IPCA
Independent Police Conduct Authority
Mana Whanonga Pirihimana Motuhake

Police justified in firing a shot during an arrest in Kaitaia

1. At 12:40pm on 25 June 2024, officers went to a property near Kaitaia looking for Mr Z who was wanted to arrest for breach of bail. Mr Z ran out the back door carrying a canvas gun case. An officer confronted him, causing him to run back inside. The officer ran after Mr Z, entered the house, and saw Mr Z in the process of removing a firearm and turning it in his direction. The officer fired one shot at Mr Z. The shot missed.

2. Mr Z was charged with offences relating to the incident.

3. Police notified us of the incident pursuant to the Memorandum of Understanding between Police and the Authority on 25 June 2024.[1] We independently investigated this incident. We offered to speak to Mr Z, but he declined. We delayed the publication of our report until now on account of the criminal proceedings. Mr Z has now pleaded guilty to the charges. He is due to be sentenced in 2027.

The Authority's Findings

Issue 1: **Was Officer A justified in entering the property?**

Officer A was justified in entering the property under section 14 of the Search and Surveillance Act 2012.

Issue 2: **Was Officer A justified in shooting at Mr Z?**

Officer A was justified under section 48 of the Crimes Act 1961 in shooting at Mr Z in defence of himself and others.

[1] As required by section 13 of the Independent Police Conduct Authority Act 1988.

Analysis of the Issues

ISSUE 1: WAS OFFICER A JUSTIFIED IN ENTERING THE PROPERTY?

4. In this section we consider the law relating to Police entry to private property.

What does the law say?

5. Section 14 of the Search and Surveillance Act 2012 says that:

> *"(1) A constable who has reasonable grounds to suspect that any 1 or more of the circumstances in subsection (2) exist in relation to a place or vehicle may—*
>
> *(a) enter the place or vehicle without a warrant; and*
>
> *(b) take any action that he or she has reasonable grounds to believe is necessary to prevent the offending from being committed or continuing, or to avert the emergency.*
>
> *(2) The circumstances are as follows:*
>
> *(a) an offence is being committed, or is about to be committed, that would be likely to cause injury to any person, or serious damage to, or serious loss of, any property:*
>
> *(b) there is risk to the life or safety of any person that requires an emergency response."*

What happened?

6. At around 11.50am, a Police dog handler (Officer A) received information about the whereabouts of Mr Z who was wanted to arrest for having breached conditions of his bail. Mr Z had a number of active charges, including firearm and drug-related offences. He had convictions for being unlawfully in possession of firearms and was known to use drugs and to flee from Police to avoid apprehension.

7. At about 12:40pm, Officer A and three other officers arrived at the rural property where Mr Z was believed to be. All four officers were armed with Glock pistols.

8. Officer A and his Police dog went to the rear of the property and waited behind a fence while other officers approached the front of the house. Officer B knocked on the front door. A woman opened the door and denied that Mr Z was present. Soon after, Mr Z came running out a door on the side of the house. He was seen by Officer C who told him he was under arrest. Mr Z ran back inside and slammed the door. The officer did not follow him inside.

9. Officer A says he heard "*crashing and banging*" which he believed was someone running inside the house. He climbed over the fence and walked down the bank toward the back lawn. Mr Z

ran out the back door carrying a canvas gun case. Officer A drew his Glock pistol and yelled: *"Stop, armed Police."* Mr Z turned immediately and ran back toward the house.

10. Officer A considered releasing his dog. However, he believed Mr Z would reach the house before the dog got to him and was worried about having an uncontrolled Police dog inside the house. Instead, Officer A ran after Mr Z, holding the pistol in one hand and the Police dog in the other. Officer A followed Mr Z inside the house.

What was Officer A's understanding of the situation when he entered the house?

11. According to Officer A, when he saw Mr Z carrying a rifle case, he concluded that Mr Z had a firearm.

12. Officer A determined that running into the house after Mr Z was the best course of action for the following reasons:

- He believed Mr Z had a firearm.
- Mr Z ignored his instruction to surrender.
- The situation had become far more serious with Mr Z running in the direction of officers at the front of the property.
- He was aware Mr Z did not live at the property and was concerned for the safety of any other people inside.

Was entry justified?

13. We concluded that, under section 14 of the Search and Surveillance Act 2012, Officer A was justified in entering the house to respond *"to risk to life or safety"*:

- Notwithstanding the presence of multiple officers, Mr Z had not surrendered and was believed by Officer A to be in possession of a firearm.
- While Mr Z's intentions were not known, we accept that Officer A believed he posed a risk to the people inside the house and to the three officers who were nearby.

FINDING ON ISSUE 1

Officer A was justified in entering the property under section 14 of the Search and Surveillance Act 2012.

ISSUE 2: WAS OFFICER A JUSTIFED IN SHOOTING AT MR Z?

14. In this section, we describe Officer A's use of force against Mr Z and assess whether it was justified.

What happened?

15. Upon entering the house, Officer A saw Mr Z in the far corner of the room, near the front door. Between Officer A and Mr Z was a dining room table, with two women (Ms X and Ms Y) seated at either end. Ms X was seated in front of Officer A, slightly to his left, while Ms Y was seated further away to Officer A's right.

16. Officer A aimed his Glock pistol at Mr Z and yelled at him to put the gun down. Instead, Mr Z yelled: "*Shoot me, fucken shoot me*." According to Officer A, Ms X leaned forward toward the tabletop to take cover. Again, Officer A yelled at Mr Z to put the gun down. Officer A says:

> *"Mr Z reached into the bag and with his right hand begun removing a wooden and metal firearm from within the case. As he has done this, he has begun lifting the muzzle of the firearm in my direction".*

17. Officer A says he believed he would be killed if Mr Z got the gun up. Officer A fired a single, one-handed shot over the table, aiming at Mr Z on the other side. The shot narrowly missed Mr Z. Mr Z dropped the firearm and fell backwards onto the floor. Other officers entered the room and secured Mr Z in handcuffs.

18. Mr Z told Police that he did not want to go to prison and "*had accepted that the Police would probably shoot me".* According to him, he was holding the gun case in his right hand, and he denied having a hand inside the bag or on the gun. Officer C took a photograph showing Mr Z in the process of being handcuffed. Contrary to Mr Z's account, the photograph showed the firearm on the floor, indicating it was almost completely out of the gun case when Officer A fired.

19. According to Ms X, she was not aware Mr Z was present until Police arrived. She says: "*I wasn't listening to what was being shouted as it all happened so fast".* Despite conflicting evidence, Ms X says she did not recall hearing any gunshots or seeing any firearms.

20. According to Ms Y, three or four Police officers arrived and asked if Mr Z was present. She heard banging and crashing and Mr Z came running through the room, out the back door, and then back into the room. She recalls Police saying: "[*Mr Z*] *stop,* [*Mr Z*] *stop, or I'll shoot*". She further says: "*I wished he did not grab the gun, I don't know, he just dreaded going back to prison. I don't think he was going to use the gun on Police. I think he was going to use it on himself*".

Was Officer A justified in using force against Mr Z

21. Officer A says he was acting in defence of himself, Ms X, and Ms Y when he shot at Mr Z. We have therefore assessed his actions under section 48 of the Crimes Act 1961.

22. Section 48 of the Crimes Act 1961 provides that all individuals, including Police officers, are justified in employing reasonable force under circumstances they perceive to exist, for the defence of themselves or others.

23. Under section 48, we must determine:

    a) What were the circumstances as Officer A believed them to be? (a subjective test);

    b) Was Officer A's use of force against Mr Z for the purpose of defending himself or another? (a subjective test)

    c) Was Officer A's use of force against Mr Z reasonable in the circumstances as he believed them to be? (an objective test)

What did Officer A believe the circumstances to be?

24. This is outlined above in paragraphs 9 and 10, and 16 and 17.

Was the use of force by Officer A for the purpose of defending himself or another?

25. We accept that Officer A shot at Mr Z in defence of himself, Ms X, and Ms Y.

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

26. We accept Officer A genuinely feared for his life and the lives of others. He believed Mr Z was about to fire at him, which would also place the women at risk. He also believed Mr Z could potentially be about to fire at the women. Officer A had to make a split-second decision on how to stop Mr Z from shooting.

27. Officer A says he considered releasing his Police dog, but there was no certainty that the dog would have apprehended Mr Z, as Ms X and Ms Y were also in the room. We agree. While Officer A carried a Taser, we are satisfied that this was not an option because he would have needed to holster his pistol first.

28. Officer A says he was very aware of Ms X's location and was comfortable that it was safe to fire the shot. He explained a slight deviation of the pistol would not have put Ms X at risk, but rather, he would have had to have lowered the pistol by about a foot to hit her.

29. We acknowledge Officer A firing the shot placed Ms X at some risk. However, given the extreme circumstances and the imminent risk posed by Mr Z, we find it was reasonable for Officer A to have fired at him. There was no other reasonable option available to him.

FINDING ON ISSUE 2

Officer A was justified under section 48 of the Crimes Act 1961 in shooting at Mr Z in defence of himself or others.



Judge Kenneth Johnston KC

Chair
Independent Police Conduct Authority

26 November 2026

IPCA: 24-23318

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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