

<b>Case 8   Issue 38 – Roads policing</b>		<b>LEARNING THE LESSONS</b>
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## Using a police vehicle to apprehend a suspect

*Police driver used the police vehicle to bring a pursuit to an end, raising issues about:*

- *Using a police vehicle as a weapon*
- *Red mist during police pursuits*

This case is relevant to the following areas:



## Overview of incident

PC A was travelling in a marked police vehicle with PS B. PC A was the driver. The road conditions were wet and lighting was dim. PC A was a police trained advanced driver.

The police vehicle entered a roundabout behind a silver car. According to the officers, it lost control at the roundabout and moved away quickly from the police vehicle. PC A later stated he believed the silver car had reacted to the presence of the police car and was failing to stop. PC A activated the police vehicle's lights and sirens and followed the silver car, reaching speeds of 80mph in a 30mph non-residential area.

PS B tried to transmit on his radio. He had to interrupt other radio transmissions that were on-going. He began an initial pursuit commentary with the force control room.

The silver car turned left, followed by the police vehicle. The driver of the silver car appeared to lose control and the car span roughly 180 degrees. This meant it faced the police vehicle on the opposite site of the road (a residential street). The police vehicle was travelling at 33mph.

Dash cam footage showed the police vehicle steer towards the silver car and make contact on the driver's side. The collision occurred at 9mph, and caused the window in the driver's side door to smash.

PC A later stated in deciding to use tactical contact he used the national decision model, all of the information available, the risk posed by the driver (including he had driven into a residential area and lost control of the vehicle on a number of occasions), and the driver's behaviour led him to suspect a serious offence may have been committed. *"An opportunity had presented*

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*itself for me to bring the pursuit to a swift conclusion by making tactical contact with the driver's door."* PC A stated the purpose of contact was to prevent a further pursuit and stop the subject from fleeing.

PS B stated he thought the police vehicle had been rammed by the silver car as the contact happened without discussion. The silver car did not stop, and the police vehicle turned in the road and pursued. The occupants of the silver car got out and ran.

PS B later stated he took his seatbelt off and opened his door ready to run after the occupants of the vehicle. Dash cam footage showed the police vehicle behind one of the occupants of the silver car, Mr C. Mr C appeared to run away. The police vehicle struck Mr C at a speed of around 18mph. Mr C fell to the floor.

PC A later stated he used no more force than necessary to knock Mr C off his feet. He stated, with reference to terrorism threats and organised crime gangs, he was concerned about why Mr C was so desperate to evade capture. He also said he had a duty of care to protect the public and his colleagues from potential harm. PC A gave no comment when asked in interview to explain the threat he perceived about gangs and terrorism.

### **College of Policing – Authorised Professional Practice (APP) – Public order – Police use of force**

#### ***Core questions***

- Would the use of force have a lawful objective (eg, the prevention of injury to others or damage to property, or the effecting of a lawful arrest) and, if so, how immediate and grave is the threat posed?
- Are there any means, short of the use of force, capable of attaining the lawful objective identified?
- Having regard to the nature and gravity of the threat, and the potential for adverse consequences to arise from the use of force (including the risk of escalation and the exposure of others to harm) what is the minimum level of force required to attain the objective identified, and would the use of that level of force be proportionate or excessive?

It is essential that these core questions are considered in line with ten key principles governing the use of force by the police service.

### **HMICFRS – The rules of engagement: A review of the August 2011 disorders**

#### ***Ten key principles governing the use of force by the police service***

3. Police officers shall, as far as possible, apply non-violent methods before resorting to any use of force. They should use force only when other methods have proved ineffective, or when it is honestly and reasonably judged that there is no realistic prospect of achieving the lawful objective identified without force;
4. When force is used it shall be exercised with restraint. It shall be the minimum honestly and reasonably judged to be necessary to attain the lawful objective;
5. Lethal or potentially lethal force should only be used when absolutely necessary in self-defence, or in the defence of others against the threat of death or serious injury;

Find our more:

<https://www.app.college.police.uk/app-content/public-order/core-principles-and-legislation/police-use-of-force/>

<https://www.justiceinspectrates.gov.uk/hmicfrs/publications/rules-engagement-review-august/>

PS B stated PC A said to him “go get him” while Mr C was still lying on the floor. Mr C got back up and continued to run before PS B had a chance to get out of the police vehicle. The vehicle moved towards Mr C and hit him for a second time.

Dash cam footage shows the police vehicle veered right towards Mr C, mounting the kerb and striking him at a speed of around 11mph.

PS B stated he asked PC A “What the fuck are you doing?” but PC A did not answer him. PS B stated he was in disbelief, did not believe this was proportionate to what he had seen, and fully expected Mr C to be under the wheels of the police vehicle.

Mr C was not under the wheels of the police vehicle. He is believed to have sustained a dislocated shoulder and a cut to head (he did not engage with the IOPC investigation so these injuries were not confirmed).

PS B got out of the vehicle and tended to Mr C’s injury. The body cam footage of PS B shows Mr C express his concern about being hit by the police vehicle. PC A replied: “Then you shouldn’t be driving like an ass.”

PS B stated PC A later said words such as “I’m sorry mate, I had a bit of a senior moment. I hit the wrong pedal, in my head I was already out running.”

PC A told the IOPC investigation he did not intend to strike Mr C the second time – he believed he steered the vehicle in the direction he was looking and accidentally hit the accelerator instead of the brake. He stated in his mind he was already out of the car and in pursuit of Mr C on foot.

PC A declined to comment when asked in interview whether he experienced ‘red mist’.

## **College of Policing – Authorised Professional Practice (APP) – Road policing – Police pursuits**

### ***Red mist***

This is a term used to describe a complex emotional situation affecting the state of mind of drivers who can become so focused on an objective or outside influence that their ability to accurately assess driving risk is severely reduced.

Persons engaged in pursuit management must be equipped to identify indications of red mist in themselves and others and take appropriate actions. Such actions may involve removing themselves from the situation, changes in the roles of individuals, calling a specific unit off a pursuit or discontinuing the pursuit itself.

Find our more:

<https://www.app.college.police.uk/app-content/road-policing-2/police-pursuits/#red-mist>

At no point during the pursuit was a Police National Computer (PNC) check requested for the vehicle. It was later confirmed the silver car was not stolen. Mr C was arrested for possession of cannabis, suspected theft of diesel, and failing to stop.

PS D, the sergeant responsible for police driver training in the force, confirmed during the IOPC investigation “*We do not train officers to use the vehicle as a weapon to stop someone evading the police.*”

The police vehicle was inspected and no mechanical defects were found.

## **Road Traffic Act 1988**

### ***Section 2 Dangerous driving***

A person who drives a mechanically propelled vehicle dangerously on a road or other public place is guilty of an offence.

### **Section 2A Meaning of dangerous driving**

- 1) For the purposes of sections 1 and 2 above a person is to be regarded as driving dangerously if (and, subject to subsection (2) below, only if)—
  - a) the way he drives falls far below what would be expected of a competent and careful driver, and
  - b) it would be obvious to a competent and careful driver that driving in that way would be dangerous.
- 2) A person is also to be regarded as driving dangerously for the purposes of sections 1 and 2 above if it would be obvious to a competent and careful driver that driving the vehicle in its current state would be dangerous.
- 3) In subsections (1) and (2) above “dangerous” refers to danger either of injury to any person or of serious damage to property; and in determining for the purposes of those subsections what would be expected of, or obvious to, a competent and careful driver in a particular case, regard shall be had not only to the circumstances of which he could be expected to be aware but also to any circumstances shown to have been within the knowledge of the accused.
- 4) In determining for the purposes of subsection (2) above the state of a vehicle, regard may be had to anything attached to or carried on or in it and to the manner in which it is attached or carried.

Find out more online:

<https://www.legislation.gov.uk/ukpga/1988/52/section/2>

<https://www.legislation.gov.uk/ukpga/1988/52/section/2A>

### Type of investigation

IOPC independent investigation.

### Outcomes for officers and staff

#### PC A

1. PC A, the driver of the police vehicle, was charged with dangerous driving. He was acquitted at trial.
2. PC A was found to have a case to answer for gross misconduct in relation to the tactical contact with the vehicle, and both incidents of use of force against Mr C. At a misconduct hearing gross misconduct was found for the use of force, but not for the tactical contact. PC A retired before the hearing. It was not found he would have been dismissed had he still been serving, but a final written warning would have been appropriate.

### Questions to consider

#### Questions for policy makers and managers

1. What training do you give officers about when and how to use tactical contact?
2. What training and guidance do you give officers about what to do when a suspect exits a pursued vehicle and begins to flee?
3. What guidance do you give to police drivers, and other officers, about how to identify the signs of red mist in themselves and others?

#### Questions for police officers and police staff

4. If you were the police driver, what steps would you take to draw the pursuit to a halt?
5. If you were the police driver, what steps would you take to apprehend the driver and the other occupants of the car?
6. If you were the passenger in the police vehicle, what steps would you take?
7. What assessment do you make before pursuing a vehicle?