



**IPCA**

Independent Police  
Conduct Authority

Mana Whanonga Pirihiimana Motuhake

# Investigation into Police actions after driver hit by a train in Christchurch

1. At 3.55am on 17 October 2023 in Christchurch, an officer observed two cars travelling in convoy. The officer recognised one of the cars as having been reported stolen and turned to follow. The cars sped away from Police. Officers followed at a distance and unsuccessfully attempted to spike the cars' tyres. Both cars crossed train tracks in the central city, and the second car was hit by a train.
2. The 15-year-old driver and sole occupant of the second car was not injured, but the train driver suffered a spinal injury.
3. Police notified us about the incident as required by section 13 of the Independent Police Conduct Authority Act 1988.<sup>1</sup> We independently investigated by speaking to seven officers involved and the driver of the car hit by the train (the other driver and their caregiver would not respond to our request for interview). We also reviewed the Police investigation file and video footage.
4. Our investigation established what happened and considered whether the officers involved complied with law and relevant policy relating to driving in an emergency, responding to a fleeing driver and laying road spikes.
5. In our view, this case illustrates issues with the policies governing the Police response to drivers who flee. It is clear that the Authority's views are not necessarily shared by Police. For that reason, and in the interests of publishing this report, we have refrained from making any recommendations in relation to these issues at this stage. We will invite Police to join us in a re-examination of the policies.

---

<sup>1</sup> Section 13 says: "Where a Police employee acting in the execution of his or her duty causes, or appears to have caused, death or serious bodily harm to any person, the Commissioner shall as soon as practicable give to the Authority a written notice setting out particulars of the incident in which the death or serious bodily harm was caused."

## The Authority's Findings

### Issue 1: Did Officer A comply with policy when following the two cars?

Officer A did not engage in a pursuit as it is defined in policy and would not have been justified in doing so.

Officer A was not justified in adopting a tactical approach when following the two cars.

### Issue 2: Did Officer B comply with law and policy when following the two cars?

Officer B did not engage in a pursuit as it is defined in policy.

Officer B was not justified in urgent duty driving from the Wharenui Road intersection onwards.

### Issue 3: Did Officer D comply with law and policy when deploying road spikes?

Officer D was justified in using road spikes to attempt to stop both cars, but his choice of deployment site did not offer solid protective cover, rendering the deployment dangerous and contrary to policy.

## Analysis of the Issues

### ISSUE 1: DID OFFICER A COMPLY WITH POLICY WHEN FOLLOWING THE TWO CARS?

---

6. In this section we describe what happened when Officer A observed and followed two vehicles. We then assess whether Officer A's actions complied with Urgent Duty Driving and Fleeing Driver policies, as summarised below.

#### Urgent Duty Driving policy

7. 'Urgent Duty Driving' refers to Police driving above the speed limit or above the speed of the natural flow of traffic when responding to a threat or emergency. This may include when gathering evidence of an alleged offence, apprehending an offender for an alleged traffic or criminal offence, or responding to a fleeing driver.<sup>2</sup>
8. Urgent Duty Driving must be justified in response to the threat as it creates risk. Specifically, officers must prioritise Police and public safety when driving, and drive with a high standard of care.
9. Officers must use lights and siren continuously to alert others, unless a 'tactical' (covert) approach is justified.

---

<sup>2</sup> Police can rely on defences under the Land Transport (Road User) Rule 2004 and the Land Transport Act 1998 for not complying with certain traffic rules and regulations which would prevent the execution of their duty.

## Fleeing Driver policy

10. The Fleeing Driver policy sets out how Police manage drivers who fail to stop or fail to remain stopped for Police, for whatever reason. The safety of Police staff, the public, and vehicle occupants, particularly children and young people, takes precedence over apprehending a fleeing driver.
11. The definition of a 'fleeing driver' is an important factor in determining how Police respond to a situation, including whether they can initiate a pursuit. At the time of this incident and currently, a 'fleeing driver' is defined as *"a driver who has been signalled to stop by an enforcement officer but fails to stop or fails to remain stopped."*
12. The policy notes that a pursuit, on its own, is not a way to stop a vehicle; rather it provides the officer a way of maintaining visibility and observation of the vehicle while a plan is developed to stop the vehicle or to put alternate observation options in place.
13. An officer decides whether or not to pursue a fleeing driver by assessing the circumstances and risks, including the behaviour and actions of the driver, whether they pose an ongoing threat, the time of day, weather conditions, and traffic conditions.
14. There are two potential justifications for initiating or continuing a pursuit. In the officer's assessment, either:
  - the threat posed by the driver or occupants reaches a serious level (they show intent to cause harm, grievous bodily harm or death); or
  - the seriousness of an offence suspected to have been committed by the driver or occupants, along with the risk of ongoing offending, harm, or victimisation, is high.
15. If an officer decides to signal a driver to stop but thinks the driver is likely to flee, the officer must alert the Emergency Communications Centre (Comms) of the circumstances, whether they intend to pursue the driver if they do flee, and the plan to stop the fleeing vehicle.
16. On deciding to pursue, an officer must advise Comms of this fact, the reason for signalling the driver to stop and justification for initiating the pursuit. Comms have command and control of the pursuit and can order it to be abandoned.
17. During the pursuit, the pursuing officer must conduct continuous risk assessments to ensure its ongoing appropriateness.

## What happened?

18. At about 3.55am in heavy rain, Officer A was patrolling in Upper Riccarton and saw two cars turn into Peer Street and pass him. They were travelling at road speed with headlights on, but Officer A recognised the registration number of the second vehicle as one reported as stolen. Both drivers turned their headlights off and accelerated away above the speed limit.

19. Officer A conducted a U-turn and followed the cars, without activating lights and siren. He reported over the radio that he just had “two cars fleeing” from him at speed, but that he had not signalled them to stop. He advised their direction of travel, and that at least one car was suspected as stolen.
20. CCTV footage shows the cars pass through the intersection of Peer Street/Curletts Road and Yaldhurst Road at high speed. Officer A passes through the intersection ten seconds later above the speed limit but at slower speed than the first two cars, and without emergency lights activated. All cars drove through the intersection on a green traffic light.
21. Officer A says he accelerated after the cars, which turned left into Owens Terrace, then right into Ballantyne Avenue. This road connects to Suva Street, but cars are prevented from driving through by a set of bollards (access is for pedestrians and cyclists only). The two cars mounted the pavement, passed the bollards and drove onto Suva Street. Officer A could not follow. He reported the cars’ direction of travel over the radio.

#### Were Officer A’s actions justified?

22. Officer A did not signal the cars to stop at any time, so his radio transmission that he had had the cars ‘flee’ was technically inaccurate in terms of the policy. This was not a fleeing driver event or a pursuit. However, he went on to clarify on the radio that he had not signalled the cars.
23. Officer A says he did not engage lights and siren because he knew that the circumstances did not justify pursuing the cars if they failed to stop. He thought it highly unlikely that the cars would stop for his signal based on their reaction when he initially passed them, and he duly advised Comms of this.
24. He told us that he was following them to give location updates to enable other officers to get into an appropriate location to set up road spikes.
25. We agree with Officer A’s assessment that a pursuit was not justified (as set out in paragraph 14). The drivers were not suspected of a serious offence and did not pose a significant threat to others beyond accelerating away from Police. Further, the driving conditions and road visibility were poor. The risks associated with a pursuit outweighed the risks of allowing the drivers to drive away.
26. Officer A was driving above the speed limit without lights and siren activated while following the cars. He passed through an intersection in this manner.
27. If driving beyond the speed limit with lights and siren activated (a pursuit) was unjustified, then driving above the speed limit without lights and siren activated was certainly unsafe and unjustified.
28. We do not agree that a tactical approach was relevant to this situation as the drivers of the cars were aware of Officer A’s presence from the outset, and had accelerated away in order to evade him, so there was no good reason to conceal his presence from them.

## FINDINGS ON ISSUE 1

Officer A did not engage in a pursuit as it is defined in policy and would not have been justified in doing so.

Officer A was not justified in adopting a tactical approach when following the two cars.

## ISSUE 2: DID OFFICER B COMPLY WITH LAW AND POLICY WHEN FOLLOWING THE TWO CARS?

29. In this section we describe what happened when Officer B observed the two cars and followed them towards the Christchurch CBD. We then assess whether the Police's response was appropriate and complied with the Urgent Duty Driving and Fleeing Driver Policies.

### What happened?

30. Officer B (a dog handler) and Officer C were working as a team and were parked with headlights off on Middleton Road. They had heard Officer A's radio commentary and were preparing to lay road spikes in case the two suspect cars passed them.

31. Officer B was about to get out of the driver's seat when he saw in his mirror two cars without headlights on turn onto Middleton Road behind him, then turn left onto Blenheim Road. He suspected these were the two cars Officer A had followed. He did not think they had seen him due to the weather conditions, the distance between them and the fact he had been parked facing away from the intersection with headlights off.

32. We have since spoken to the driver of the second car, and he says he had spotted Officer B's dog van on Middleton Road.

33. Officer B turned and followed the cars onto Blenheim Road, a straight, dual lane road with a 60kph speed limit. CCTV footage shows that Officer B was approximately 100 metres and five seconds behind the cars at the intersection with Wharenui Road, 500 metres on from the point at which he turned on to Middleton Road.

34. Officer B says his intention was to follow the cars to confirm his suspicions and assess the situation. He says he was driving at the speed limit and did not turn on lights and siren, deciding the tactical approach was safe given the nature of the road and absent traffic. Once satisfied the cars he was following were the suspect cars, Officer B reported to Comms that:

- the cars were about 500 metres ahead of him but difficult to see in the poor weather conditions;
- they were driving without headlights;
- he was traveling at the speed limit but they were accelerating away; and
- he intended to maintain observations.

35. He says his plan was to keep the cars under observation and report, so CCTV cameras and other units were aware of the cars' direction of travel and units could get into position to set up road spikes and cordons. He says their overall manner of driving had not changed from when he first sighted them, so he did not think they had seen him.
36. Police analysed and compared CCTV footage for the 850 metres starting just prior to the Wharenui Road intersection to the next intersection, at Matipo Street. It shows that the two suspect cars were travelling at an average speed of 144 kph and 137 kph, and Officer B was driving at an average of 106 kph during this stretch of road.

#### *Crossing the Matipo Street intersection and use of road spikes*

37. Officer B notified Comms as the cars drove through the intersection at Matipo Street. He says they were well ahead of him and still pulling away (he could only see their rear brake lights), travelling at 90-95kph and not maintaining their lane. He says he was concerned that they were heading towards the CBD, where the road system was more complicated and there would be more motorists and pedestrians exposed to the threat they posed.
38. The traffic lights changed to red as Officer B approached the Matipo Street intersection. Officer B decelerated and decided that he needed to cross the intersection against the red traffic light to continue observing the cars. CCTV footage shows the cars crossing the intersection at high speed as the lights change to amber. Ten seconds later, Officer B, with lights and siren activated, drove through the intersection. While it appears on CCTV footage that he drove through above the 20kph speed limit imposed by the Road User Rule in such situations, it is not possible to accurately determine his speed. He was travelling significantly slower than the speed limit.<sup>3</sup>
39. Officer B kept his lights and siren activated from this point onwards, believing that the cars were too far ahead to detect him in the conditions. He could only see *"a flash of the brake lights in the furthest distance."*
40. The second driver told us that Officer B was right on his bumper with lights and siren activated through this intersection and for the remainder of the incident. CCTV footage confirms this was not the case.
41. Officer B says his plan was to continue after the two suspect cars, respond to any changes or tactical opportunities (for example, if they pulled over and ran from the cars he could track them with his dog). If he got close enough, he would signal them and afford them the opportunity to stop. He attempted to advise Comms of his plan and that the cars were approaching the Blenheim Road overbridge by providing a radio update. Officers B and C do not believe this information was transmitted. However, it is audible in the transmission recording we listened to. It is not clear whether the dispatcher heard the message, as they did not acknowledge it.
42. As Officer B approached the Clarence Street intersection, he saw Officer D standing on the side of the road holding road spikes. Officer D had laid them as the cars drove through the intersection, but the cars had driven around them, and he had retrieved them. CCTV footage

---

<sup>3</sup> Clause 11.18 of the Land Transport (Road User) Rule 2004 is set out in the Appendix.

shows that Officer B was now 17 seconds behind the two cars. Officer B queried over the radio whether the road spikes had been successful, and Officer D advised they had not.

43. Officer B reported to Comms that he did not know where the cars had gone as he could not see their rear brake lights. He and Officer C checked side roads, but continued driving towards the CBD on the overbridge as this was where the greatest risk to the public lay.

#### *Direction not to pursue*

44. At this point, the Comms shift commander directed over the radio: “... *no authority to ... pursue due to the ... speed and weather conditions, over.*”<sup>4</sup> He later explained that he had only just logged on to the radio channel and been briefed by the dispatcher about the developing incident and did not think any of the units were actually pursuing. He says his direction was intended to signal that he would not be authorising a pursuit should any unit initiate one. It appears that the shift commander did not know that Officer B was following the suspect cars with emergency lights activated, albeit at a distance. He was focusing on the radio channel communications and maps rather than CCTV footage, which is normal practice.
45. Officer B acknowledged the shift commander’s direction over the radio, stating he was probably now a kilometre behind the cars. He says he understood the shift commander’s message to mean that if he signalled the cars to stop and they did not, he was not to pursue. He did not think he was being told to stop following the cars.
46. Police analysis shows that the two suspect cars were travelling at an average of 97/98 kph on the overbridge between the intersections with Mandeville Street and Deans Avenue, while Officer B was travelling at an average of 102kph, now 14 seconds behind.
47. As Officer B travelled down the overbridge onto Moorhouse Avenue he could see some taillights in the distance. He still did not think the driver could see him. He radioed that he would try to “*get up behind them and signal them*” but would not pursue if they fled.
48. As Officer B got closer to the Lincoln Road intersection, he realised the car ahead was not one of the suspect cars.<sup>5</sup> CCTV footage from the Lincoln Road intersection shows both suspect cars and the member of the public turn right into Lincoln Road before Officer B approaches the intersection with emergency lights activated. Officer B would not have been able to see the two suspect cars make the turn. The second driver says his car tyres were spiked as he was making this turn, but CCTV confirms this was not the case.
49. As Officer B makes the turn into Lincoln Road, CCTV shows the two suspect cars drive through the warning lights of a railway crossing. The train hits the second car, shunting it to the right.<sup>6</sup>

---

<sup>4</sup> The shift commander is the senior officer at a Police communications centre, usually ranked inspector. During a pursuit, the shift commander becomes the ‘Pursuit Controller’ and supervises the pursuit and co-ordinates the overall response, including the appropriate tactical options.

<sup>5</sup> Police analysis shows that the two cars were travelling at an average of 88 and 79 kph, while Officer B was travelling at an average of 91kph between the Deans Avenue and Lincoln Road intersections.

<sup>6</sup> The second driver initially told Police that a Police car had rammed his car onto the train tracks, however CCTV confirms this to be incorrect.

50. Officer B says he saw flashes of light and debris ahead of him and realised a car had been struck by a train. He advised Comms, and then he and Officer C went to the crash site.
51. The driver was uninjured and had fled the scene. He was later found at a friend's address and taken to hospital by Police, before being released to his caregiver. He was charged with driving and property offences and completed a Youth Court process.

### Were Officer B's actions justified?

52. When Officer B started following the two cars without lights and siren activated, he was operating under Urgent Duty Driving policy as he was looking to apprehend the drivers for alleged traffic and criminal (property) offending. He knew that the two drivers had not been signalled to stop, and so Fleeing Driver policy did not apply.
53. Despite the driver of the second car stating he saw Officer B's dog van on Middleton Road and Blenheim Road, we think it was reasonable for Officer B to have concluded that the two drivers were unaware of his presence for several reasons:
  - The suspect cars had not passed the dog van on Middleton Road, and it was parked in a position that did not make it noticeable.
  - The heavy rain and dark conditions made visibility difficult, particularly in the distance.
  - Officer B was about 100 metres behind the two cars at the first major intersection on Blenheim Road (Wharenui Road) and was not driving in a manner that attracted attention.
  - The two drivers did not change their manner of driving indicating they were aware that Officer B was there - they were already driving fast without headlights, and did not dramatically accelerate or turn down a side street in an attempt to evade as they had done on spotting Officer A.
54. Officer B's plan was to drive close to the speed limit after the two cars, without lights or siren activated to remain undetected, and gather information that could be passed on to Comms and other units so they could make and execute a plan.
55. In fact, it appears Officer B sped up just prior to the Wharenui Road intersection, averaging 106kph over this section of road until the next intersection, at Matipo Street (as noted in paragraph 36).
56. We agree that a tactical approach was reasonable until Officer B reached the intersection with Wharenui Road, given the wide, straight nature of the road, lack of traffic, and the lack of response from the two cars. There is no evidence to suggest Officer B's speed was significantly over the posted speed limit along this section of road.
57. However, in our view, Officer B's high speed was not justified from the Wharenui Road intersection onwards, particularly without activating lights and siren for safety. Officer B submitted that his training and experience meant that he was driving well within his capabilities at all times and did not create a risk to other road users. We cannot agree.

58. The wet road and poor visibility made driving at 40kph over the speed limit unsafe. The two vehicles certainly posed a hazard to other road users, but there was no evidence that they posed a serious threat or were involved in serious offending. They were driving in a predictable direction, along a route known to have CCTV coverage. In short, the threat created by Officer B's own driving was disproportionate to any benefit he could achieve through providing intelligence to other officers and Comms. In our view, from this point, Officer B should have pulled over or continued on at road speed and provided commentary until he lost sight of the two cars.<sup>7</sup>
59. Instead, Officer B slowed to follow the cars through the Matipo Street intersection against the red traffic signal, and, for safety reasons, activated lights and siren. We are satisfied that he drove through the intersection below the 60kph speed limit and therefore did not create an undue hazard. It is not possible to confirm that he drove faster than the 20kph speed restriction that the Road User Rules mandate in these circumstances (see paragraph 38 and footnote 3), so we do not criticise him on this point.
60. However, after crossing the intersection, Officer B again accelerated to 30-40 kph above the speed limit with his lights and siren still activated, for the new purpose of responding tactically or signalling the drivers to stop if he got close enough (see paragraph 41).
61. In our view, urgent duty driving at speed remained unjustified in the circumstances. The road and visibility conditions had not improved. Further, Officer B knew the drivers were unlikely to stop voluntarily, whether signalled to or not, and a pursuit would not be justified, so there was very little point to his actions.
62. What constitutes a 'signal to stop' is not defined in policy. Officers we spoke to use the definition under section 114(2) of the Land Transport Act 1998.<sup>8</sup> However, this requires an officer to signal a driver within close proximity as the Court must be satisfied that the driver had clearly heard and seen the Police car's signal as part of a prosecution for failing to stop or failing to remain stopped.
63. From the Clarence Street intersection, Officer B would have had to accelerate considerably to get close enough to the cars to be sure that the drivers could see and hear his signal. All that would likely have been gained would have been the opportunity to charge the drivers with failing to stop. This did not outweigh the risks associated with driving well above road speed in wet and dark conditions.

## FINDINGS ON ISSUE 2

Officer B did not engage in a pursuit as it is defined in policy.

Officer B was not justified in urgent duty driving from the Wharenui Road intersection onwards.

<sup>7</sup> The Police review of this incident found that the tactical approach was only justified until the Wharenui Road intersection.

<sup>8</sup> Section 114(2) of the Land Transport Act 1998 states an enforcement officer requires a driver to stop by following behind their vehicle, displaying flashing lights or sounding a siren.

### ISSUE 3: DID OFFICER D COMPLY WITH LAW AND POLICY WHEN DEPLOYING ROAD SPIKES?

---

64. In this section we describe what happened when Officer D decided to lay road spikes on Blenheim Road to stop the suspect cars. We then assess whether Officer D complied with law and policy.
65. Road spikes (which Police refer to as Tyre Deflation Devices) are designed to deflate tyres in a controlled manner to prevent blow-outs and to slow the vehicle, allowing it to come to a controlled stop.
66. Police policy prescribes four general circumstances when road spikes can be used. Two of these circumstances involve a fleeing driver, which did not apply in this situation as neither driver had been signalled to stop.<sup>9</sup> An officer may conduct a 'pre-emptive deployment' if a driver has not been signalled to stop, but only after performing a risk assessment and deciding the use of road spikes is justified.
67. Having made this decision, the officer must advise Comms of their intention, the solid protective cover offered by the deployment site,<sup>10</sup> and their plan after using the spikes depending on the outcome.

#### What happened?

68. Officers D and E heard Officer A's and B's radio transmissions and drove to the intersection of Clarence Street and Blenheim Road to set road spikes.
69. They tried to advise Comms of their plan, but the radio channel was too busy. Officer E stopped the car slightly short of the intersection, to be out of view of the oncoming cars.
70. CCTV footage shows Officer D retrieve the road spikes from the Police car and move to the pavement ready to throw them onto the road. As per his account, he had a very short period of time to prepare, approximately 12 seconds. He says he did not have time to provide a radio update. Both suspect cars can be seen driving through the intersection at high speed, missing the road spikes.
71. The officers advised over the radio that the deployment had not been successful.

---

<sup>9</sup> In October 2023, the road spikes policy contained a 'fleeing driver' scenario whereby road spikes could be deployed to stop a driver who had not been signalled to stop, but fled due to Police presence alone. This caused confusion amongst officers we spoke to as this was inconsistent with the definition of a fleeing driver. Police have since updated Tyre Deflation Device policy so it is now consistent with Fleeing Driver policy.

<sup>10</sup> Solid cover is defined as any solid object or structure that by its makeup, is assumed to provide physical protection to the deploying officer or at least deflect a vehicle away from the deploying officer. Fixed objects such as overpass pillars, buildings, guard rails and bridge abutments provide the most protection.

## Were Officer D's actions justified?

72. Section 40 of the Crimes Act 1961 empowers Police to use such force as may be necessary to prevent the escape of any person if they take flight in order to avoid arrest.<sup>11</sup> Under section 40, the Authority must consider:
- a) Did Officer D genuinely believe the person was fleeing<sup>12</sup> to avoid or escape arrest (a subjective test)?
  - b) If so, was Officer D's use of force to prevent the escape reasonable (an objective test)?  
This question requires us to consider:
    - the seriousness of the offence which the officer reasonably suspected the person to have committed;
    - the effect of an escape on the likelihood of the person being brought to justice (for example, loss of evidence or difficulties in identifying and/or catching the person later); and
    - the degree and severity of the risk that the person was reasonably believed to pose if the escape was not prevented.
73. Based on the radio transmissions he heard, we accept Officer D genuinely believed that the two drivers were driving away from Police to avoid being arrested in relation to the suspected stolen car.
74. While the suspected property and driving offences were not objectively serious, the drivers should be held accountable for their alleged actions if possible. Police did not know the identity of the suspected offenders so it would have been difficult to arrest them later, once they had left the cars. Other than the immediate threat posed by their unsafe driving, the specific threat posed by the drivers (and any other car occupants) was also unknown.
75. Officer D laid road spikes to try to deflate the car tyres slowly, giving officers the chance to arrest the occupants safely. Blenheim Road was wide and straight and there was minimal other traffic around, reducing risks to other road users. We conclude it was a proportional and appropriate tactic to use in the circumstances. Officer D was therefore justified in laying road spikes.
76. We accept that the officers attempted to advise Comms of their intention as policy requires. However, Officer D's chosen deployment site offered him no protective solid cover, which was dangerous and contrary to policy.

---

<sup>11</sup> Section 40 is set out in the Appendix.

<sup>12</sup> 'Fleeing' in this context means the absconding or running away from Police, it is not limited to the definition of a fleeing driver as per Police policy.

## The Authority's position on the use of road spikes

77. We have previously expressed the view that Police should signal a driver to stop before road spikes can be deployed; that is, they cannot pre-emptively spike a vehicle.
78. This was because section 40 of the Crimes Act only permits reasonably necessary force to be used to prevent a person fleeing if they have already been arrested, or to escape being arrested. The officer must genuinely believe the person has committed an arrestable offence. Failing to stop after being signalled to do so is an arrestable offence.
79. However, we accept that there will be certain circumstances where it is lawful to deploy road spikes without first having signalled the driver to stop, as in this case where we are satisfied that the deploying officer held a genuine belief that the drivers were fleeing to escape arrest for driving and property offences.

### FINDING ON ISSUE 3

Officer D was justified in using road spikes to attempt to stop both cars, but his choice of deployment site did not offer solid protective cover, rendering the deployment dangerous and contrary to policy.

## CONCLUSION

---

80. One of the difficulties we have encountered in investigating this matter is applying the policies relating to urgent duty driving and fleeing drivers. These were developed relatively recently by Police, and with the Authority's input, at least in relation to the policy concerning fleeing drivers. This case suggests that the policies may not be fit for purpose.
81. An earlier draft of this report included a fourth issue addressing our concerns about the policies. Police feedback suggested that our views were not shared by Police.
82. Rather than make recommendations that may not be helpful, and in order to get this report out, we have removed the section addressing the problems we see. We remain very concerned about the adequacy of these policies, however, and will be inviting Police to join us in a re-examination of them. This is very likely to result in a stand-alone report in due course.



**Judge Kenneth Johnston KC**

Chair  
Independent Police Conduct Authority

21 May 2026

**IPCA: 23-20091**

## Appendix – Laws and Policies

### CRIMES ACT 1961

---

83. Section 40(1) of the Crimes Act states:

**“Preventing escape or rescue**

*(1) Where any person is lawfully authorised to arrest or to assist in arresting any other person, or is justified in or protected from criminal responsibility for arresting or assisting to arrest any other person, that authority, justification, or protection, as the case may be, shall extend and apply to the use of such force as may be necessary—*

*(a) to prevent the escape of that other person if he or she takes to flight in order to avoid arrest; or*

*(b) to prevent the escape or rescue of that other person after his or her arrest—*

*unless in any such case the escape or rescue can be prevented by reasonable means in a less violent manner:*

*provided that, except in the case of a constable or a person called upon by a constable to assist him or her, this subsection shall not apply where the force used is intended or likely to cause death or grievous bodily harm.”*

### LAND TRANSPORT (ROAD USER) RULE 2004

---

84. **“11.18 Application of clauses 3.1 to 3.4 and 3.6: traffic control devices and signals**

*A driver of an emergency vehicle that is displaying a blue or red beacon or blue and red beacons, or sounding a siren, must be regarded as having complied sufficiently with clauses 3.1 to 3.4 and 3.6 if the driver reduces speed so as not to exceed 20 km per hour and then proceeds, taking due care to avoid collision with pedestrians and other traffic.”*

---

## 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.

---



Mana Whanonga Pirihimana Motuhake

PO Box 25221, Wellington 6140

Freephone 0800 503 728

[www.ipca.govt.nz](http://www.ipca.govt.nz)

---