



Report on a fatal pursuit in Timaru on 9 February 2008

INDEPENDENT POLICE CONDUCT AUTHORITY

INTRODUCTION

1. At 3.35am on 9 February 2008 a Mitsubishi Galant crashed near Timaru following a Police pursuit. A passenger in the car, 18-year-old Vianne Shead, later died in hospital from injuries she sustained in the crash.
2. As required under section 13 of the Independent Police Conduct Authority Act 1988, the Police notified the 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 approximately 3.17am, in Church Street, Timaru, the Galant carrying six people was being driven by an 18-year-old male who was one of two registered owners.
4. A Police officer saw the Galant leave a carpark and activated the lights of his marked patrol car with the intention of stopping the car and breath testing the driver. The Galant initially appeared to pull over but then sped off. The officer advised the Southern Communications Centre (SouthComms) of a 'failure to stop' and that he was commencing a pursuit. He then activated the patrol car's siren.
5. The pursuit lasted for approximately 17 minutes over a distance of 26 kilometres. The occupants of the Galant later said that they told the driver to stop when initially required and had also repeatedly pleaded with him to pull over during the pursuit. He refused. The pursuit ended in a rural area when the driver lost control on a sharp bend (marked 35kph) and the car left the

road, went over a 15 metre bank and landed upside down in a field. At this point the patrol car was about a kilometre behind. The pursuing officer had lost sight of the Galant and did not realise it had left the road.

6. One of the occupants of the Galant rang for an ambulance. The ambulance service advised Police of the crash. Vianne Shead, who had been lying, unbelted, across the legs of the three rear-seat passengers, died at Timaru Public Hospital from the injuries she sustained. Another passenger sustained a serious neck and a shoulder injury; one sustained a moderate eye injury; and three suffered minor injuries.
7. The driver was charged with manslaughter, five charges of reckless driving causing death or injury, and failing to stop for red and blue flashing lights. He was convicted and discharged in relation to the failing to stop charge. The other charges have yet to be heard.

Relevant factors —pursued vehicle, pursued driver, road, conditions

8. The Galant was found to have no mechanical defects that would have contributed to the crash. It had a current warrant of fitness.
9. A breath test determined that the pursued driver, who had a restricted licence, had 150 micrograms of alcohol per litre of breath – the legal limit for a driver of his age. Since he was not over the limit, he was not charged with a drink driving offence. According to the pursuing officer, the Galant was being driven at speeds between 90 and 150kph in the 100kph area and between 80 and 90kph on the outskirts of Timaru, a 50kph area.
10. The roads over which the pursuit occurred largely had good surfaces (sealed secondary rural roads) but did at times include shingle roads. There was no street lighting but the weather was fine, dry and clear and there was no traffic.

LAWS AND POLICIES

Police pursuit policy

11. The Police pursuit policy requires an officer who commences a pursuit to undertake a risk assessment. This involves consideration of a range of factors, including speed and other behaviour of the pursued vehicle; traffic and weather conditions; the identity and other 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 risks to the public, the occupants of the pursued vehicle and Police.

Role of communications centres

12. Officers must inform the Police communications centre when they are commencing a pursuit and provide: a reason for the pursuit; their Police driver and vehicle classification (the latter requirement was introduced in October 2007); and information about the risk factors and the vehicle and driver being pursued. Communications centre staff must give the following warning: *"If there is any unjustified risk to any person you are to abandon pursuit immediately"*. The pursuing officer must acknowledge this warning.
13. Throughout a pursuit the pursuing officer must provide ongoing situation reports about the risk factors.
14. Pursuits are overseen by a communications centre dispatcher and by a pursuit controller who is usually the shift supervisor.

THE AUTHORITY'S FINDINGS

Commencement of pursuit

15. The officer pursued the Galant because the driver did not stop in order for a breath test to be conducted. The pursuing officer undertook the required risk assessment at the commencement of the pursuit and considered there was an acceptable risk. The pursuit controller was satisfied that the appropriate risk assessment had been undertaken and the risk was acceptable.

FINDING

The officer complied with the pursuit policy in commencing the pursuit.

The manner of driving by pursuing Police

16. According to the pursuing officer, for most of the time the pursued driver drove at speeds between 80kph and 130kph. The officer reduced his speed at intersections and roundabouts within Timaru and reduced his speed to 30 to 40kph over shingle roads. The officer made a conscious effort not to get closer than 50 metres to the Galant so as not to pressure the pursued driver.

FINDING

The pursuing officer complied with the pursuit policy insofar as it related to the manner of his driving.

Option of abandoning pursuit

17. The closest the pursuing officer got to the Galant was 50 metres and he was not aware of the number of occupants. The pursuit did not reach excessive speeds and occurred largely in a rural area in the early hours of the morning. The officer also provided sufficient information to the pursuit controller so that the controller could assess whether it was appropriate to abandon the pursuit.

FINDING

Both the officer and the pursuit controller believed that the immediate need to apprehend the offender outweighed the risks involved in continuing the pursuit, and considered the relevant factors in the pursuit policy when coming to this conclusion.

Other options available for safe termination of pursuit

18. Once the pursuit had commenced, the pursuit controller sought to deploy other units to specific cordon points in an attempt to box in the pursued vehicle. Due to the large rural area over which the pursuit took place, alternative methods to conclude the pursuit were not viable.

FINDING

The only option considered appropriate, that being to box the Galant in, was being implemented at the time of the crash.

Communication with SouthComms

19. The pursuing officer informed SouthComms when he commenced the pursuit, maintained radio contact throughout and provided situation reports at regular intervals. However, he did not fully articulate the reason for the pursuit. He stated that there was a 'failure to stop' but did not explain that it was a routine stop with the intention of breath testing the driver.
20. He did not advise his driver and vehicle classification. The officer was unaware of the October 2007 policy change requiring this information to be provided. He had not been trained or made aware of it – and SouthComms staff who were aware of it overlooked it.
21. The dispatcher should have prompted the pursuing officer for a specific reason for commencing the pursuit and for his driver and vehicle classification. In the absence of a specific reason for commencing the pursuit, the pursuit controller could have required its abandonment.
22. In addition, there was no discussion between the pursuing officer and SouthComms staff regarding the identity of the pursued driver. The pursuit

controller did a registered owner check but the information available was insufficient to determine the identity of the driver of the Galant.

23. Finally, when the officer lost sight of the Galant he should, in accordance with policy, have clearly informed SouthComms that he was abandoning the pursuit, as well as reducing his speed, stopping and deactivating his lights and siren.

FINDING

Neither the pursuing officer, nor SouthComms complied fully with policy in respect of the information requested and provided during the pursuit.

The responsibilities of the dispatcher and pursuit controller

24. The dispatcher maintained communication with the officer, gave the required warning, received acknowledgement of that, and received regular updates, which she sometimes prompted the officer to give. The pursuit controller took an appropriate oversight role, including the consideration of options for terminating the pursuit, continually assessing the risks and deploying other units to various locations.

FINDING

On the basis of the information available to SouthComms staff at the time, the pursuit was properly managed except in respect of the information requested and provided.

CONCLUSION

25. Although there were breaches of policy, these did not contribute to the outcome of this pursuit. The actions of the officers involved were lawful, and the decisions to commence and continue the pursuit complied with policy. There was no misconduct or neglect of duty on the part of any Police personnel.
26. SouthComms has since introduced an enhanced risk assessment procedure on the commencement of a pursuit, which aims to improve compliance with the pursuit policy.
27. The Authority expresses its sympathy to the family and friends of Ms Shead.

PURSUIITS REVIEW

28. The Authority is concerned that a pursuit arising from a routine failure to stop had such a tragic outcome. The Authority is conducting a review of Police pursuits with a particular focus on determining whether current pursuit policy provides sufficient guidance in respect of the justification for commencing and continuing a pursuit.



Hon Justice L P Goddard

Chair

Independent Police Conduct Authority

10 March 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 – one a former ombudsman and the other a former senior police officer.

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 may make findings and recommendations about Police conduct.



IPCA

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