

Summary Report

Death of Steven Te Pania following a Police pursuit in Auckland

INTRODUCTION

1. At about 9.53pm on Friday 15 August 2014 Robert Pora lost control of his car and collided with another vehicle on Boundary Road in Auckland during a Police pursuit. Mr Pora's passenger, Stephen Te Pania, died as a result of the collision.
2. The Police notified the Independent Police Conduct 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.
3. The Authority completed its report in November 2014 but has delayed its publication until the completion of court proceedings involving Mr Pora.

BACKGROUND

Summary of events

4. In the evening of Friday 15 August 2014 Police were conducting an operation with an automatic number plate recognition (ANPR) camera on Puhinui Road in Papatoetoe.¹ Officers in two marked Police patrol cars were parked on Puhinui Road about 100 metres away from the ANPR camera, opposite Grayson Avenue.
5. Officers A and B were in one of these cars, a category A marked patrol car. Officer A, the driver, is a gold class driver certified as competent to engage in pursuits.
6. At about 9.50pm, as they were watching for a vehicle identified by the ANPR camera, Officers A and B saw a white Mitsubishi, driven by Mr Pora, overtake a vehicle at a speed they estimated to be about 80kph in a 50kph zone. Neither officer recognised Mr Pora or Mr Te Pania, nor did their identities become known to Police until after this incident.

¹ The ANPR camera sits on top of a Police van. It identifies and searches the number of plates of passing vehicles in the Police National Intelligence Application database to determine if the vehicle or driver is wanted by Police for any reason.

7. Due to Mr Pora's speed and manner of overtaking, Officers A and B decided to stop the Mitsubishi. They pulled onto Puhinui Road with the lights and sirens on their patrol car activated and accelerated to catch up to the Mitsubishi, now over 100 metres ahead.
8. Mr Pora continued to the Carruth Road intersection, about 600 metres from where he had passed Officers A and B, and proceeded through a green light. When they reached the intersection Officer A slowed down. Both officers noted that other vehicles at the intersection were stationary and there was no pedestrian traffic in the area. After the intersection Officer A accelerated to about 90kph to try to catch up to Mr Pora.
9. In an interview with the Authority, Officer A said that he did not at this point notify the Northern Communications (NorthComms) centre that they were following the Mitsubishi because drivers sometimes take a while to react to Police lights and sirens, and he wanted to give Mr Pora time to pull over. Officer B told the Authority that, *"he [Mr Pora] was so far ahead, and at that point I wasn't aware if he knew we were even there or not."*
10. Mr Pora continued on Puhinui Road at about 100kph in light traffic. As Mr Pora approached the Great South Road intersection, it became clear to Officer A that Mr Pora was not going to stop and he asked Officer B to notify NorthComms that the Mitsubishi was failing to stop and that they were in pursuit. Officer A said that before making this request he conducted a risk assessment, and took into account that there was light traffic, and good visibility and that Mr Pora had slowed down through the previous intersection. The weather conditions were dry.
11. At the intersection Mr Pora pulled out into the right-turn lane to overtake a vehicle driving in the middle lane. He then slowed down, re-entered the middle lane and crossed Great South Road against a red light. The officers were still about 100 metres behind Mr Pora at this point.
12. Officer B notified NorthComms that, *"We got a failing to stop travelling north, east on Reagan Road."* At the intersection Officer A entered the right-turn lane, slowed down and then crossed Great South Road at low speed. Cars on the left and right sides of the intersection were stationary. Puhinui Road becomes Reagan Road after the Great South Road intersection. The NorthComms dispatcher then responded *"Roger, go vehicle details and reason for failing."*
13. In relation to Mr Pora running the red light, Officer A told the Authority that he did not think it was necessary to abandon the pursuit based on this. He said that the traffic at the intersection had stopped, there was no further traffic in front of Mr Pora after the intersection, and other than his high speed he was driving well.
14. Mr Pora continued on Reagan Road toward the overbridge which crosses the State Highway 1 (SH1) southern motorway.
15. Officers A and B were about 100 metres behind Mr Pora, near the Meadowcourt Drive intersection, when he crossed the overbridge. They lost sight of the Mitsubishi at this point. At about the same time Officer B transmitted to NorthComms that, *"It's a Mitsubishi Legnum white coloured, he just hooned past us on Puhinui."* Officer B then said, *"He's still travelling east on Reagan."*

16. Reagan Road becomes Preston Road after the overbridge. Mr Pora continued onto Preston Road approaching the roundabout with Boundary Road. When the officers came over the apex of the overbridge Officer A could see the brake lights of the Mitsubishi about 200 metres away. Officer A said in an interview with the Authority that at this point he thought about abandoning the pursuit, but decided to wait until they reached the roundabout leading to Boundary Road to see if they could determine Mr Pora's direction of travel.
17. Mr Pora entered Boundary Road and after a short distance collided with a central road bollard. He lost control of the Mitsubishi before colliding with another vehicle near Israel Avenue, about 200 metres away.
18. As Officers A and B approached the roundabout the NorthComms dispatcher provided the pursuit warning that is required by Police policy, stating, *"Roger if there is any unjustified risk to any person you abandon this pursuit immediately, acknowledge."* Before Officer B could respond, the officers exited the roundabout and saw that the Mitsubishi had crashed. Officer B immediately notified NorthComms of the crash.
19. Both officers said that they then checked the occupants of the Mitsubishi and oncoming vehicle. About 35 seconds after Officer B notified NorthComms of the crash he requested over the Police radio for ambulances and the fire service to attend the scene.
20. Mr Te Pania died as a result of injuries he received in the crash. Mr Pora suffered severe injury and the driver of the other vehicle received minor injury.
21. The pursuit lasted about 52 seconds from the point that Officer B provided the fleeing driver notification to NorthComms. Officer A's maximum speed during the pursuit was about 100kph. The entire pursuit took place in a 50kph zone.

Robert Pora

22. At the time of the pursuit Mr Pora was disqualified from driving. As a result of this incident Police charged Mr Pora with manslaughter, reckless driving causing injury, driving under the influence of alcohol, failing to stop and driving while disqualified. On 4 March 2015 Mr Pora pleaded guilty to these charges.

THE AUTHORITY'S FINDINGS

Was Officer A justified in commencing urgent duty driving?

23. Police policy permits urgent duty driving when an officer would be prevented from apprehending a driver for a traffic offence (amongst other things) if required to comply with the traffic rules and regulations, for instance compliance with the speed limit.
24. Officers A and B were engaged in urgent duty driving for about one kilometre before they were in a position where they could signal Mr Pora to stop. The officers were justified in driving at speed as they were responding to Mr Pora's excess speed and manner of overtaking on Puhinui Road, and compliance with the 50kph speed limit in these circumstances would have prevented the officers from responding in a timely manner.

FINDING

Officer A was justified in commencing urgent duty driving.

Did Officer A comply with Police policy while urgent duty driving?

25. Under Police policy, the overriding principle of urgent duty driving is that, *"No duty is so urgent that it requires the public or Police to be placed at unjustified risk."* Officers must consider several factors when deciding to commence or continue urgent duty driving, including: the environment, the urgency of the situation, and whether warning devices should be used.
26. Officer A travelled at a maximum speed of 90kph on Puhinui Road, a 50kph zone, while urgent duty driving. Puhinui Road is long, straight, and in good condition, and there were few pedestrians in the area. Officer A said that at the time it was well lit, there was good visibility and only light traffic. He noticed that traffic at the Carruth Road intersection was stationary when the officers drove through.
27. As required by Police policy, Officers A and B had the emergency lights and sirens on their patrol car activated while urgent duty driving.

FINDING

Officer A complied with Police policy while urgent duty driving.

Commencement of the pursuit

28. Due to Mr Pora driving at 80–100kph in a 50kph zone, Officer A was justified under section 114 of the Land Transport Act 1998 in attempting to stop the Mitsubishi for traffic enforcement purposes and in order to speak to Mr Pora.
29. The Police fleeing driver policy authorised Officer A to commence pursuit after Mr Pora failed to stop and attempted to evade apprehension.
30. The fleeing driver policy requires Police to conduct a risk assessment prior to commencing a pursuit. As discussed above in paragraph 10, Officer A considered relevant risk factors before commencing pursuit and considered that the need to apprehend the driver of the Mitsubishi outweighed any risk involved in pursuing.

FINDING

Officer A was justified in commencing pursuit.

Communication

31. The fleeing driver policy requires an officer initiating a pursuit to notify the communications centre that they are in pursuit. When the officers approached the Great South Road intersection Officer B notified the NorthComms dispatcher of the pursuit, stating that, *“We got a failing to stop travelling north, east on Reagan Road.”*
32. Police policy requires the dispatcher to provide a safety warning at the commencement of a pursuit. In this instance, the dispatcher initially responded *“Roger, go details and reason for failing.”* Officer B provided the make and colour of the Mitsubishi, said that it had *“hooned past”* on Puhinui Road and gave its location and direction of travel. The dispatcher then provided the safety warning, saying, *“Roger if there is any unjustified risk to any person you abandon this pursuit immediately, acknowledge.”*
33. Before Officer B had time to acknowledge the warning, the officers reached the roundabout before Boundary Road and saw that Mr Pora had crashed. Officer B immediately notified NorthComms of the crash and a short time later requested that ambulances and fire attend the scene.

FINDING

In so far as they were able, Police complied with the fleeing driver policy in respect of communication during this short pursuit.

Police speed and manner of driving

34. The Police fleeing driver policy requires officers to drive in a manner that prioritises public and Police safety. Clause 11.18 of the Land Transport (Road User) Rule 2004 allows officers to proceed against a red light if they slow down to 20kph, have the emergency lights and sirens activated on their patrol car and take due care to avoid collisions with pedestrians and other traffic.
35. In accordance with the policy, Officers A and B kept the lights and siren activated on the patrol car during the pursuit. They were activated when the officers proceeded against the red light at Great South Road.
36. Officer A said that he slowed right down to cross against the red light at the Great South Road intersection and then sped up again while remaining on the correct side of the road. He said that his maximum speed during the pursuit was about 100kph on Reagan Road. The speed zone throughout the pursuit was 50kph.
37. The Authority is satisfied that the speed reached by Officer A on Reagan Road, though high, was justified in the circumstances because it was short in duration, there was light traffic on Reagan Road, the weather was clear and there was good visibility and road conditions.

FINDING

Officer A complied with the fleeing driver policy in respect of his speed and manner of driving.

Ongoing risk assessment and the option of abandonment

38. 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. Pursuing officers and the Communications Centre pursuit controller must conduct an assessment of relevant risk factors to determine this.
39. Officer A reassessed the risks involved in continuing the pursuit after Mr Pora ran the red light at the Great South Road intersection. He decided to continue the pursuit because there was no traffic in front of Mr Pora and his manner of driving was good. After they lost sight of Mr Pora when he crossed the overbridge, Officer A decided to continue the pursuit for a short time to see if they could ascertain his direction of travel from the roundabout before Boundary Road.

40. Due to the short duration of the pursuit the NorthComms pursuit controller did not have time to become involved in the pursuit or to consider abandonment.

FINDING

Police complied with the fleeing driver policy in respect of ongoing risk assessment. Their decision to not abandon the pursuit was reasonable in the circumstances.

CONCLUSION

41. The Authority is of the opinion that Officers A and B complied with the Police urgent duty driving and fleeing driver policies throughout this incident.

ONGOING DISCUSSIONS WITH POLICE

42. 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 policies and the reality of a fast-paced, time-pressured situation. This process is well advanced.



Judge Sir David Carruthers

Chair
Independent Police Conduct Authority

12 March 2015

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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