



Report on the fatal pursuit of Dion Martin on 31 May 2008

INDEPENDENT POLICE CONDUCT AUTHORITY

INTRODUCTION

1. On the night of 31 May 2008, 18-year-old Dion Martin crashed his Mitsubishi Mirage car into trees on State Highway 14, Dargaville, following a short Police pursuit. He died instantly.
2. As required under section 13 of the Independent Police Conduct Authority Act 1988, the Police notified the Authority of the pursuit. 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 approximately 10.35pm on 31 May 2008, Constable A, the sole occupant of a uniformed Police patrol, saw the Mitsubishi coming over the Northern Bridge on Grey Street, Dargaville.
4. The officer did a u-turn, with the intention of conducting a random breath-test of the driver. After seeing the Mitsubishi go through a stop sign, and clocking the Mitsubishi's speed at 79kph in a 50kph zone, he activated his lights and siren, did another u-turn, and followed the car as it accelerated along Jervois Street and onto State Highway 14.
5. Constable A radioed the Northern Communications Centre (NorthComms) to advise it of a 'failure to stop' and that a pursuit was being commenced, but could not get through. In the meantime, he followed the Mitsubishi, at speed reaching up to 180kph, for approximately 700 to 800 metres.
6. On his third attempt, the officer got through to NorthComms and advised that he had commenced a pursuit, giving his location and direction of travel and

stating that the car was travelling too fast for him to identify its registration number. He then advised: *"He's lost it Comms, he's lost it..."*.

7. The operator gave the following warning required under the Police pursuits policy: *"If there is any unjustified risk to any person you are to abandon pursuit immediately. Do you understand?"*
8. The officer acknowledged the pursuit warning and asked for on-duty sergeant as the car he was pursuing had crashed.
9. The Mitsubishi had lost control on a bend, crossed onto the wrong side of the road and crashed into a road sign, two large trees, and a post-and-wire fence. An ambulance was called. On its arrival the driver of the Mitsubishi, Mr Martin, was declared dead.
10. The pursuit lasted for approximately 31 seconds from the time Constable A was able to call it in. The officer estimated that when he got through to NorthComms his car was almost half way between the point where he started pursuing and the crash scene.
11. Constable A reported that his speed reached 180kph on the latter part of the straight. Just before entering the bend where the Mitsubishi crashed, his speed was either at 163 or 165kph.
12. A witness estimated that, at the time of the crash, the officer's car was 300 metres behind the Mitsubishi.
13. Apart from the pursuing police patrol, no other vehicle was involved or damaged and no other person was injured as a result.

Mr Martin

14. Mr Martin's identity was not known during the pursuit.
15. He had a full driver's licence and had no history of criminal or traffic convictions.
16. A friend later stated that she, Mr Martin and another friend had together consumed 30 bottles of beer between 5pm and 10pm and that she had taken his car keys from him as she considered that he was *"pissed"*. He later retrieved his keys and did a burn-out as he left her house.

Toxicology

17. Mr Martin's blood sample was found to contain 218 milligrams per 100 millilitres of blood, more than seven times the legal limit for a driver of his age.

Environment

18. The crash took place on a two-lane, two-way sealed highway which was wet from rain earlier in the night. The road surface is chip seal and was in good repair. The crash occurred as the highway veered left after a 1.5km straight.
19. During the pursuit, Constable A did not see any pedestrians and saw only one car travelling in the opposite direction.

Police crash analysis

20. The Mitsubishi had a current warrant of fitness and registration and was registered to Mr Martin.
21. Mr Martin's vehicle was so badly damaged that Police could not fully complete all of the tests necessary to determine whether any pre-existing defects might have contributed to the crash. The tests that were possible showed that there were no pre-existing defects in the suspension, steering and brakes.
22. The two front tyres were below the minimum tread of 1.5 millilitres and would therefore not pass a warrant of fitness.
23. Mr Martin was wearing his seat belt.
24. The investigator was not able to conclusively determine the Mitsubishi's speed at the time of the crash, but believed it to be in excess of 100 kph. The critical curve speed of the crash corner was calculated at 167 kph.
25. The investigator concluded that alcohol was clearly a factor in Mr Martin's crash.

Cause of death

26. A post-mortem examination of Mr Martin concluded that his death was the result of head injuries sustained in the crash.
27. An inquest into Mr Martin's death has not yet been held.

LAWS AND POLICIES

28. Under section 114 of the Land Transport Act 1988, Police are empowered to stop a vehicle for traffic enforcement purposes.
29. The Police pursuits policy requires an officer who commences a pursuit to undertake a risk assessment. This involves consideration of: speed and other behaviour of the pursued vehicle; traffic and weather conditions; the identity and other known characteristics of those in the pursued vehicle; the environment; and the capabilities of the Police driver and vehicle. The officer must then determine whether the immediate need to apprehend the offender outweighs the risk to the public, the occupants of the pursued vehicle and police.
30. The policy also sets out requirements for communication between the pursuing vehicle and the relevant Police communications centre, roles and responsibilities of all staff involved, tactics that may be used, and procedures for abandoning and restarting pursuits.
31. Under the policy, the driver of the Police vehicle has primary responsibility for the initiation, continuation and conduct of a pursuit, and the pursuit controller at the Police communications centre is responsible for coordinating the overall Police response.
32. Throughout a pursuit, police must continue to assess the risks involved, and they must abandon the pursuit if the risks to safety outweigh the immediate need to apprehend the offender.

THE AUTHORITY'S FINDINGS

Commencement of pursuit

33. Constable A and his patrol vehicle were appropriately classified to undertake pursuits under the Police Professional Driver Programme.
34. Mr Martin was signaled to stop for traffic infringements under 114 of the Land Transport Act 1988.
35. Prior to commencing the pursuit, Constable A considered the risks, including road and weather conditions, and formed the view that the level of risk was acceptable. The dispatcher was also satisfied that the appropriate risk assessment had been undertaken and the risk was acceptable.

FINDING

Based on section 114 of the Land Transport Act 1988 and on the Police pursuit policy, the officer was justified in commencing the pursuit.

Communication between the pursuing officer and NorthComms

36. Constable A reported that it took three attempts to get through to NorthComms to advise the commencement of a pursuit. He said that, as he tried to get through, he was cut off whilst other people were talking.
37. Once Constable A got through to NorthComms, both he and NorthComms complied with the policy's communication requirements. The crash occurred very soon after the officer got through.

FINDING

Police complied with the pursuit policy's communication requirements.

The pursuing officer's manner of driving

38. During the pursuit, Constable A reached a maximum speed of 180kph. He considered the presence of pedestrians and other vehicles, and also the terrain and conditions. Throughout, he was able to see the Mitsubishi travelling in the correct lane up ahead.
39. He believed that high speeds were "safe on the straights" but would become too dangerous once the highway became "windy and hilly" as it did about 2km past the crash scene. He did not anticipate that Mr Martin would have any difficulties negotiating the first bend.

FINDING

Constable A's excess speed was justified under the pursuits policy.

Oversight of the pursuit by NorthComms

40. NorthComms was involved in this pursuit for a very brief period before the crash. The dispatcher communicated appropriately with Officer A. There was no time to involve a pursuit controller.

FINDING

This pursuit was properly overseen by NorthComms to the extent possible given its short duration.

Consideration of abandonment

41. Constable A considered the risks throughout the pursuit and intended to abandon the pursuit if the Mitsubishi had not stopped before the highway became hilly.

FINDING

Constable A complied with the pursuit policy requirements for ongoing consideration of whether this pursuit should be continued or abandoned.

CONCLUSIONS

42. The pursuit complied with policy. There is no evidence of misconduct or neglect of duty on the part of the Police officers involved, and their actions did not cause Mr Martin's death.



Hon Justice L P Goddard

Chair

Independent Police Conduct Authority

July 2009

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 two 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 two investigating teams, made up of 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 can make findings and recommendations about Police conduct.



IPCA

Independent Police Conduct Authority
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