



IPCA

Independent Police
Conduct Authority

Mana Whanonga Pirihimana Motuhake

Police officer justified in signalling stolen car to stop before serious crash

1. In the early hours of the morning on 22 October 2022, a stolen Toyota Aqua was driven through a red light in the Christchurch City area and collided with a motorist driving through the intersection on a green light. The impact of the collision was such that it caused a rear seat passenger in the Aqua to be ejected from the vehicle, causing life-threatening injuries. The other motorist was uninjured.
2. Prior to the collision, the Aqua had been driven in convoy with two other stolen Toyota Aqua cars. The Aqua driver then drove onto Stanmore Road from Swanns Road without stopping, colliding side-on with a Police dog van that was traveling through the intersection in search of the stolen cars. After the impact the Aqua driver accelerated at speed south on Stanmore Road, followed by the driver of the dog van (Officer A) who activated the dog van's siren and blue and red flashing lights.
3. When the Aqua driver approached the intersection with Gloucester Street, she drove through a red light at high speed, which is where the collision with the other motorist occurred.
4. Police notified us of the incident as required by section 13 of the Independent Police Conduct Authority Act 1988.¹ We conducted an independent investigation into the actions of Officer A leading up to the crash and whether those actions were in accordance with Police Fleeing Driver Policy.

¹ Section 13 says: "Where a Police employee acting in the execution of his or her duty causes, or appears to have caused, death or serious bodily harm to any person, the Commissioner shall as soon as practicable give to the Authority a written notice setting out particulars of the incident in which the death or serious bodily harm was caused."

The Authority's Findings

Issue 1: Was Officer A's decision to signal the Aqua driver to stop reasonable in the circumstances?

Officer A's decision to signal the Aqua driver to stop was reasonable in the circumstances.

Issue 2: Were Officer A's actions reasonable after he deactivated his lights and siren?

Officer A's actions after deactivating his lights and siren were reasonable.

ISSUE 1: WAS OFFICER A'S DECISION TO SIGNAL THE AQUA DRIVER TO STOP REASONABLE IN THE CIRCUMSTANCES?

When did Officer A first see the stolen vehicles?

5. Overnight on 21 October 2022, three Toyota Aqua cars were stolen from different areas in Christchurch. The vehicles were stolen by a group of young people who travelled at speed and in convoy around the streets of Christchurch. Although the identity of the occupants was not known, there had been a spate of recent Aqua thefts involving young people.
6. At 3.29am the convoy was seen travelling through Sockburn and was captured by CCTV cameras as they travelled through various intersections.
7. At 3.41am the cars were sighted by Officer A, a Police dog handler, at the intersection of Bealey Avenue and Montreal Street. Here, one of the stolen cars did a U turn, so Officer A decided to follow the other two. Officer A remained at a distance and did not activate the dog van's flashing lights or siren.
8. From our analysis of the CCTV footage, we are satisfied that Officer A did not initiate a pursuit at this time. At the intersection of Bealey Avenue and Fitzgerald Avenue, he was about 20 seconds behind them. Here, he lost sight of the vehicles and began patrolling in search of them.

How did the collision between Officer A's Police dog van and the Toyota Aqua occur?

9. As Officer A was driving slowly south along Stanmore Road through the Swanns Road intersection, one of the Aquas drove out of Swanns Road and made a left turn without stopping, colliding with Officer A's dog van. The cause of that collision is described variously by Officer A and the young people in the Aqua.
10. Officer A told us that the Aqua came out of Swanns Road and hit his dog van on the left front side, following which he transmitted on his radio "*Comms he's taken me out*". When we interviewed Officer A, he conceded that this collision may not have been deliberate on the part of the Aqua driver, but he was adamant that it was the Aqua that hit his vehicle, and not the other way round.

11. When this collision occurred, Officer B was in another patrol car on Stanmore Road, about 100 metres behind Officer A and driving in the same direction. Officer B saw the Aqua drive out of Swanns Road without stopping and collide with Officer A.
12. At the same time, a resident on Stanmore Road, Mr X, was standing on his balcony with an unobstructed view of the intersection about 40 metres away. Mr X did not see the impact between the two vehicles, but he confirmed the Aqua drove out of Swanns Road without stopping, causing Officer A to swerve his dog van to the right.
13. Although Mr X did not see the vehicles collide at that point, he did see the impact as they drove past his property. He said that as Officer A was manoeuvring back into his lane, the Aqua driver deliberately veered to the right, causing the Aqua to collide with the left front of Officer A's dog van.
14. Mr X said Officer A then activated the dog van's lights and siren and the last he saw was the dog van following the Aqua on Stanmore Road as it went through the intersection with Avonside Drive.
15. We also interviewed the four young people who were in the Aqua. Their ages ranged from 10 to 15 years at the time of this incident. The Aqua driver said it was Officer A who rammed *them* as they drove out of Swanns Road. The front seat passenger said there was no impact between the vehicles at all, whereas a back seat passenger said Officer A rammed them 4 or 5 times.
16. The damage to the dog van (left front) is consistent with the Aqua turning into the path of the dog van but is not sufficient on its own to prove that this is how the collision occurred. It was not possible to examine the Aqua as it was too damaged after the serious collision that followed.
17. However, from our analysis of the evidence, including all accounts, it is clear that the Aqua turned left from Swanns Road into Stanmore Road without stopping and into the path of Officer A. The impact that occurred between the vehicles at that point is described variously, but we prefer the accounts of Officers A, B and Mr X. The accounts provided by the young people are inconsistent with each other and not supported by the evidence. We must therefore treat their evidence as unreliable.
18. We are satisfied that after the initial collision at the intersection of Swanns Road and Stanmore Road, there was a second collision as the vehicles drove past Mr X's property. Mr X's balcony is very close to the road and Mr X had a bird's eye view as they drove past. He described the Aqua driver deliberately swerving into Officer A's dog van as they drove past, although this was denied by the Aqua driver. On this point, Officer A told us he could not specifically recall being rammed when passing Mr X's property, but he believed there may well have been contact between the two cars as he manoeuvred to get back into his lane. We accept Mr X's account that the Aqua driver collided with the dog van as it passed his property, whether that was deliberate or not.
19. After the vehicles collided outside Mr X's property, Officer A activated the dog van's lights and siren and signalled the Aqua to stop as it accelerated along Stanmore Road and through the Avonside Drive intersection. This is the last Mr X saw of the cars as he became distracted. The

next thing he recalls is hearing the crash at the intersection of Stanmore Road and Gloucester Street.

20. The time between Officer A transmitting that he had been 'taken out' by the Aqua and the crash at the intersection of Stanmore Road and Gloucester Street, was about 24 seconds. It is Officer A's actions during these 24 seconds that is under investigation.
21. When asked about his options after being rammed, Officer A said they were finely balanced between attempting to stop the Aqua driver and doing nothing. He said he knew the Aqua was stolen and, when the Aqua driver collided with his dog van, he decided to take the opportunity to signal it to stop and apprehend the young people. He says he chose this option in the knowledge that he would not pursue if the Aqua driver failed to stop.
22. The Police Fleeing Driver Policy states that the decision to signal a driver to stop (or to commence a pursuit) must be justified by a continuous threat assessment which must balance the threat posed by the vehicle occupants; the necessity to immediately apprehend the driver and/or passengers; and the risk of harm to any person if the driver fails to stop.
23. The Aqua was one of three that had been stolen that evening, travelling in convoy before they were sighted by Officer A. One of the Aqua drivers had earlier been seen to run a red light, thus indicating a readiness to drive dangerously.
24. The decision whether or not to signal the driver to stop in the circumstances was finely balanced. However, in the end, our view is that it was reasonable in the circumstances for Officer A to do so.

FINDING ON ISSUE 1

Officer A's decision to signal the Aqua driver to stop was reasonable in the circumstances.

ISSUE 2: WERE OFFICER A'S ACTIONS REASONABLE AFTER HE DEACTIVATED HIS LIGHTS AND SIREN?

25. After the vehicles had passed through the Avonside Drive intersection, it became clear to Officer A that the Aqua driver was not going to stop, so he slowed the dog van and began to pull to the left while deactivating his dog van's lights and siren. In deactivating his dog van's lights and siren he said he also wanted to indicate to the young people that he wasn't pursuing.
26. The Aqua driver continued to travel at speed along Stanmore Road, running a red light at the intersection of Gloucester Street and colliding with another vehicle travelling through the intersection on a green light. The front seat passenger of the Aqua told us they were travelling at 110kph as they entered the intersection, as he could see this on the odometer situated in the middle of the dashboard.
27. The damage to the Aqua was extensive, causing one of the back seat passengers to be ejected out through the boot and to sustain life-threatening injuries. The other three young people managed to climb out of the vehicle and walk to the footpath.

28. Officer A's actions from the Avonside Drive intersection to the crash site at Gloucester Street are described variously. The Aqua driver (12 years old) said Officer A was "right behind us", and the passengers were yelling "you're gonna get locked up - go, go" and "floss the pig" (meaning 'get away from him'). The front seat passenger (10 years old) described Officer A as following very close "almost touching us", right up until the crash, and a back seat passenger (15 years old) described seeing Officer A about 50 metres behind at one stage but was not sure of the distance just before the crash.
29. Officer A said that the distance between the Aqua and the dog van was about 50m as they went through the Avonside Drive intersection (Mr X said it was about 4-5 car lengths and against a red light), but that distance increased as the Aqua driver accelerated and Officer A slowed the dog van. As the Aqua driver approached the intersection with Gloucester Street, Officer A estimated his distance behind was about 100m and he was in the process of slowing and pulling over to the left however he had not come to a stop. After the collision between the Aqua and the other motorist he reactivated the dog van's lights, travelled through the intersection, and stopped at the scene to give assistance to the young people.
30. CCTV footage from a nearby shop clearly shows the headlights of the Aqua and the dog van heading towards the Gloucester Street intersection. The dog van's flashing lights were deactivated, consistent with Officer A's account. The dog van's distance behind the Aqua as it enters the intersection is difficult to measure. Officer A estimates he was about 100m behind at this point, but it is not possible to validate this. However, the footage does confirm that the dog van was not as close to the Aqua as described by the young people.
31. We are satisfied that after passing through the Avonside Drive intersection, Officer A realised that the Aqua was not going to stop. He was aware the Gloucester Street intersection was approaching so he deactivated his lights and siren and began pulling to the left with the intention of stopping. However, the crash occurred before he had done so. As set out in paragraphs 28 to 30 Officer A's following distance behind the Aqua up to the crash is disputed and we are unable to assess that distance with any accuracy. Officer A denies following as close to the Aqua as the young people describe. It is difficult to gauge but not inconsistent with Officer A's estimate of 100 metres.
32. In our assessment the Aqua driver made the decision to drive dangerously and to flee from Officer A rather than stopping when signalled to do so, evidently encouraged by her passengers. Whilst Officer A's presence was a factor in the events that unfolded, it is not possible for us to link Officer's A's actions and the crash in any causative sense. Taking into account the dynamic nature of this incident, we consider his actions to have been reasonable in the circumstances.

FINDING ON ISSUE 2

Officer A's actions after deactivating his lights and siren were reasonable.



Judge Kenneth Johnston KC

Chair
Independent Police Conduct Authority

10 October 2024

IPCA: 22-15639

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.

We are not part of the Police – the law requires us to be fully independent. The Authority is overseen by a Board, which is chaired by Judge Kenneth Johnston KC.

Being independent means that the Authority makes its own findings based on the facts and the law. We do not answer to the Police, the Government or anyone else over those findings. In this way, our 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 and may choose to investigate:

- complaints alleging misconduct or neglect of duty by Police;
- complaints about Police practices, policies and procedures affecting the complainant in a personal capacity;
- notifications of incidents in which Police actions have caused or appear to have caused death or serious bodily harm; and
- referrals by Police under a Memorandum of Understanding between the Authority and Police, which covers instances of potential reputational risk to Police (including serious offending by a Police officer or Police actions that may have an element of corruption).

The Authority's investigation may include visiting the scene of the incident, interviewing the officers involved and any witnesses, and reviewing evidence from the Police's investigation.

On completion of an investigation, the Authority must form an opinion about the Police conduct, policy, practice or procedure which was the subject of the complaint. The Authority may make recommendations to the Commissioner.

THIS REPORT

This report is the result of the work of a multi-disciplinary team. At significant points in the investigation itself and in the preparation of the report, the Authority conducted audits of both process and content.



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