

Officer justified in driving into a man in Motueka

1. At about 1.22pm on Saturday 30 March 2024, Police in Motueka were advised that a man in a car (Mr Z) had brandished a pistol at a member of the public. Two officers armed themselves and in due course found Mr Z's car in a central Motueka carpark.
2. The two officers approached Mr Z and commanded him to surrender. After Mr Z got out of his car and began walking towards them, one of the officers sprayed him with pepper spray. A third officer (Officer C) then drove into Mr Z, knocking him to the ground. Mr Z was not injured.
3. Police found an air pistol in the door compartment of Mr Z's car. Mr Z was later convicted and sentenced for presenting an object that appeared to be a firearm and driving while under the influence of alcohol.
4. Police notified the Authority of their use of force against Mr Z, and we independently investigated by speaking to the officers and reviewing the Police file and video footage. Mr Z did not complain about the incident. Although we endeavoured to speak to him, he could not be located.

The Authority's Findings

Issue 1: Did Officer C appropriately communicate his involvement in the incident?

Officer C did not communicate effectively to the Police Emergency Communications Centre (Comms) and other officers about his involvement in the incident, particularly his arrival at the scene.

Issue 2: Was Officer C justified in hitting Mr Z with his Police car?

Officer C's use of a Police vehicle as a weapon of opportunity in the circumstances as he perceived them to be, was justified under section 48 of the Crimes Act 1961.

Analysis of the Issues

ISSUE 1: DID OFFICER C APPROPRIATELY COMMUNICATE HIS INVOLVEMENT IN THE INCIDENT?

5. When responding to a serious incident, such as that involving a report of an armed offender, Police are required to plan a response and then communicate this plan, and any intentions, in order to safely obtain a favourable outcome. In this section we consider whether Officer C appropriately communicated his involvement in the incident.

What happened?

6. After receiving phone calls from two members of the public, the Emergency Communication Centre (Comms) advised over the Police radio that a man (Mr Z) had presented a pistol at a person. Comms provided detail of the suspect's vehicle and his last known location. Further information was later provided that the suspect was in the Motueka library carpark.
7. Officers A and B, who were working together, armed themselves and drove to the carpark to investigate. A plan was broadcast that officers would locate the vehicle and, when sufficient staff were available, they would conduct an armed vehicle stop.¹
8. Officer C, working alone in his Police car, informed Comms of his location about 17 kilometres from Motueka and began driving to assist.
9. Officers A and B drove into the carpark from the north end and located Mr Z's stationary car about 70 metres away across the carpark. Officer A advised Comms of their actions, saying *"Yeah we've got obs on the vehicle, ah, no one with it at this stage."*
10. Officers A and B then continued to observe while they waited for further staff to assist, and informed Comms this was their plan. Comms also sought a dog handler to attend.
11. Officer C, who had not stopped to arm himself with a firearm, arrived at Motueka and drove into the carpark from the south end. He told the Authority:

"[the other officers] said they had found the offender's vehicle... but he was not there. So, I drove into the carpark with the aim of finding the other two Police officers and then we'd make a plan as to how we'd look for him or what we'd do next."

12. The information available to the Authority does not indicate that Officer C updated Comms of his arrival as he drove his patrol car into the carpark, close to where Mr Z's car was parked. Officer C told us he thought he did update Comms, later saying his transmission may not have been heard due to being overridden by another broadcast. We accept this may have occurred. However, we would normally expect an officer to ask for clarification that his communication had been received in this situation.

¹ Officers are trained in conducting armed vehicle stops (coded armed 3T), also known as a high-risk vehicle stop.

13. Officer B saw the unknown Police car (Officer C) enter from across the carpark and warned over the radio: *"Yeah. That vehicle that's just entered, you're about to stumble across them on your right there."*
14. Officer C stated to the Authority that he did not hear the radio comment from Officer B, which was clearly directed to him.
15. Almost immediately, Officer C saw Mr Z on foot and realised he was the person alleged to have presented a pistol. As Mr Z walked towards Officer C's patrol car, the officer rapidly drove to a far corner of the carpark, using the radio to inform Comms: *"Yeah, I've just, I've, he's just run at me, he's ah, red shorts, ah, a buzz cut, white t-shirt. No sign of a firearm."*

Did Comms and the officers plan their response and communicate appropriately?

16. Comms provided sufficient information for Officers A and B to arm themselves and then move into position where they located the suspect and waited for assistance.
17. Officer C, who indicated over the Police radio that he would assist, failed to communicate effectively with Comms and other officers his arrival at the scene, and his intentions.

FINDING ON ISSUE 1

Officer C did not communicate effectively to Comms and other officers about his involvement in the incident, particularly his arrival at the scene.

ISSUE 2: WAS OFFICER C JUSTIFIED IN HITTING MR Z WITH HIS POLICE CAR?

18. Section 48 of the Crimes Act provides that any person, including a Police officer, is legally justified in using reasonable force in defence of themselves or another.
19. The section 48 assessment involves three questions:
 - a) What were the circumstances as Officer C believed them to be? (a subjective test)
 - b) Was Officer C's use of force against Mr Z for the purpose of defending himself or another? (a subjective test)
 - c) Was Officer C's use of force against Mr Z reasonable in the circumstances as the officer believed them to be? (an objective test)

What happened?

20. Officer C told us that when he drove into the carpark, Mr Z had come towards him at speed. He said he thought he was in *"immediate danger of being shot by this guy"*, so he *"hit the gas and sped away from him so he couldn't get to my window"*. We note that his radio message to Comms about this encounter included that there was *"No sign of a firearm"* (see paragraph 14).

21. After seeing Officer C in a Police car, Mr Z ran to his car and began driving around the carpark. Officers A and B drove forward, got out of their car and commanded Mr Z to stop. Officer A was carrying a rifle and Officer B presented a pistol. Mr Z stopped his car about 10 metres from the officers' car.
22. Mr Z complied with the officers' commands and displayed his open hands. After about 15 seconds, he got out of his car. He was carrying a can of drink in one hand and casually walked towards the officers.
23. Officer B called to Mr Z to stop and raise his arms, but Mr Z failed to do so. He continued to walk forward. Officer B promptly put away his pistol and grabbed a Taser and pepper spray. When Mr Z was about two metres away, Officer B sprayed him. The spray struck Mr Z in the face and he turned and walked back towards his car. We are satisfied this use of pepper spray was justified in the circumstances.
24. Meanwhile, Officer C had driven to a far corner of the carpark. He then turned his car around and, across the carpark, saw Officers A and B engaging with Mr Z who was moving towards them on foot. Officer C told us that, as he drove closer, he saw Mr Z get pepper sprayed. However, he perceived that Mr Z appeared to be fighting the effects and was still trying to get closer to the two officers.
25. The incident was captured by a nearby CCTV camera and partially recorded by Officer B's Taser. When Officer C watched the CCTV footage, which showed Mr Z walking back to his car after being pepper sprayed, he recalled: "[Mr Z] turned as I was coming in." The footage shows that Officer C had already begun driving towards Mr Z as Officer B pepper sprayed him.
26. Officer C said he had several concerns:
- Mr Z appeared to want to get close to the officers the same way he had wanted to get close to him;
 - there was a very real probability Mr Z had a firearm and could shoot the officers;
 - if Mr Z got close to Officer A he could snatch or wrestle from her the rifle she was carrying; and
 - Officer A might need to shoot the suspect, and he (Officer C) needed to do something to prevent this.
27. Officer C drove forward and struck Mr Z from behind with the front of his Police car. By that stage Mr Z was within three metres of his own car. Officer C was driving at less than 10 kilometres per hour and, on striking Mr Z's legs, sharply applied the brakes. Mr Z slumped onto his back onto the ground. The officers then handcuffed him.²

² Police later tried to talk with Mr Z about this incident, but Mr Z did not cooperate. The Authority was also unable to contact Mr Z to discuss this incident.

28. Officers A and B told us Officer C's intervention took them by surprise as they thought they had things under control. Officer A said: *"We would've just had to move forward and grab [Mr Z] and waited a few seconds for the spray to take effect."*
29. Officer A searched Mr Z's car and found *"a black pistol in the driver's door, which was a BB gun but looked like a real black pistol"*.
30. Mr Z was examined by Ambulance staff and found to be uninjured. Officers A, B and C provided water to Mr Z as pepper spray aftercare. This continued when Police brought Mr Z to the local Police station. Mr Z was breath tested and found to be significantly over the legal alcohol limit.

Was Officer C's use of force justified?

What did Officer C believe the circumstances to be?

31. Officer C says he believed that Mr Z could still be armed when he decided to drive into him:

"First of all, I was thinking he's got [the pistol] on him. Then, if he hasn't got it on him is he going to get it [from the car] ... We were taught at [Police] college that an unarmed person showing hands can be armed as quickly as split second, they can just reach for a weapon that you haven't seen yet. [Mr Z] had the capability...."
32. Officer C also says he feared death or serious harm for the two officers, and for Mr Z (if Officer A needed to shoot him). He believed he could strike Mr Z with the patrol car to prevent that:

"My intention was, yeah, I did this in a very controlled way. I think I hit him at about 8 [kph], he rolled onto the bonnet, then down. To my mind it worked perfectly. It was exactly the same as if I was able to give him a shove and knock him to the ground."
33. From the footage, we know that Mr Z was confronted by Officers A and B and then pepper sprayed. Both officers told us they believed they had matters under control. We accept their view that there was little prospect of Mr Z escaping.
34. However, Officer C says, and we accept, that he saw things differently and believed Mr Z was still a risk to the officers. Mr Z was closer to his car than the officers were to him. From Officer C's perspective, if Mr Z had got to his car and accessed a weapon the situation and threat he posed could escalate quickly.
35. When speaking to us, Officer C appeared genuine. In viewing the footage, we noted the low speed and direction in which he arrived at the scene, together with what he understood about Mr Z and the belief he may have access to a firearm in his car. We accept that Officer C honestly believed Mr Z was an immediate risk to Police and that any delay in apprehending him increased that risk.

Was Officer C's use of force for the purpose of defending himself or another?

36. We also accept Officer C's assertion that his use of force was for the purpose of defending others from Mr Z. There is no evidence to indicate he acted for any other purpose.

Was Officer C's use of force against Mr Z reasonable in the circumstances as he believed them to be?

37. When considering whether Officer C's use of force was 'reasonable', we need to assess whether the force used was proportionate to the threat that Officer C believed he posed, and whether there were other, less forceful tactical options available to Officer C.
38. As outlined above, we accept Officer C genuinely believed Mr Z was likely armed or could soon be and posed a serious risk to Officers A and B. Officer C told us: *"I didn't have time to get out of the car, didn't have time to deploy any other means. I literally had a second and so, I've swept him off his feet."* We accept this.
39. It is clear Officer C actively chose to not hold back and allow the other officers to complete their actions. However, from his perspective, this would not have been an acceptable response to the threat he perceived.
40. Police policy in relation to using weapons of opportunity, such as a vehicle, states that it *"should be seen as a 'last resort' when there is a real risk of injury to yourself or another and no approved tactical options are available."*
41. Using a vehicle as a weapon of opportunity is an option that involves significant risk due to the difficulty in controlling the resulting amount of force and impact.
42. However, in the circumstances as perceived by Officer C, we are satisfied that his use of his patrol car to strike Mr Z and bring an end to this incident, executed at low speed and with care as it was, appears to be a proportionate and justified use of force.
43. It should be noted, however, that use of vehicles in this way, even at low speed, is extremely dangerous, involving a considerable risk of death or serious injury, and should not be viewed by Police as simply another tactical option at their disposal.

FINDING ON ISSUE 2

Officer C's use of a Police vehicle as a weapon of opportunity in the circumstances as he perceived them to be, was justified under section 48 of the Crimes Act 1961.



Judge Kenneth Johnston KC

Chair
Independent Police Conduct Authority

25 September 2025

IPCA: 24-22254

Appendix – Laws and Policies

LAW

Crimes Act 1961

44. Section 48 of the Crimes Act 1961 states: *“Everyone is justified in using, in the defence of himself or herself or another, such force as, in the circumstances as he believes them to be, it is reasonable to use.”*

POLICY

Arrest and Detention

45. Force used during an arrest must be reasonable and be used only when it is not reasonable to make the arrest in a less violent manner.

Use of Force

Police policy on the use of force

46. The Police Use of Force policy provides guidance to Police officers about the use of force. The policy sets out the options available to Police officers when responding to a situation. Police officers have a range of tactical options available to them to help de-escalate a situation, restrain a person, effect an arrest, or otherwise carry out lawful duties. These include communication, mechanical restraints, empty hand techniques (such as physical restraint holds and arm strikes), pepper spray, batons, Police dogs, Tasers, and firearms.
47. Police policy provides a framework for officers to assess, reassess, manage, and respond to use of force situations, and ensure the response (use of force) is necessary and proportionate given the level of threat and risk to themselves and the public. Police refer to this as the TENR (Threat, Exposure, Necessity and Response) assessment.
48. Police officers must also constantly assess an incident based on information they know about the situation and the behaviour of the people involved, and the potential for de-escalation or escalation. The officer must choose the most reasonable option (use of force) given all the circumstances known to them at the time. This may include information on:
- 1) the incident type, location, and time;
 - 2) the officer and subject’s abilities;
 - 3) the subject’s emotional state;
 - 4) the influence of drugs and alcohol and the presence or proximity of weapons;
 - 5) similar previous experiences with the subject; and

- 6) environmental conditions.

Police refer to this assessment as an officer's Perceived Cumulative Assessment (PCA).

49. A key part of an officer's decision about when, how, and at what level to use force depends on the actions of, or potential actions of, the people involved, and depends on whether they are:

- 1) cooperative;
- 2) passively resisting (refuses verbally or with physical inactivity);
- 3) actively resisting (pulls, pushes or runs away);
- 4) assaultive (showing an intent to cause harm, expressed verbally or through body language or physical action); or
- 5) or presenting a threat of grievous bodily harm or death to any person.

Ultimately, the legal authority to use force is derived from the law and not from Police policy.

50. The policy states that any force must be considered, timely, proportionate and appropriate given the circumstances known at the time. Victim, public, and Police safety always take precedence, and every effort must be taken to minimise harm and maximise safety.

Weapons of Opportunity

51. Police policy provides:

"What is a weapon of opportunity?"

A weapon of opportunity includes an object, or substance taken from the immediate environment, for use in self-defence or defence of another, where no other appropriate and approved tactical option is accessible or available.

Use of weapon of opportunity

Using a weapon or opportunity should be seen as a 'last resort' when there is a real risk of injury to yourself or another, and no approved tactical options are available. As with all uses of force, using a weapon or opportunity must be necessary and proportionate, and thereby reasonable. All employees are criminally responsible for any excessive use of force.

A weapon of opportunity can take a variety of forms and may provide a variety of defensive capabilities, including the capability for placing restraining holds on violent or struggling offenders or positively repelling an assault.

If a striking action is required, you should avoid vulnerable areas of the body (head, neck, spine, tail bone and groin), unless you believe it to be absolutely necessary to protect yourself or others from GBH."

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.

We are not part of the Police – the law requires us to be fully independent. The Authority is overseen by a Board, which is chaired by Judge Kenneth Johnston KC.

Being independent means that the Authority makes its own findings based on the facts and the law. We do not answer to the Police, the Government or anyone else over those findings. In this way, our 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 and may choose to investigate:

- complaints alleging misconduct or neglect of duty by Police;
- complaints about Police practices, policies and procedures affecting the complainant in a personal capacity;
- notifications of incidents in which Police actions have caused or appear to have caused death or serious bodily harm; and
- referrals by Police under a Memorandum of Understanding between the Authority and Police, which covers instances of potential reputational risk to Police (including serious offending by a Police officer or Police actions that may have an element of corruption).

The Authority's investigation may include visiting the scene of the incident, interviewing the officers involved and any witnesses, and reviewing evidence from the Police's investigation.

On completion of an investigation, the Authority must form an opinion about the Police conduct, policy, practice or procedure which was the subject of the complaint. The Authority may make recommendations to the Commissioner.

THIS REPORT

This report is the result of the work of a multi-disciplinary team. At significant points in the investigation itself and in the preparation of the report, the Authority conducted audits of both process and content.



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