

Police shooting of Tom Phillips justified

7. The Authority also acknowledges this incident resulted in serious injury to an officer. We extend our sympathy to all those involved.

The Authority's Findings

Issue 1: Was Officer D justified in shooting Tom Phillips?

Officer D was justified in shooting Tom Phillips in self-defence.

Officers provided appropriate aftercare to Mr Phillips.

Issue 2: Did Police exercise appropriate command and control on 8 September 2025?

When Mr Phillips went missing with his children in late 2021, Police commenced Operation Curly. Operation Curly staff later produced a plan in the event of a sighting or interaction with Mr Phillips. The plan was not widely circulated within Police.

On 8 September 2025, Police responded quickly to the reported sighting of Mr Phillips. This presented frontline officers with a volatile and dangerous situation.

On his own initiative, Officer B developed a plan to track the movements of Mr Phillips. This was successful and resulted in Officer A intercepting Mr Phillips and spiking his quad bike. The actions of Officers A and B in developing and implementing that plan are commendable.

Our investigation identified shortcomings in the Police Emergency Communications Centre Shift Commander's actions. Despite these issues, frontline officers relied on their training to achieve an outcome in a difficult situation. The actions of Officers C and D should also be commended.

Background to the events of 8 September 2025

8. On around 12 September 2021, Mr Phillips and his children disappeared for the first time, re-emerging to family on 28 September. Two months later, in December 2021, Mr Phillips left his parents' home at Marokopa, again with his children. It was understood that Mr Phillips had "gone bush" and was living with his children in the Waitomo and Marokopa areas.
9. Police launched a dedicated operation (Operation Curly) to locate Mr Phillips and the children.

Criminal activity and sightings

10. Between 2021 and 8 September 2025 there were limited sightings of Mr Phillips and his children and Police did not know where they were living.
11. Throughout 2023, there were a series of burglaries and motor vehicle thefts in the Waitomo area, including several in Piopio, where Police believed Mr Phillips was the likely offender.
12. On 16 May 2023, Mr Phillips used firearms during a robbery at the ANZ Bank in Te Kuiti. As a result, Police obtained a warrant to arrest Mr Phillips.

13. On 3 October 2024, a group of hunters observed and took cell phone footage of an armed Mr Phillips and his children moving across open land in Marokopa.
14. On 19 November 2024, a trail camera installed by Police captured Mr Phillips and his children, confirming they were still in the area. Similar camera footage was also captured on 5 and 6 April 2025.
15. In the early hours of 27 August 2025, Mr Phillips committed a burglary of a shop in Piopio, arriving and leaving on a quad bike.
16. During this time there were no direct interactions between Police and Mr Phillips, or his children. Police had circulated several internal notices to their staff as to the high risk that Mr Phillips presented, that if located, he was likely to be armed and dangerous.

What happened on 8 September 2025?

17. At approximately 2.20am, a member of the public saw Mr Phillips forcing entry into a warehouse in Piopio and called Police to report this. A quad bike was observed.
18. The Northern Police Emergency Communications Centre (Comms), based in Auckland, responded. Due to the rural nature of Piopio, the Waikato District Command Centre (DCC) was contacted so that resources could be deployed.
19. The DCC Shift Supervisor called out rural officers from two locations: Officer A from a nearby town and Officer B from Piopio. He also requested the attendance of a tactical dog team,² Officers C and D, who were about 80 kilometres away.
20. The DCC Shift Supervisor advised all staff of the risk posed by Mr Phillips and said they should arm themselves.
21. After a short delay, the Police Eagle Helicopter ("Eagle") was deployed and began to fly south from Auckland.
22. At about 2.45am, Mr Phillips left the warehouse on the quadbike. Using his initiative, Officer B had secured himself in a favourable location and tracked the quad bike leaving Piopio and heading towards Marokopa. Officer B then provided updates on his Police radio.
23. Officer A was driving south and, after being informed of where to go by Officer B, arrived at the intersection of Te Anga and Waipuna Roads, which is about 16 kilometres north of Piopio. Officer A arrived about 10 minutes before the arrival of the quad bike, with updates being provided by Officer B.
24. Officer C (driving) and Officer D were travelling with urgency from the north, heading along Te Anga Road from Waitomo. The Eagle helicopter was still on route.

² A tactical dog team is made up of two constables; a dog handler and a member of the Armed Offender Squad, who has tactical options, such as firearms, a sponge round weapon and the usual deployments such as Taser and pepper spray.

25. At the intersection, Officer A established a suitable area to deploy spikes for the quad bike and approval to do this was granted by the Comms Shift Commander. Spikes were put into position at 3.16am.
26. Officer A's plan, after he prepared the spikes, was to find a safe place to park and wait for the quad bike, and for the arrival of Officers C and D. At 3.22am, over the Police radio, Officer A reported hearing the quad bike enter the intersection, run over the spikes, and turn towards Marokopa.
27. Officer A decided to follow the quad bike in his patrol car as he was concerned the suspects could run into the bush and he wished to help with directions for the other officers, who he understood were close by.
28. After about 300 metres, as Officer A rounded a corner, with his car headlights he saw the quad bike and realised he was much closer than he had thought. Officer A announced over the radio that the quad bike had gone off the road.
29. Officer A later described Mr Phillips being off the quad bike with a rifle and looking back at him in his patrol car. Mr Phillips shot at Officer A, who was struck twice and sustained near fatal injuries. It was 3.24am when Officer A was able to broadcast over the Police radio that he had been shot.
30. Officers C and D were close by and arrived within 10 seconds of this. Just before arriving, Officer D heard Officer A's radio transmission. Officer D told us:
- "I remember the tone of his voice had significantly changed from his previous transmissions which were calm. This transmission was very panicked and sounded like he was in a struggle and had been seriously hurt. The transmission was very short, I could not make out the words."*
31. When Officers C and D arrived, they saw Mr Phillips standing and pointing a rifle towards Officer A's vehicle, which was directly in front of them. They could not see Officer A. They both say that when Mr Phillips saw them arrive, he turned and pointed his rifle in their direction.
32. Officer C says Mr Phillips looked to be "*chambering another round*" as the patrol car came to a stop. He was holding the rifle with two hands, with one hand near the trigger.
33. Officer D says he could clearly see Mr Phillips pointing his firearm at him. He feared for his life as he believed he was going to be shot. He believed Mr Phillips had shot and killed Officer A.
34. In response, Officer D got out of the Police car and fired his rifle at Mr Phillips. He did not give a voice appeal or warning as he did not believe there was time. Officer D says Mr Phillips was already in a shooting position and looking through the scope of his rifle at him.
35. Officer D says he cannot remember how many times he fired at Mr Phillips. He says he fired until Mr Phillips was no longer a threat. He saw Mr Phillips fall in a twist to the ground behind the quad bike. He yelled for Mr Phillips to put his arms where he could see them, but Mr Phillips did not respond.

36. In total, Officer D fired five shots at Mr Phillips. Three of these shots struck Mr Phillips and he fell to the ground.
37. Officer C was also out of the patrol car and moved forward, armed with a Police pistol.
38. Once a degree of control was established, Officer D remained with Mr Phillips while Officer C went off in search of Officer A.
39. Officer C found Officer A, who was responsive but had sustained serious injuries. Officer C requested a helicopter and ambulance attend urgently.
40. When Officer B arrived on scene, about two or three minutes after the shooting, he was able to assist Officer D in handcuffing Mr Phillips and take over first aid on Officer A.
41. Officers C and D moved Mr Phillips to the road and Officer D then provided first aid to Mr Phillips. He says at this point he believed that Mr Phillips had died from his injuries. Mr Phillips was later pronounced dead by ambulance staff at the scene.
42. The pathologist report confirms that Mr Phillips sustained non-survivable injuries.

Analysis of the Issues

ISSUE 1: WAS OFFICER D JUSTIFIED IN SHOOTING MR PHILLIPS?

43. In this section we assess whether Officer D's actions were justified. We also consider whether Police provided appropriate and timely medical care to Mr Phillips.

Was Officer D justified in shooting Mr Phillips to defend himself or others?

44. Section 48 of the Crimes Act 1961 provides that any person, including a Police officer, is legally justified in using reasonable force in defence of themselves or another.
45. Assessment of section 48 involves asking three questions:
 - a) What were the circumstances as the officer believed them to be (a subjective test)?
 - b) Was the officer's use of force for the purpose of defending himself or another (a subjective test)?
 - c) Was the officer's use of force reasonable in the circumstances as the officer believed them to be (an objective test)?

What did Officer D believe the circumstances to be?

46. Officer D's view of the circumstances is outlined above in paragraphs 30-33. To summarise, his perception was that if he did not shoot Mr Phillips immediately, he would be shot.

47. We accept Officer D genuinely believed Mr Phillips was about to shoot him and he was at risk of serious harm or death. We also accept that Officer D believed Mr Phillips had shot and likely killed Officer A.

Was Officer D's use of force for the purpose of defending himself or others?

48. We accept Officer D used force to defend himself.

Was Officer D's use of force reasonable in the circumstances as he believed them to be?

49. Officer D saw Mr Phillips point his rifle and look down the scope directly at him. He feared for his life. He believed that Mr Phillips had already shot and killed Officer A. We consider, in the circumstances as he understood them to be, that the only realistic option available to Officer D at this point was to shoot Mr Phillips.
50. The use of fatal force, especially without a warning, will only be justified where an officer believes the person poses an imminent risk of grievous bodily harm or death. We are satisfied that Officer D believed Mr Phillips posed such a risk and that it was necessary to shoot Mr Phillips immediately to prevent Mr Phillips from killing or seriously injuring him.
51. It has been established that Officer D fired five of the thirty rounds available to him. We accept Officer D's evidence that he fired until he believed Mr Phillips was no longer a threat. We consider the force used by Officer D was proportionate to the risk he perceived he faced and was therefore justified.

Did officers provide Mr Phillips with timely and appropriate medical care?

52. While there was a short delay in Officer D administering first aid to Mr Phillips, we do not believe this was excessive or unreasonable.
53. Officer C requested medical assistance to the scene within a minute of the shooting. It was reasonable for officers to wait until further Police staff arrived so that they could provide first aid to Mr Phillips in a safe environment.
54. Mr Phillips did not respond to officers at the scene and his injuries were later confirmed to be non-survivable.

FINDINGS ON ISSUE 1

Officer D was justified in shooting Tom Phillips in self-defence.

Officers provided appropriate aftercare to Mr Phillips.

ISSUE 2: DID POLICE EXERCISE APPROPRIATE COMMAND AND CONTROL ON 8 SEPTEMBER 2025?

55. In this section we will consider whether Police appropriately managed their response on 8 September 2025. We will also consider whether Police complied with their policies on command and control and whether the communication between Police command and attending officers was appropriate.

Was the command-and-control structure clear to attending staff?

56. When responding to a serious incident, such as one suspected to involve a high-risk offender like Mr Phillips, Police are required to plan a response and then communicate this plan and any intentions to staff.
57. The 'Command and Control' policy provides that an 'Incident Controller' should be appointed who has overall responsibility for the '*entire police response and achieving outcomes sought*.' Typically, this role is initially assumed by the Comms Shift Commander, usually of inspector rank, until control can pass to a suitable senior officer in the field.
58. The policy sets out that the role of the DCC is to support or enable the coordination of critical incidents and contact should be maintained between the DCC staff and Incident Controller.
59. The DCC Shift Supervisor describes his role in the incident as that of a risk manager. He said the Comms Shift Commander would usually be the Incident Controller, and his role was to provide resource and assistance to the Incident Controller, including local knowledge.
60. The Comms Shift Commander accepted he would take the role of Incident Controller in an event like this, with the DCC Shift Supervisor assisting. However, on this occasion, he says attending staff referred to the DCC Shift Supervisor frequently, having direct phone discussion which he was not involved in.
61. Overall, it seems that while there was an expectation that the Comms Shift Commander would adopt the role of Incident Controller, many of the tasks fell to the DCC Shift Supervisor.
62. Attending staff were not made aware that the Comms Shift Commander was the Incident Controller, instead waited for instructions from the DCC Shift Supervisor. This led to issues with communication between Police command and frontline staff which is discussed further at paragraph 75-81 below.

Did Police follow the Response Plan?

63. In October 2024, following the filming of Mr Phillips and the children in Marakopa by the hunters, Operation Curly staff produced a specific response plan ("the Response Plan"). This plan had a clear mission: '*To safely locate, return and prevent further harm to [the Phillips children]*'.

64. The Response Plan detailed it could not cover every possible eventuality, particularly given the unique, complex and elongated time frame of this investigation. It also clearly highlighted the risks that Mr Phillips presented due to his situation and use of firearms.
65. In the event of a sighting of Mr Phillips, the Response Plan detailed an approach to cordon and contain the area and to activate specialist armed units. It also detailed that:
- Comms would take initial control of the incident.
 - The Operation Curly Team Lead or a Duty Inspector would be appointed as Incident Controller.
 - Eagle would be engaged.
 - Staff would be sent the plan by email or e-text.

What happened?

66. The Response Plan had not been circulated to Comms. Therefore, the Comms Shift Commander was not aware of it and on the night did not check if there was one, only thinking about this afterwards.
67. After receiving the 111-call reporting the burglary, Comms staff immediately contacted the DCC Shift Supervisor.
68. The DCC Shift Supervisor, had received and was aware of the Response Plan, and:
- dispatched the closest officers to the scene (Officers A and B);
 - sent a Tactical Dog Team (Officers C and D);
 - contacted the Operation Curly Investigation Team;
 - contacted the AOS Commander; and
 - requested Eagle attend.
69. The DCC Shift Supervisor told us that the plan required many staff to be deployed on cordons but that at the time (the early hours of Monday morning) he did not have the staffing available. He *“got all the units [he] could to them which I possibly could”* and he does not believe he could have got the staff there any faster.
70. The DCC Shift Supervisor says the Comms Shift Commander would normally act as Incident Controller.
71. The Comms Shift Commander initially declined the DCC Shift Supervisor requests for Eagle to attend, although he later reversed this decision. Eagle staff say they became aware of the incident from listening to the Police radio, so decided to be *“kitted up to fly”* even though they were aware that the Comms Shift Commander had declined they attend.

72. Once approved, Eagle was airborne at 2.45 am (six minutes after the first request), and due to the flight time did not arrive at the scene until 3.33 am (nine minutes after the shooting).
73. None of the attending frontline staff were aware of the Response Plan. The Response Plan set out that it should be circulated to staff *“by email or e-text”* in the event of a sighting of Mr Phillips. This did not happen.
74. Overall, the Police response was led by frontline officers. Officer B developed his own plan to track Mr Phillips. And for his part, Officer A proposed spiking Mr Phillip’s quad bike.

Was the communication between Police command and frontline officers adequate?

75. The DCC Shift Supervisor directed that attending staff be advised of the risk posed by Mr Phillips, that they should arm themselves and conduct appropriate risk assessments. The DCC Shift Supervisor spoke directly to Officers B, C and D. He advised Officer B of the risk and reminded him to keep his distance from Mr Phillips.
76. The Comms Shift Commander did not communicate directly with Officers A, B, C or D at any point. He had discussions with the DCC Shift Supervisor regarding the use of Eagle and approved the use of spikes but otherwise was not involved in the event planning. He was also not informed of the outcome of discussions between the DCC Shift Supervisor and AOS and the Operation Curly Team.
77. Police radio transmissions indicate that Comms and frontline staff were waiting for the DCC Shift Supervisor, rather than Comms Shift Commander to confirm a plan of action. This resulted in delay as the DCC Shift Supervisor (who was working alone in DCC) was balancing communicating with AOS and the Operation Curly Team, providing updates to staff on the ground as well as monitoring other incidents in the area, saying: *“I was the sole member working in the DCC...monitoring Comms, but also making and fielding phone calls.”*
78. The DCC Shift Supervisor says he was planning as to what would happen next but felt it was the role of the Incident Controller to direct staff on the ground, saying: *“[the Comms Shift Commander] was very silent and I filled the void, as much as I could, knowing that it wasn’t my role.”*
79. Officer A says there was a *“bit of a delayed response”* as to the plan once he had reached the Te Anga Road intersection and what role he should play. This delay appears to have been the result of staff waiting to hear back from the DCC Shift Supervisor.
80. Officer A and the Comms Dispatcher sought clarity on the plan over the radio on three occasions:
 - At 2.55 am Officer A asked the Comms Dispatcher: *“... what’s the plan, what do you want me to do?”* The Comms Dispatcher responded that they would ask the DCC Shift Supervisor to get in touch with him.

- At 3.01 am the Comms Dispatcher asked the DCC Shift Supervisor: “... *what are you wanting from [Officer A]?*” The DCC Shift Supervisor responded: “*Sorry... I’m on the phone to AOS.*”
 - At 3.09am Officer A asked: “*Anything from DCC yet?*” The Comms Dispatcher followed up with: “*DCC free yet?... What’s the plan for [Officer A]?*”
81. It was only after the third request that the DCC Shift Supervisor communicated directly with Officer A. Officer A suggested a plan to lay spikes. The DCC Shift Supervisor agreed and the Comms Dispatcher confirmed the use of spikes was approved by the Comms Shift Commander. There was no clear plan about what should happen after Officer A spiked the quad bike. The DCC Shift Supervisor had previously suggested that Eagle could be used to locate Mr Phillips although it was understood that Eagle were still approximately 10 minutes away at that point.
 82. The DCC Shift Supervisor says he was not aware that Officer A was seeking direction from him as he was on the phone to the AOS commander and Operation Curly Team during this time. In the DCC Shift Supervisor’s view, from the point at which the Comms Shift Commander authorised spikes, it was the Comms Shift Commander who took over control of the incident and Officer A should have been referred to him.
 83. The DCC Shift Supervisor was working alone and monitoring two radio channels, phone lines and other tasks so he says he was not aware that the Comms Shift Supervisor had not contacted staff directly.
 84. We accept it was not the role of the DCC Shift Supervisor to communicate or provide direction to Officer A or the other frontline staff. This was the role of the Incident Controller. In our assessment, the DCC Shift Supervisor did his best and was placed in a difficult position because the Comms Shift Commander (the assumed Incident Controller) did not communicate directly with the officers on the ground.

Conclusion

85. Police responded quickly to the 111-call reporting the burglary. Comms staff contacted the DCC Shift Supervisor who is responsible for resources in that location. Within minutes of the call, the closest available staff, as well as an armed tactical dog team, were deployed.
86. The DCC Shift Supervisor correctly identified the suspect was most likely to be Mr Phillips and appropriately directed that attending staff be made aware of the risk posed by him and that they should arm themselves. He spoke directly to Officer B about the plan to observe Mr Phillips from a distance and, in line with the Response Plan, requested Eagle and contacted the Operation Curly contact as well as the AOS Commander.
87. We accept that the DCC Shift Supervisor was limited in the number of staff he could send due to staffing numbers at that time and that he sent staff as quickly as possible. This meant the Response Plan direction to set up a broad cordon of the area was not feasible.

88. We also accept there were good reasons to limit the circulation of the Response Plan and it would have been impractical for the plan to cover all eventualities or for it to be circulated to attending staff on the day.
89. However, in our view, the Response Plan should at least have been shared with Comms staff, in particular the Comms Shift Commander who it was anticipated would initially adopt the Incident Controller role.
90. We consider it would also have been beneficial for Police to advise local frontline officers of the existence of a plan and any information relevant to them. This would have provided a degree of reassurance and clarity for officers.
91. While there was a delay in the Comms Shift Commander approving Eagle to attend, this does not appear to have affected Eagle's response time, as Eagle staff were in the air and flying towards Piopio six minutes after the initial request to attend. It does not appear that Eagle would have arrived before the shooting even if the Comms Shift Commander had approved the initial request for them to attend.
92. The Authority has concluded that there were shortcomings in Police command and control of the incident:
- The lack of a clearly identified Incident Controller and confusion over who was performing that role resulted in delayed communication from Police command to frontline staff and a lack of direction around the plan and what officers should do, particularly once the quad bike had been spiked.
 - Further, in our view, the Comms Shift Commander should have assumed the role of Incident Controller and taken a much more active role in the management of the event, including providing instructions to frontline staff about what should happen next. Comms should have clearly communicated to attending officers that the Comms Shift Commander had control of the incident and to communicate with him rather than the DCC Shift Supervisor.
93. We would invite Police to reflect on these findings and consider using this incident as a means of conveying to staff the critical nature of effective command and control.
94. Despite these concerns, this was a dynamic and fast-moving event which, like many cases, was ultimately informed by the skills, knowledge, and experience of capable frontline staff. It was reasonable for Police to expect those staff to follow their training, assess the risk, make decisions and respond based on what was happening around them. We are of the view that this is what happened.
95. Ultimately, Officers A and B implemented a successful plan to track and intercept Mr Phillips. They should be commended for their foresight and initiative.
96. Also, Officers C and D responded with great urgency and proficiency to a highly dangerous scenario. They also should be commended for their actions.

FINDINGS ON ISSUE 2

When Mr Phillips went missing with his children in late 2021, Police commenced Operation Curly. Operation Curly staff later produced a plan in the event of a sighting or interaction with Mr Phillips. The plan was not widely circulated to staff.

On 8 September 2025, Police responded quickly to the reported sighting of Mr Phillips. This presented frontline officers with a volatile and dangerous situation.

On his own initiative, Officer B developed a plan to track the movements of Mr Phillips. This was successful and resulted in Officer A intercepting Mr Phillips and spiking his quad bike. The actions of Officers A and B in developing and implementing that plan are commendable.

Our investigation identified shortcomings in the Comms Shift Commander's actions. Despite these issues, frontline officers relied on their training to achieve an outcome in a difficult situation. The actions of Officers C and D should also be commended.

Subsequent Police Action

97. Police acknowledge and accept our findings. They tell us they have taken steps to enhance their command and control capability through training delivered at Senior Leadership Courses as well as scenario-based exercises.



Judge Kenneth Johnston KC

Chair
Independent Police Conduct Authority

20 August 2026

IPCA: 25-29454

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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