComms lost radio contact with both pursuing Police cars for 29 seconds.
45. As Officer A continued to follow the motorcycle towards the Pauatahanui roundabout, he assessed that the risk posed by the fleeing rider was now minimal because the motorcycle was now travelling consistently within its lane; and the road was straight with good visibility and was clear of traffic.
46. Officer B's radar speed detector was still operating and measured the motorcycle's speed at approximately 143kph. Officer B radioed this information to CentComms using the Mana radio channel. However, the transmission was not received by the dispatcher because the radio channel was busy.
47. At 2:07pm Officer A successfully contacted CentComms on the Hutt radio channel and advised that they were now approaching the Pauatahanui roundabout, and his speed was 139kph. Radio contact with both pursuing Police cars was again lost for another 20 seconds.
48. The rider of the motorcycle braked hard and drove directly across the centre of the grassed roundabout at about 40kph. Three other cars were on the roundabout but stopped for the motorcycle. The rider exited the roundabout to the left towards Porirua where the speed limit became 80kph.
49. Had the motorcycle turned right towards Pauatahanui village, Officer A had decided in advance that he would abandon the pursuit because of the risk to pedestrians and other motorists.
50. Officer A was able to drive around the roundabout which was now clear of traffic, and at 2:07:20pm confirmed the motorcycle's direction of travel with CentComms using the Hutt radio channel. Officer A advised that the motorcycle's speed was 85kph, and that he was following at 71kph.
51. Officer A continued to follow the motorcycle at a distance of approximately 100 metres behind the motorcycle. The dispatcher on the Hutt radio channel repeated a question to Officer A about whether there were any vehicles between him and the motorcycle, to which Officer A confirmed there was one. The dispatcher then asked about the motorcyclist's manner of driving. It is unclear whether Officer A received this radio transmission and if he attempted to respond; however the dispatcher did not receive a response. Radio contact with both pursuing Police cars was then lost for 31 seconds.
52. The motorcycle rider was able to increase the distance between himself and Officer A to approximately 700 metres by passing traffic ahead that Officer A judged it was not safe for him to pass.

53. Officer A saw the motorcycle take a left-hand turn at James Cook Drive, approximately 800 metres ahead of his position. He said that the rider slowed and took the corner with good control. Officer A realised that the pursuit was moving into a 50kph urban area and the risk level had therefore increased.
54. Officer A safely passed the vehicle in front of him and turned left to follow the motorcycle, but he could not see the motorcycle ahead of him. Officer A continued up the road to the first left-hand bend. He then saw a black helmet bouncing on the opposite side of the road.
55. Officer A continued a further 400 metres up the road in search of the motorcycle, performed a u-turn and came back down the hill. As he did so, he noticed that a lamp post on the left-hand side of the road had been smashed at the base.
56. Meanwhile, Officer B had also arrived at James Cook Drive, seen the helmet on the road and started looking for the rider. A member of the public told Officer B that the rider had crashed down a grassed bank beside a stream.
57. At 2:08:46pm Officer B advised CentComms on the Mana radio channel that the motorcycle had crashed and that the rider was breathing but unresponsive. Officer A advised CentComms of the crash on the Hutt radio channel eight seconds later. An off-duty registered nurse who happened to be nearby assisted with the injured man's care until an ambulance arrived.

The fleeing motorcycle rider

58. The 22 year old male rider was taken to Wellington Hospital with serious injuries, including a badly broken leg and severe damage to his left lung. He has advised the Authority that, as a result of his injuries, he has no memory of the pursuit.
59. The fleeing rider did not hold a motorcycle licence.
60. The fleeing rider was charged with dangerous driving and failing to stop for Police. He appeared before the Hutt Valley District Court on 1 December 2014 and was found guilty of both charges. He was disqualified from driving for 3 months and fined \$750.

Police involved

61. Both Officers A and B are experienced members of the Wellington District Road Policing Group. They are certified Gold status drivers which permits them to engage in pursuits. Both officers are familiar with SH58 and the associated radio issues.
62. The CentComms shift commander took the role of pursuit controller during this incident. He has more than 30 years of road policing experience, and is also familiar with the Wellington region's road and radio network.

Police investigation

63. The pursuit was reviewed by an Inspector at CentComms. The review concluded that the pursuing officers complied in most part with the Police fleeing driver policy. However, it found that Officer A should have advised CentComms of the reason for the pursuit sooner. Police were not to blame for the outcome of the pursuit.
64. The review was critical of the pursuit controller's decision not to abandon the pursuit, as required by the Police fleeing driver policy, when loss of radio contact with the pursuing units became sustained. The review also found that the risks associated with unreliable radio contact were compounded by the pursuit controller's attempts to move between the Hutt and Mana radio channels to maintain contact.
65. A Policy, Practice and Procedure investigation broadly agreed with the findings of the CentComms review and as a result the relevant officers were spoken to. No further action was deemed necessary.

Crash scene

66. An investigator from the Police Serious Crash Unit attended the crash scene. The crash investigator concluded that the fleeing rider failed to negotiate a sweeping corner, causing him to travel across the wrong side of the road and onto the pavement before crashing into a concrete lamp post.
67. The motorcycle did not have a current warrant of fitness. However, other than a worn rear tyre, there were no signs of damage to the motorcycle which would have contributed to the loss of control.

THE AUTHORITY'S FINDINGS

Commencement of the pursuit

68. Under section 114 of the Land Transport Act 1998, Officer A was justified in signalling the motorcycle rider to stop in order to speak to him about his excessive speed. The Police fleeing driver policy authorised Officer A to commence a pursuit when the rider failed to stop and attempted to evade apprehension.
69. The fleeing driver policy requires Police to conduct a risk assessment prior to commencing a pursuit.
70. Officer A was aware that traffic was light and road conditions were good, which minimised the risk involved in engaging in a pursuit. His initial intention was to only pursue the motorcycle for a short time, until he could read its number plate.
71. As discussed in paragraph 30, Officer A considered the number and position of motorists ahead of him as the pursuit travelled towards the intersection with SH58.

FINDING

Officer A complied with law and Police policy in commencing the pursuit.

Communications

72. Both officers' ability to communicate information to CentComms was significantly affected throughout the pursuit by difficulties with maintaining radio contact.
73. The Authority understands that this was due to a combination of factors:
 - the radio channel the Police car radios were operating on with respect to their location on SH58,
 - interference to the radio signal caused by the hilly terrain,
 - the level of radio traffic on a particular channel at a particular time.
74. Paragraphs 4 to 18 explain how Police radio operates in more detail, and how these factors impact on radio communication along SH58.

Cross-channel pursuit standard operating procedure

75. From Officer A's first radio communication provided at 2:01:54pm, it was apparent that the pursuit might proceed over Haywards Hill on SH58 where a change of radio channel from the Hutt to the Mana radio channels would be necessary. Twenty-eight seconds later, Officer A confirmed that the pursuit was "*going over the Haywards.*"

76. The Police standard operating procedure relating to cross-channel pursuits states that when control of a pursuit is to be passed from one radio channel to another, where practicable, the shift commander (who in most cases will be the pursuit controller) must direct the dispatchers involved to (amongst other things):
- pre-warn the units about the change of channel and which channel the pursuit will move to, ensuring the primary unit acknowledges the information
 - direct units that sustained loss of contact with Communications will necessitate abandonment of the pursuit
 - direct the primary unit to change radio channel when appropriate and receive acknowledgement that the unit is about to switch channels
 - ensure that the dispatcher on the new channel has immediate radio contact with the primary unit
 - ensure that the dispatcher on the new channel re-issues the pursuit warning.
77. In the Authority's view, the cross-channel pursuit standard operating procedure was not followed to the extent practicable by the pursuit controller during this pursuit.
78. There were opportunities early on in the pursuit, before radio communication was lost with Officers A and B, for the pursuit controller to ensure that the officers were aware that they would need to change to the Mana channel should the pursuit continue over Haywards Hill; and to remind them that sustained loss of radio contact would require the pursuit to be abandoned. Neither instruction was given to the officers despite the pursuit controller being familiar with the radio coverage issues and the network configuration in the area where the pursuit was taking place.
79. Radio contact with Officer A as the primary unit was lost before Officer A could be directed to change to the Mana channel, or control of the pursuit handed over to the dispatcher on the Mana channel in a manner consistent with the standard operating procedure.
80. The Authority accepts that at the time of this pursuit, neither Officer A nor the pursuit controller knew that ideally they should change from the Hutt to the Mana radio channel at the summit of Haywards Hill, as discussed in paragraph 9.

FINDINGS

The cross-channel pursuit standard operating procedure was not followed to the extent practicable during the pursuit.

Information communicated

81. The fleeing driver policy requires officers to notify CentComms when they commence a pursuit and to provide situation reports in a timely manner to enable the pursuit controller to make an independent assessment of the risks and manage the pursuit.
82. As required by policy, Officer A advised the CentComms dispatcher of the pursuit by stating “*got a motorcycle failing to stop northbound approaching Haywards.*” The dispatcher then acknowledged the commencement of the pursuit and provided the safety warning. Officer A’s sirens could be heard over the radio.
83. Officer A then provided timely information about the rider’s speed, make of motorcycle and direction of travel as the pursuit moved from SH2 onto SH58, until he lost radio contact with CentComms near the summit of Haywards Hill.
84. Officer A says that he attempted to advise CentComms on the Hutt radio channel that he was a Gold class driver driving a category B car. He also says that he attempted to advise CentComms about the fleeing rider’s passing manoeuvres and manner of driving across the Pauatahanui roundabout. This information was not received by CentComms and was not recorded in the CentComms audio recording. Due to the radio difficulties experienced, the Authority has not been able to establish whether Officer A attempted to transmit this information or not.
85. Officer B complied with Police fleeing driver policy by offering to take the pursuit commentary at Judgeford. Before this point in the pursuit, he says he had been unable to consistently see the motorcycle. Police policy requires the secondary police unit to provide the pursuit commentary when the primary unit is single-crewed, as in this case.

FINDING

The Authority accepts that Officers A and B each made numerous attempts to communicate risk factors to CentComms during the pursuit, in compliance with the Police fleeing driver policy. However, due to a variety of radio and communications issues, the majority of these transmissions were not received by CentComms.

Communications and consideration of abandonment of the pursuit

86. The fleeing driver policy requires Police to abandon a pursuit if at any stage the risk to the safety of the public and the Police outweighs the immediate need to apprehend the driver. The lead Police driver and pursuit controller are both authorised to abandon the pursuit.
87. The policy states that a pursuit must be abandoned if there is a sustained loss of contact between the primary and/or secondary units with Police Communications or the units fail to provide critical information to Police Communications in a timely manner.

88. During this pursuit, CentComms was out of contact with Officer A and Officer B for approximately 3 minutes and 30 seconds in total. The longest period of radio silence from the pursuing units was one minute, between the summit of Haywards Hill and Judgeford.

Officer A

89. Officer A told the Authority that he tried and failed multiple times to make radio contact with CentComms. During these attempts he would receive a signal which indicated that the channel was busy. He describes the radio communications that day as “*diabolical*.”
90. Officer A’s radio log shows that he made several unsuccessful attempts to contact CentComms, and the radio had significant outage periods while it was searching for and attempting to acquire service from a radio transmitter.
91. Officer A did not hear CentComms direct Officer B to take over the pursuit commentary at Judgeford, or to switch to the Mana radio channel. In addition, Officers A and B had no radio contact with each other.
92. Officer A says that he considered his lack of radio contact as part of the ongoing risk assessment but assumed that Officer B had taken over the commentary and was in radio contact with CentComms.
93. As described in paragraph 39, Officer A noticed in his rear view mirror that Officer B had his radio held up to his face and was talking a lot during the pursuit. He says it was “*obvious that he was getting through*,” and was undertaking the pursuit commentary. This, he believed, was why the radio channel was busy and why he couldn’t contact CentComms himself.
94. In fact, some of Officer B’s transmissions were not received by CentComms; and Officer B was not able to provide reliable commentary until he had changed to the Mana radio channel and the pursuit had passed the Pauatahanui roundabout approximately 12 kilometres after the pursuit commenced.
95. Even if Officer B had been in reliable contact with CentComms, Officer A was unable to receive the pursuit controller’s instructions via Officer B because the officers were unable to communicate with each other by radio.
96. The Authority’s view is that an officer should abandon their involvement in a pursuit if they themselves experience communication difficulties because the risks involved in continuing are too great, including missing important instructions and failing to communicate risk factors.
97. In this case, Officer A experienced sustained and repeated loss of contact with CentComms, and for this reason alone, the Authority finds that he should have discontinued his involvement in the pursuit.

Pursuit controller

98. It is the pursuit controller's responsibility to supervise the pursuit, coordinate the overall response and select and implement the appropriate tactical options. The Authority asked the pursuit controller why he decided to allow the pursuit to continue, given the difficulties in maintaining radio contact with the pursuing Police vehicles.
99. The pursuit controller said that his view at the time was that radio communication was subject to intermittent rather than a sustained loss.
100. Based on the information he had received from Officer A prior to losing contact, the pursuit controller believed that this was a low-risk pursuit, in which the situation was not changing so quickly as to warrant abandonment due to infrequent information updates.
101. However, as discussed in paragraph 84, the pursuit controller did not receive the information that Officer A says he attempted to transmit regarding the motorcyclist's passing manoeuvres at the beginning of SH58. The pursuit controller later told the Authority that had he been aware of the manoeuvres performed by the rider, his risk assessment would have altered and it is unlikely that he would have allowed the pursuit to continue.
102. By the time the pursuit was approaching Whitby and radio communications were still intermittent, the pursuit controller was waiting for the units to come back on the radio so he could order them to abandon. The crash occurred before he could issue this order.
103. The Authority's view is that there was a sustained loss of radio contact during the pursuit which meant that the pursuit controller could not receive the information he needed to make an independent, objective assessment of the pursuit risks. Consequently, the Authority finds that the pursuit controller should have decided to abandon the pursuit and attempted to communicate this decision when it was clear that radio contact with the pursuing units was consistently unreliable.
104. The fact that the pursuit was spread across two radio channels simultaneously also meant that important information may have been lost or missed by communications staff or the attending patrol units.

FINDINGS

Officer A should have abandoned his involvement in the pursuit when it became apparent that he was unable to maintain radio contact with CentComms.

The loss of radio contact during this pursuit was sustained and repeated. The pursuit controller should have therefore have decided to abandon the pursuit as required by Police policy.

Police speed and manner of driving

105. The Police fleeing driver policy requires officers to drive in a manner that prioritises public and Police safety. In accordance with the policy, Officers A and B kept their patrol cars' warning lights and siren activated at all times during the pursuit.
106. The speed zone for the majority of the pursuit was 100kph. Officer A's maximum speed was approximately 139kph during a flat, straight section of road at Judgeford. Officer B also estimates that he reached a maximum speed of 140kph in this section of road. The Authority is satisfied that it was justified in the circumstances because there was no other traffic, and the road conditions were good.
107. Both Officers A and B kept their speed close to the speed limit as they drove through the reduced speed zones after the Pauatahanui roundabout.
108. Officers A and B drove slowly and carefully through intersections, and did not overtake other traffic until it was safe to do so. Officer A maintained sufficient distance between his Police vehicle and the motorcycle so that he could both react to hazards and ensure that other possible road users were alerted to the pursuit.

FINDING

Officers A and B complied with the fleeing driver policy in respect of their speed and manner of driving.

SUBSEQUENT POLICE ACTION

109. As discussed in paragraph 9, the Authority has been advised by Police since this incident occurred that officers travelling from Upper Hutt to Porirua along SH58 should ideally change channel at the summit of Haywards Hill in order to maintain good radio contact with CentComms.

CONCLUSIONS

110. The Authority has concluded on the balance of probabilities that:

110.1 Officer A complied with law and Police policy in commencing the pursuit.

110.2 The cross-channel pursuit standard operating procedure was not followed to the extent practicable during the pursuit.

110.3 The Authority accepts that Officers A and B each made numerous attempts to communicate risk factors to CentComms during the pursuit, in compliance with the Police fleeing driver policy. However, due to a variety of radio and communications issues, the majority of these transmissions were not received by CentComms.

110.4 Officer A should have abandoned his involvement in the pursuit when it became apparent that he was unable to maintain radio contact with CentComms.

110.5 The loss of radio contact during this pursuit was sustained and repeated. The pursuit controller should have decided to abandon the pursuit as required by Police policy.

110.6 Officers A and B complied with the fleeing driver policy in respect of their speed and manner of driving.

111. A lack of awareness of the factors that affect the quality of radio communication in the area around SH58, and misconceptions about how the police radio network operates more generally, significantly contributed to the failure of the officers involved to manage this pursuit appropriately.

112. Pursuant to section 27(2) of the Act, the Authority recommends that the Commissioner of Police:

112.1 Ensure all field and communication staff are aware of the cross channel pursuit standard operating procedures.

112.2 Review the communications training provided to field and communications staff to ensure that:

112.3 All field staff have a reasonable understanding of how the Police radio network operates in practice, with specific emphasis on the digital radio network.

112.4 All field staff are aware of the obligation to abandon a pursuit when experiencing sustained loss of radio contact

112.5 Field and communication staff operating in Wellington Police District are made aware of the factors which contribute to poor radio coverage along SH58, and the operating procedures which will mitigate these factors.

- 112.6 Assess the benefits and costs of various options for improving the availability of immediately accessible information to communications centre staff about radio channel boundaries.
- 112.7 Review the operation of Police car radios in the vicinity of SH58 with respect to their selection of appropriate radio transmitters.

ONGOING DISCUSSIONS WITH POLICE

113. As expressed in other reports, the Authority wishes to confirm that it is working with Police on a process of discussing and improving 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. This process is well advanced.



Judge Sir David Carruthers

Chair
Independent Police Conduct Authority

16 December 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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