



Report on the fatal pursuit of Peter Kotsifakis on 6 July 2008

INDEPENDENT POLICE CONDUCT AUTHORITY

INTRODUCTION

1. At approximately 2am on 6 July 2008 a car driven by Peter Kotsifakis crashed into a house on Vogel Street following a Police pursuit in Palmerston North. Mr Kotsifakis, aged 18, died instantly. He was the sole occupant of the car.
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 Authority's results of that investigation and the Authority's findings.

BACKGROUND

Summary of events

3. At approximately 2am on 6 July 2008, a two-man uniform Police patrol sighted a Toyota car being driven by Mr Kotsifakis on Featherston Street, Palmerston North.
4. The officers contacted the Central Communications Centre (CentralComms), which confirmed that the car had been reported stolen, and that the driver was wanted in relation to a serious assault earlier that night in which the female victim had suffered fractures to her face and other injuries. The car had also been reported to the Police after the driver had filled it with petrol at a service station and driven off without paying.
5. The driver of the Police patrol, Officer A, turned on the blue and red lights to signal for Mr Kotsifakis to stop, but he sped away.
6. The passenger in the Police vehicle (Officer B) immediately advised CentralComms of a 'failure to stop' and that a pursuit was being commenced. Officer A activated the siren.

7. The CentralComms 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?"* Officer B acknowledged the warning. He advised CentralComms that the patrol vehicle and Officer A, as driver, were classified for pursuits under the Police Professional Driver Programme. He also reported on road and weather conditions.
8. The pursuit lasted for approximately 1 minute and 4 seconds over a distance of 2.23 kilometres. The pursuit route was a straight road from the Roy Street/Featherston Street intersection to the Vogel Street/Featherston Street intersection. Featherston Street is one of the major arterial routes of Palmerston North.
9. Witnesses on the street estimated that, during the pursuit, the Toyota reached speeds of between 130kph and 160kph in a 50kph area. One witness saw the Police car 200m to 300m behind Mr Kotsifakis' car and estimated that the Police car was travelling at about 100kph. Another witness stated that the Police car was 25-30 seconds behind.
10. Officer B said that the Police pursuit speed was more than 50kph but less than 100kph, while Officer A said that the speed reached 120kph. Both officers said that Officer A slowed down considerably for intersections and roundabouts while Mr Kotsifakis continued to pull away. Based on the length of the pursuit (2.23km) and the duration (1 minute 4 seconds), the pursuing Police car averaged about 125kph throughout the pursuit. Given that the patrol car reduced its speed at intersections, there must have been times when its speed in pursuit was higher.
11. Mr Kotsifakis failed to stop at the 'T' intersection of Featherston Street and Vogel Street and crashed into a lamp standard. The car then hit a house on Vogel Street, entering the front bedroom where two people were asleep. They were badly shaken and received minor injuries. Children asleep in other rooms of the house were unhurt.
12. After striking the house, the car then crashed into a utility truck parked in the driveway and turned partially onto its side. It also caused damage to another vehicle parked in the driveway.
13. Immediately before the crash, Officer B had radioed CentralComms stating that the pursued vehicle was *"well ahead of us now"*, followed shortly afterwards by a statement that the pursued vehicle's lights had gone out.

Police crash analysis

14. The Police Serious Crash Unit investigator established that the Toyota had no mechanical defects that would have contributed to the accident. The investigator could find no evidence of pre-crash braking or evidence of vehicle travel across the grass berm outside the house. He found that the Toyota had struck the lamp standard at a height of 0.5 metres, indicating that the car was by then airborne. The investigator calculated that the Toyota's speed was between 101kph and 119kph at the time of the crash.
15. The investigator considered it possible that Mr Kotsifakis had been confused by vehicles parked in the house's driveway and believed that the road went straight on ahead.

Mr Kotsifakis' driving history

16. Mr Kotsifakis had a full driver licence. He had 35 current demerit points and had been issued infringement notices for being a restricted driver carrying an unauthorised passenger and exceeding 100kph in a posted speed limit area.

Environment

17. The road was wet but it was not raining at the time. The area was well lit with street lighting. There was no other traffic.

Cause of death

18. A post-mortem examination of Mr Kotsifakis concluded that his death was the result of head injuries sustained in the crash.
19. An inquest into Mr Kotsifakis' death has yet to be held.

Toxicology

20. Tests revealed no alcohol, medicinal or opiate type drugs in Mr Kotsifakis' blood and urine.
21. Officer A underwent an evidential breath test which returned a nil result.

LAWS AND POLICIES

22. Under section 317A of the Crimes Act 1961, the Police are empowered to stop a vehicle if there are reasonable grounds to suspect that an occupant of the vehicle is unlawfully at large or has committed an offence punishable by imprisonment. A vehicle may also be stopped in order to conduct a statutory

search (section 314B of the Crimes Act 1961), or for traffic enforcement purposes (section 114 of the Land Transport Act 1988).

23. 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.
24. 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.
25. 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.
26. 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

27. The pursuit commenced after Mr Kotsifakis was signaled to stop under section 317A of the Crimes Act 1961, police believing on reasonable grounds that he was wanted for an offence punishable by imprisonment.
28. According to the officers involved, prior to commencing the pursuit, they considered risks including road and weather conditions and formed the view that the level of risk was acceptable. The pursuit controller was also satisfied that the appropriate risk assessment had been undertaken and the risk was acceptable.
29. Although the identity of the driver was known, the officers said they believed they were duty bound to attempt to apprehend Mr Kotsifakis given the serious nature of his alleged offending.

FINDING

Based on section 317A of the Crimes Act 1961 and on the Police pursuit policy, the officers were justified in commencing the pursuit.

The pursuing officer's manner of driving

30. As noted in paragraph 10, the pursuing Police car averaged 125kph over the pursuit route. Such speeds will rarely be acceptable in a 50kph area. However, there are extenuating factors:

- it was 2am and the road was practically deserted;
- the pursuit route was a straight road;
- the pursuing vehicle was a two-person patrol, allowing the driver to fully concentrate on driving without having to radio CentralComms;
- the Police driver had local knowledge of the route including potential hazards;
- the serious nature of Mr Kotsifakis' offending;
- the Police patrol was not in close pursuit; and
- the Police driver drove with due care.

FINDING

Officer A complied with the pursuits policy in the manner of his driving.

Communication between the pursuing officers and CentralComms

31. In most respects, the Police complied with the communication requirements in the pursuit policy. However:

- Officer B did not fully articulate the reason for the pursuit;
- Officer B did not provide detail on the speed and manner of Mr Kotsifakis' driving sufficient to allow the pursuit controller to fully consider the risks involved in continuing the pursuit.

32. These failings must be considered in light of the short duration of the pursuit and the fact that CentralComms was aware of the circumstances prompting the decision to pursue.

FINDING

Police did not fully comply with the pursuit policy's communications requirements. However, the level of compliance was within appropriate limits given the short duration of the pursuit.

Oversight of the pursuit by CentralComms

33. Aside from the communications requirements referred to above, the pursuit controller took an appropriate oversight role.

FINDING

The Authority is satisfied that the pursuit was properly overseen by CentralComms.

The option of abandoning the pursuit

34. The pursuit controller considered abandonment when Officer B advised that the Toyota was well ahead, and stated later that he would have ordered the pursuit be abandoned if the officers had lost sight of the Toyota altogether. In the event, the officers did not lose sight of the Toyota until it crashed and its lights went out.
35. As noted in paragraph 31, the pursuing patrol should have given the pursuit controller more information about the speed of the pursuit. Had this information been given it may have prompted a decision by the controller about abandonment.

FINDING

Except in respect of information about speed, the officers complied with the pursuit policy requirements for ongoing consideration of whether the pursuit should be continued or abandoned.

CONCLUSIONS

36. The pursuit complied with policy in most respects. Although the speeds reached were higher than would normally be acceptable, and the communications requirements were not fully complied with, 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 Kotsifakis' death.

RECOMMENDATION

37. That CentralComms staff be reminded of the need to establish speed and manner of driving in the course of the pursuit.

PURSUIT REVIEW

38. The Authority is conducting a review of Police pursuits with a particular focus on determining whether current policy provides sufficient guidance in respect of the justification for commencing and continuing a pursuit.
39. The Authority continues to independently investigate all Police pursuits involving death or serious injury in line with current policy, as it has in this case.



Hon Justice L P Goddard
Chair
Independent Police Conduct Authority

April 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.



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