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# Police response to the actions of Quinn Patterson in Whangārei

## INTRODUCTION

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1. At about 10:30am on Wednesday 26 July 2017, Quinn Patterson fatally shot two people and seriously injured a third at his home near Whangārei, before barricading himself inside. Police surrounded the house and attempted to negotiate with Mr Patterson.
2. At 3:30pm, after Police had put tear gas into the house, Mr Patterson fired at Police with a semi-automatic rifle. Police returned fire. Shortly afterwards, the house caught alight and burned to the ground. Mr Patterson's body was found in the burnt remains of the house.
3. The Police notified the Independent Police Conduct Authority of the incident, and the Authority conducted an independent investigation. This report sets out the results of that investigation and the Authority's findings.

## BACKGROUND

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4. This section of the report provides a summary of the incident and the evidence considered by the Authority. When quoting or describing the accounts of any officer, complainant or witness, the Authority does not intend to suggest that it has accepted that particular account.
  5. Analysis of the evidence and explanations of where the Authority has accepted, rejected or preferred that evidence is reserved for the 'Authority's Findings' section.
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## Summary of events

6. Quinn Patterson was a 55-year-old man who was the sole tenant of a semi-rural property on Mount Tiger Road near Whangārei. Mr Patterson had 26 previous convictions, including three convictions for assault. He had Police safety alerts for carrying knives or other weapons, and for using drugs.<sup>1</sup>

### Events preceding the shootings

7. Mr Patterson applied to Whangārei Police for a firearms licence in September 2016, but was declined due to his criminal record.<sup>2</sup> Despite this, and unbeknownst to Police at the time, Mr Patterson had firearms at his property, including military style semi-automatic (MSSA) firearms.<sup>3</sup> It is now known that he purchased some of these online using another person's firearms licence details.
8. In November 2016, the New Zealand Customs Service advised Whangārei Police that Mr Patterson had attempted to import some parts for an Airsoft gun and four empty AK-47 magazines "*for a friend,*" and these had been seized because Mr Patterson did not have the appropriate licence or permits.<sup>4</sup> Although this information was passed on to Police intelligence, it had not been recorded on the Police database for other Police staff to read.
9. At the beginning of June 2017, the management of Mr Patterson's rented property was taken over by a property management company. Wendy Campbell-Rodgers was an employee, and Natanya Campbell, her daughter, was undertaking work experience with the company. At about that time, the owner of the property asked Ms Campbell-Rodgers to investigate whether Mr Patterson had erected a temporary structure at the property without permission.
10. Ms Campbell-Rodgers and Ms Campbell had already visited Mr Patterson, and told their cousin, Officer A, a community constable, that Mr Patterson had been hostile and difficult to deal with. Consequently, Ms Campbell asked Officer A to go to the property and speak to Mr Patterson about the structure.
11. Officer A said that he had spoken to Mr Patterson "*quite often*" in passing, and had visited Mr Patterson at his rented property on at least two previous occasions on unrelated Police matters, but had never been inside Mr Patterson's home. He had found Mr Patterson "*friendly and easy to deal with.*"
12. On 29 June 2017, Officer A and Officer B (also a community constable) went to Mr Patterson's home. Prior to the visit, Officer B checked the Police database for information about Mr

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<sup>1</sup> A Police safety alert flags important information about the potential risks that an offender may pose to the Police officers he or she has contact with.

<sup>2</sup> A standard firearms licence permits a person who is 16 years old or older to use: sporting-type shotguns and rifles; and pre-charged pneumatic (PCP) rifles without supervision. The licencing process is carried out by New Zealand Police. An applicant must satisfy New Zealand Police that they are 'fit and proper' to possess or use firearms.

<sup>3</sup> A military style semi-automatic firearm is defined under section 2 of the Arms Act 1983 as a 'self-loading' firearm that has any of the features listed in the legislation. A person must hold a special endorsement on their firearms licence to possess or use a MSSA.

<sup>4</sup> Airsoft is a competitive team sport in which participants use replica guns to fire non-metal pellets at targets or other participants.

Patterson, and noted that he did not hold a firearms licence. Officer A told the Authority that he was unaware that Mr Patterson did not have a firearms licence.

13. Officer A said that Mr Patterson was co-operative and showed them a small platform that he had erected overlooking a valley. Mr Patterson explained that his friend used it for shooting pigs and targets (a second pallet with paper targets attached was also visible). The officers found this to be a plausible explanation, and found nothing to indicate that Mr Patterson had committed a criminal offence. Officer A reported what he had seen and Mr Patterson's explanation to Ms Campbell-Rodgers and Ms Campbell.
14. At some time between March and May 2017, Mr Patterson's associate, Mr Y, left six firearms (including three MSSA firearms) and up to 4000 rounds of ammunition at Mr Patterson's house. Cellphone footage obtained after this incident allegedly shows Mr Patterson, Mr Y and some associates firing these weapons while at Mr Patterson's property.<sup>5</sup>
15. Officer C, who lived near to Mr Patterson on Mount Tiger Road, later said that he had heard what he suspected to be automatic gunfire two or three times during this time period, but had been unable to pinpoint the direction of the sound. The sound of gunfire was not uncommon in the area, as it was a rural environment.
16. On 24 July 2017, Officer C heard a short burst of automatic gunfire coming from the general direction of Mr Patterson's property. Later that day, he was told that another neighbour had also heard this gunfire. Officer C also had suspicions that some gang members recently arrested nearby might have intended to steal firearms from Mr Patterson's property.
17. On 25 July 2017, Officer C checked the Police database to see if anyone in the vicinity of his own property held the appropriate licence and endorsements to have MSSA, but did not find any such person. Officer C then contacted a Police intelligence analyst to discuss his suspicion that Mr Patterson might have access to MSSA.

### *Mr Patterson shoots three people*

18. At approximately 10:30am on Wednesday 26 July 2017, Ms Campbell-Rodgers, Ms Campbell and a handyman, Mr X, drove to Mr Patterson's rented property in separate vehicles to inspect the property and to install smoke alarms in the house.
19. At 10:39am, Ms Campbell made a brief phone call to Officer A to say that she and her mother were at Mr Patterson's address, and to ask for the exact location of the platform that Officer A had seen on his previous visit.
20. Ms Campbell used a cellphone to audio record the interaction with Mr Patterson, as she was anticipating that he would be hostile towards them. Mr X also video recorded the initial interaction between Ms Campbell-Rodgers, Ms Campbell and Mr Patterson on his cellphone. These recordings corroborate the events described below.

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<sup>5</sup> Mr Y pleaded guilty to nine charges in connection with this matter.

21. Mr X provided an account of what happened next. Mr Patterson had barricaded the elevated front deck of the house with corrugated iron and plastic mesh, which blocked access to his front door. While Mr X stayed at the bottom of the flight of steps leading to the front deck, Ms Campbell-Rodgers and Ms Campbell walked up the steps to the barricade, where they were met by Mr Patterson. He refused to let them inside, retrieved a semi-automatic firearm from inside the house and started shooting at the women and Mr X.
22. Ms Campbell was shot in the chest. Ms Campbell-Rodgers stayed with her while Mr Patterson chased Mr X and shot him in the shoulder and back. Mr X got into his SUV and drove a short distance from the property where he rang 111, requesting an ambulance.

### *Police respond*

23. At 10:50am, a dispatcher at the Northern Police Communication Centre (NorthComms) was informed by Ambulance Communications about the incident, as reported by Mr X. Mr X had also reported that he believed that Quinn Patterson was armed with a .22 calibre rifle, possibly fitted with a suppressor.
24. The NorthComms Shift Commander took initial control of the incident.<sup>6</sup> The road leading to and away from the address was cordoned by armed Police. The Northland Armed Offenders Squad (AOS) and Police Negotiation Team (PNT) were alerted and quickly travelled to the scene.
25. At approximately 11:20am, Officer D, the Whangārei Area Commander, arrived at the Safe Forward Point (SFP) which was located approximately three kilometres from Mr Patterson's address.<sup>7</sup> Officer D took command of the incident at the scene. However, overall control of the incident was assumed by the Northland District Commander, who had also been alerted and was driving from Kerikeri to the District Command Centre (DCC) at Whangārei Police Station in order to monitor events.<sup>8</sup>
26. At 11:30am, Mr X was directed to drive to the Police cordon and was met by AOS officers. He briefly told them about what had happened, and he believed that Ms Campbell was seriously injured. He was taken by ambulance to Whangārei Hospital for treatment.<sup>9</sup>

### *AOS and PNT attempt to contact Mr Patterson*

27. The AOS Tactical Commander<sup>10</sup> briefed the AOS officers about the incident and read them Police fire orders.<sup>11</sup> He directed the AOS officers to drive from the SFP to Mr Patterson's rented property, and to find and rescue Ms Campbell-Rodgers and Ms Campbell. The AOS

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<sup>6</sup> The Shift Commander is the senior officer at a Police communications centre, usually ranked inspector.

<sup>7</sup> The Safe Forward Point is a designated safe location near an incident, from which the forward operations can be supported.

<sup>8</sup> The District Command Centre (DCC) has access to all communications information, and maintains an overall view of policing within a Police District with a focus on crime prevention. The DCC may also act in an incident response capacity, and is able to deploy a wide range of staff and resources under the direct command of the District Commander.

<sup>9</sup> The bullets were surgically removed and he remained in hospital for two days.

<sup>10</sup> The AOS officer responsible for overseeing the AOS tactical response during an operation or incident.

<sup>11</sup> An explanation of the circumstances under which Police may use firearms (refer to paragraphs 125-129).

officers were to remain alert as it was not known whether Mr Patterson was still at the address.

28. At 11:39am, the AOS officers drove to Mr Patterson's rented property and parked near the top of the driveway. The property was located at the top of a hill, and consisted of a main house and annex, several sheds to the right of the house, and at least two large shipping containers near the top of the driveway.
29. The AOS officers found Ms Campbell-Rodgers and Ms Campbell lying on the ground near a shed, to the right of the main house. Two AOS medics examined them and established that they had been shot dead. At 11:47am, this information was radioed to the AOS Tactical Commander and Officer D, who were in the AOS command truck at the SFP. The AOS officers now focused on arresting Mr Patterson.
30. The AOS officers checked the shed and found an empty box of ammunition for an AK-47 assault rifle. They formed a cordon around the main buildings and started to appeal to Mr Patterson using a loud hailer, directing him to surrender to Police. The officers noted smoke coming from the house's chimney.
31. At 12:15pm, the District Command Centre (DCC) became aware that in November 2016 Mr Patterson had attempted to import AK-47 magazines into New Zealand without the appropriate permit, but these had been seized at the border and additionally, that automatic gunfire had been heard coming from Mr Patterson's property during the past week (see paragraphs 8 and 16). This information was passed on to the AOS, PNT and Officer D. Collectively, this information indicated that Mr Patterson might have access to MSSA firearms.
32. A superintendent based at Police National Headquarters sought the Northland District Commander's agreement to send members of the Special Tactics Group (STG) to the scene to assist the Northland AOS.<sup>12</sup> At approximately 12:20pm, the Police helicopter, Eagle, took off from Auckland with the STG Commander on board. Four STG officers, an STG-rated Police dog and an intelligence analyst made preparations to travel to the scene in another helicopter.
33. The AOS officers continued to appeal to Mr Patterson using a loud hailer. They detected some movement inside the house but were unable to confirm whether it was Mr Patterson. The windows on the sides and front of the house had been fortified using wire mesh, and the curtains were drawn. Several CCTV cameras mounted around the property were deactivated by AOS officers.
34. At 1:11pm, PNT officers began to make calls to Mr Patterson's landline and cell phone number in an attempt to speak to him directly. Mr Patterson did not answer.
35. At 1:15pm, an AOS officer positioned on the cordon at the back of the house saw Mr Patterson at the window. This information was radioed to the AOS Tactical Commander.

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<sup>12</sup> The Special Tactics Group is a national specialist Police unit, based in Auckland, Wellington and Christchurch, which undertakes high-risk policing operations. Members have expertise in and access to a wide range of tactics, weapons and equipment.

36. The AOS Tactical Commander directed the AOS officers to make a plan to insert tear gas into the house, with the intention that this would force Mr Patterson to come out of the house so he could be safely arrested.
37. At approximately 1:25pm, Eagle arrived at the address and started circling. Eagle remained circling above the property for the majority of the duration of the remaining incident.
38. Eagle had radio communication with the AOS officers, and was able to relay observations to officers on the ground. In addition, footage from Eagle's camera was able to be streamed (with a short time delay) to the AOS Tactical Commander and Officer D in the AOS command truck, and to the DCC (where the District Commander was based).
39. As Eagle completed its first series of orbits around the property, the STG Commander told the Authority that he saw a man standing at the back window of the house making a "swatting" motion at the helicopter with a fly swatter. This cannot be detected on the Eagle camera footage (at the time Eagle's camera was not closely 'zoomed in' on the house), however the STG Commander's observation can be heard being relayed over the radio by one of the Eagle crew members to the AOS officers. As Eagle continued to orbit the property, Eagle's camera became more closely focused on the house and the image of a person moving about through the back window of the property.
40. At this point, the STG Commander suggested to the AOS Tactical Commander that they wait until the rest of the STG officers arrived and were in position at the property before using tear gas. The AOS Tactical Commander agreed.
41. At 2:15pm, the helicopter carrying the remaining four STG officers arrived at the SFP. The STG Commander had been dropped by Eagle at the SFP, and briefed the STG officers. The STG officers would be responsible for placing Mr Patterson under arrest if he came out of the house.
42. At 2:30pm, the STG officers drove to the property and positioned themselves behind a large metal shipping container, approximately 50 metres from the front of the house.

#### *Police fire tear gas into the house*

43. At 2:46pm, the AOS Tactical Commander approved an updated plan to fire tear gas canisters through the back windows of the house, which were not reinforced with wire mesh. Officer D, the AOS Tactical Commander and the STG Commander decided that, since Mr Patterson would not respond to Police's continuous efforts to contact him, it was appropriate to use tear gas.
44. Officer D contacted the District Commander to obtain his authorisation to use tear gas, however the District Commander decided that they should wait and continue trying to make contact with Mr Patterson for the time being.

45. At approximately 3pm, Police became aware that Mr Patterson had contacted a friend and family member to say “goodbye.” This indicated that Mr Patterson was suicidal, and might attempt to deliberately provoke Police into an action that resulted in his death. The AOS Tactical Commander passed this information to the AOS and STG officers surrounding the property, and directed them to be mindful that non-lethal tactics available to them (such as Police dogs, Tasers, and ‘sponge rounds’) should be used to control and arrest Mr Patterson if possible.<sup>13</sup> These tactical options were available to specific officers positioned on different parts of the cordon around the property.
46. At approximately 3:20pm, Officer D again sought authorisation to use tear gas while it was still daylight, and Eagle had enough fuel to remain circling above. The District Commander authorised this tactic.
47. At 3:29pm, AOS officers fired six non-incendiary tear gas canisters through the back windows of the house.

#### *Mr Patterson shoots at Police*

48. STG Officer 1 and STG Officer 2 were positioned behind a metal shipping container with their rifles trained on the front of the house as the tear gas canisters were fired into the house. Two other STG officers, an AOS officer and a Police dog were behind them. Another AOS officer was positioned in long grass approximately ten metres to their left.
49. At 3:32pm, Mr Patterson pulled open a curtain on one of the glass sliding doors leading out to the elevated deck at the front of the house. Mr Patterson started to fire a semi-automatic rifle through the glass towards their position. The glass door shattered, and bullets started hitting Ms Campbell-Rodgers’ and Ms Campbell’s SUV, which was parked in front of the shipping container, slightly to the left of the STG officers’ position.
50. STG Officer 1 yelled “shots fired!” He said he thought that Mr Patterson was firing at the AOS officer to his left. He also thought that Mr Patterson could see him and the other officers behind the shipping container, because Mr Patterson had an elevated position.
51. STG Officer 1 said that he feared for his own life and that of the AOS officer to his left. He fired ten rounds towards the source of the gunfire in order to incapacitate Mr Patterson, and to protect himself and the other officers.
52. STG Officer 2 said he believed that Mr Patterson was firing at him and the other officers behind the shipping container, and was concerned that the bullets could penetrate the steel of the shipping container. He then saw that the bullets were hitting Ms Campbell-Rodgers’ and Ms Campbell’s SUV, causing it to shake and the windows to shatter. He could tell from the sound of the rapid gunfire that Mr Patterson was using a “high calibre weapon.” He feared that he or another officer would be shot and killed, and decided that he needed to quickly incapacitate Mr Patterson and protect himself and the officers around him.

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<sup>13</sup> The Northland AOS was armed with a ‘sponge round’ or XM1006. This is a less than lethal 40mm projectile with a high density sponge nose that can be fired at an offender by a specially trained AOS or STG using a 40mm launcher, in order to incapacitate the offender.

53. STG Officer 2 positioned himself to the left of STG Officer 1, who was already firing towards the house. STG Officer 2 said he could not see Mr Patterson directly, but was able to calculate his position from the angle of the bullets hitting the SUV. STG Officer 2 said he fired “multiple shots” towards this position, then moved back behind the shipping container to reload his firearm.<sup>14</sup>
54. The STG officers said that when they stopped shooting, Mr Patterson stopped shooting. The Eagle camera footage confirms that the exchange of gunfire occurred over approximately eight seconds. Both STG officers stayed behind the shipping container in case Mr Patterson resumed shooting.
55. Approximately two minutes later at 3:34pm, an intense fire started in the rear left corner of the house, and very quickly spread throughout the building. Several officers said they heard gas venting and ammunition exploding in the heat. At 3:35pm Mr Patterson opened the curtains in the back right room of the house, and at some time before 3:52pm he opened the curtains in the front right bedroom of the house, which was the last part of the house to be engulfed by the flames.
56. Several STG and AOS officers went forward and moved the bodies of Ms Campbell-Rodgers and Ms Campbell away from the buildings to protect them from the flames. The bodies were placed on the far side of the driveway.
57. At approximately 4:15pm, the extent of the fire made it impossible for Mr Patterson to have survived inside the house. It was therefore safe for fire service staff (escorted by AOS officers) to approach the house and put out the fire. Mr Patterson’s body was later found in the front right bedroom.
58. As STG Officers 1 and 2 had discharged their firearms, they returned to Whangarei Police Station where they were tested for the presence of alcohol, returning negative tests. Their firearms were seized as evidence, forensically examined, and found to be in good working order. Both officers, and other key officers, were formally interviewed about their part in the incident.
59. On 26 September 2017, Police conducted a debriefing in accordance with Police policy. A separate AOS debriefing had been carried out on 20 September 2017.

### Police involved

60. STG Officer 1 had 20 years’ service in the New Zealand Police and STG Officer 2 had 18 years’ service in the New Zealand Police. Both officers were current in all relevant certifications.

### Police investigation

61. Police carried out an investigation into the use of force against Mr Patterson and determined that the two STG officers were legally justified in firing at Mr Patterson.

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<sup>14</sup> Forensic analysis of the firearm and scene shows STG Officer 2 fired either eight or nine rounds.



62. On 29 July 2017 a post mortem was carried out on Mr Patterson's body. The direct cause of death could not be conclusively ascertained because Mr Patterson's body was extensively damaged in the fire. However, what evidence remained indicated that Mr Patterson shot himself in the head before the room he was found in was consumed by fire. Mr Patterson was wearing a bullet proof vest when he died, and two firearms were found near his body.
63. The post-mortem examination was not able to determine if Mr Patterson sustained any gunshot wounds caused by Police before his death.
64. During the scene examination, Police found twelve full or partial firearms, and thousands of rounds of ammunition in the house.
65. A specialist fire investigator assisted with determining the cause of the house fire, and found that Mr Patterson probably set the fire himself and used a flammable accelerant to speed its spread throughout the house. Tests confirmed that the tear gas used by Police did not cause or contribute to the fire.

## THE AUTHORITY'S INVESTIGATION

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66. The Authority visited the scene of this incident, and spoke to a member of Mr Patterson's family. The Authority has also spoken to Mr X.
67. The Authority also interviewed Officers A, B and C; the AOS Tactical Commander and three AOS officers; the STG Commander and all STG officers who attended; and the Northland District Commander.
68. The Authority monitored the Police investigation throughout and reviewed the documentation produced by the Police investigation team. The Authority also viewed the Eagle camera footage and listened to an audio recording of NorthComms radio transmissions.

## THE AUTHORITY'S FINDINGS

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69. The Authority identified and considered the following issues:

- 1) Did Police act appropriately based on the information available to them prior to this incident?
- 2) Did Police respond appropriately to Mr X's emergency call?
- 3) Were Police legally justified in using tear gas against Mr Patterson?
- 4) Were Police legally justified in shooting at Mr Patterson in order to defend themselves and other officers?
- 5) Did Police exercise appropriate control and command?

### **Issue 1: Did Police act appropriately based on the information available to them prior to this incident?**

70. In the ten months preceding this incident, Mr Patterson had several separate interactions with Police officers in a formal capacity. He also came to the notice of an off-duty officer, Officer C.
71. Police refused to grant Mr Patterson a firearms licence in September 2016, as he clearly did not meet the character requirements. However, Police should have recorded in the Police database the fact that Mr Patterson had attempted to import Airsoft gun parts and four empty AK-47 magazines without an appropriate licence and permits, for future intelligence purposes (see paragraphs 7 and 8).
72. The fact that Officer C heard automatic gunfire in the area in the months prior to this incident was not sufficiently remarkable to cause particular concern (see paragraph 15). The position of Officer C's property made it difficult for him to pinpoint the direction from which the gunfire was coming from, and there was no particular reason for Officer C to connect the gunfire with Mr Patterson. The sound of gunfire was not unusual in the surrounding rural environment, and it is legal to fire semi-automatic weapons with the correct licence and endorsements.
73. Officer A's and B's visit to Mr Patterson's property in June 2017 was to promote community relations and to look for an unauthorised structure, which was a tenancy matter between Mr Patterson and the property management company. There was no suggestion that Mr Patterson had committed a criminal offence (see paragraphs 9-13).
74. Officer B did complete a general background check, but did not find anything that raised concerns, although he noted that Mr Patterson did not have a firearms licence. There was no other information in the Police database to indicate that Mr Patterson was especially dangerous or had firearms on his property.

75. The Authority asked Officer A whether, had he been aware that Mr Patterson had attempted to import Airsoft gun parts or empty magazines for a friend, without a firearms licence, this would have altered his approach or the purpose of his visit to Mr Patterson’s property.
76. Officer A said that it would not have done, as he was going there for quite a different purpose, to check an unauthorised structure, and it was not a concern to him if Mr Patterson wished to invite a person with a firearms licence to shoot on his rented property. It is not an offence for a lawful occupier of land to allow someone who is appropriately licenced to use a firearm on that land. In the circumstances, and in the absence of any other information indicating that Mr Patterson posed a risk, the Authority considers that Officer A’s conclusion is reasonable.
77. Officers A and B did not learn anything during their visit that suggested they should make further enquiries about Mr Patterson or the friend he told them was shooting on his property. The Authority is satisfied that Officers A and B did not have any cause, or legal authority, to enter Mr Patterson’s house during their visit, at which point they might have seen some of the firearms and ammunition that Mr Patterson had access to. Officers A and B did not record details of their visit on the Police database. However, given the context of the visit, the Authority would not expect them to do so unless they found evidence of criminal activity.
78. Officer C began to make enquiries about Mr Patterson on 24 and 25 July 2017 (see paragraphs 16-17). However, there was insufficient evidence to have made a successful application to search Mr Patterson’s address before the morning of 26 July 2017. Police had no information that indicated that Mr Patterson posed an imminent and significant threat, which might have caused them to consider using their emergency search powers prior to the morning of this incident.

## FINDINGS

Police should have recorded in the Police database that Mr Patterson had attempted to import Airsoft gun parts and empty AK-47 magazines without a firearms licence or appropriate permits. Officers A and B acted appropriately during and after their visit to Mr Patterson’s property. Overall, the information available to Police about Mr Patterson was disparate and insufficient to raise significant concerns or warrant an emergency response before 26 July 2017.

### Issue 2: Did Police respond appropriately to Mr X’s emergency call?

79. In accordance with Police policy when responding to an armed offender, Police travelled quickly to Mount Tiger Road, established the SFP and set cordons to contain the threat posed by Mr Patterson.
80. Police policy requires that, when time and circumstances permit, all forward operations against armed offenders must be carried out by the AOS and the PNT.<sup>15</sup> Upon arrival at the SFP, the AOS Tactical Commander ensured that all AOS officers were briefed and mindful of

<sup>15</sup> The relevant Police policy is set out in paragraphs 130-131.

Police fire orders (see paragraph 27). STG officers were also called out to support the AOS response as it was apparent at an early stage that the incident was extremely serious, Mr Patterson's precise location was unknown and he could have access to high powered firearms (see paragraphs 31 and 32).

81. The safety of Ms Campbell-Rodgers and Ms Campbell was Police's immediate priority as Mr X had reported that Ms Campbell was seriously injured, and both women were in grave danger. AOS officers rightly approached Mr Patterson's property as soon as possible and attempted to rescue them.
82. However, after it was established that both women were deceased, it was appropriate for the AOS to follow standard Police practice when dealing with an armed offender by surrounding the property and verbally appealing to Mr Patterson to surrender. The PNT supported this approach by attempting to contact Mr Patterson on his landline and cellphone (see paragraph 34). Despite several early sightings of Mr Patterson within the house (as described in paragraphs 33 and 35), he refused to engage with Police.

## FINDINGS

The immediate Police response to the initial information that Mr Patterson had shot three civilians was timely and well-coordinated.

It was appropriate for Police to focus initially on rescuing Wendy Campbell-Rodgers and Natanya Campbell. Upon establishing that this was not possible, it was appropriate to cordon the property and attempt to negotiate a surrender with Mr Patterson.

### Issue 3: Were Police legally justified in using tear gas against Mr Patterson?

83. Section 39 of the Crimes Act 1961 provide legal justification for Police to use reasonable force to arrest an offender. However, any force used must be the minimum necessary to achieve the objective, and reasonable under the circumstances as they believe them to be. The Police Tactical Options Framework guides Police in determining the appropriate level of force to use in certain situations (see paragraphs 117-124 for Law and Police General Guidelines on use of force).
84. Police were aware from a very early stage in this incident that Mr Patterson had fatally shot two people, and injured a third. Information available to Police indicated that Mr Patterson probably had access to MSSA (see paragraphs 30-31), and he had clearly taken defensive measures against anyone approaching his home by erecting barricades. He posed an extreme risk and needed to be arrested without delay.

85. Police persisted with attempts to make contact with Mr Patterson for just over three hours. There was clear evidence that Mr Patterson was inside the house (he was seen several times inside the house after the property had been surrounded by AOS officers, and while Eagle was circling above). However, as he refused to acknowledge them, Police were justified in considering other tactical options to safely arrest him.
86. The Authority is satisfied that the circumstances justified the use of tear gas.<sup>16</sup> Mr Patterson was known to be in the house, and was probably armed, making it extremely dangerous for Police to enter it to arrest him.
87. The final gas deployment plan was approved by the AOS Tactical Commander and the District Commander as required by policy. Use of tear gas was left to the last possible opportunity (as directed by the District Commander) to allow Mr Patterson every chance to surrender. However, the deployment order was finally given when Mr Patterson's text messages indicated he was suicidal; and the fading light and ongoing availability of Eagle meant that it was undesirable to wait any longer.
88. It has been conclusively established that the tear gas canisters did not cause, or contribute to the fire at Mr Patterson's house (see paragraph 65).

## FINDINGS

Police were legally justified in firing tear gas canisters into the house in order to safely arrest Mr Patterson.

Tear gas did not cause or contribute to the fire at the property.

### Issue 4: Were Police legally justified in shooting at Mr Patterson in order to defend themselves and other officers?

89. Section 48 of the Crimes Act 1961 provides legal justification for any person, including Police officers, to use reasonable force in defence of themselves or another.<sup>17</sup> 'Legal justification' in this sense means that this person is not guilty of an offence or liable to any civil proceeding in connection with their use of force.<sup>18</sup>
90. In order to rely on this defence, a person's actions must be assessed on a subjective and objective basis. This assessment involves three questions:<sup>19</sup>
  - 1) What were the circumstances as the person believed (subjectively) them to be?
  - 2) Did the person use force for the purpose of defending himself or herself or another (objectively)?

<sup>16</sup> Police policy in relation to the use of tear gas is set out in paragraphs 132-135.

<sup>17</sup> The full section is set out in paragraph 120.

<sup>18</sup> Crimes Act 1961, section 2.

<sup>19</sup> *Adams on Criminal Law* (Brookers, Wellington, 1992) Crimes Act, para CA48.01

3) Was the force used reasonable (objectively) in those circumstances?

91. Police policy reflects the legal position under section 48. It provides that potentially lethal force may be used when an offender presents a threat of death or grievous bodily harm.
92. STG Officers 1 and 2 were positioned behind a metal shipping container in front of the house when Mr Patterson started shooting from his living room.

### *STG Officer 1*

*What circumstances did STG Officer 1 believe he was facing?*

93. Immediately before Mr Patterson opened fire, STG Officer 1 knew that Mr Patterson:
- was capable of killing (having shot three civilians, killing two of them);
  - had been assessed as being suicidal, and was therefore capable of making irrational and unpredictable decisions;
  - was probably armed with MSSA;
  - did not want to be taken into custody; and
  - had the advantage of being barricaded inside his own home, which he had fortified.
94. STG Officer 1 said he heard *“a large amount of loud gunshots”* being fired through the glass ranch slider at the front of the house, and saw and heard them hit Ms Campbell-Rodgers’ and Ms Campbell’s SUV. He said that he believed these shots were aimed towards the AOS officer positioned to his left, who he considered to be in an exposed position. He also said that he believed that Mr Patterson could see the STG officers sheltering behind the shipping container, and that he would also target them (see paragraphs 50-51). He feared *“death and grievous bodily harm to myself...and to the AOS members situated to the other side of [Wendy Campbell-Rodgers’ and Natanya Campbell’s] Nissan.”*
95. The Authority is satisfied that STG Officer 1 genuinely believed that he and the officers near to him were at imminent risk of being shot and killed by Mr Patterson, and that Mr Patterson was capable of carrying out this action.

*Did STG Officer 1 use force for the purpose of defending himself or another?*

96. STG Officer 1 stated that he fired towards the direction of Mr Patterson’s gunfire *“in an attempt to neutralise the threat.”*
97. The Authority is satisfied that STG Officer 1’s actions were motivated by the shots fired by Mr Patterson and the urgent need to protect the AOS officer who he believed was in the direct line of fire, as well as himself and the officers positioned behind the shipping container. STG Officer 1 did not know Mr Patterson and had no personal reason to use force against him.

*Was it reasonable for STG Officer 1 to fire at Mr Patterson in the circumstances he believed he was facing?*

98. STG Officer 1 feared that he and the officers close by were about to be shot and killed by Mr Patterson. The Authority must assess whether there was any less-than-lethal option available to him with which he could have effectively defended himself and his colleagues.
99. Police had prepared less-than-lethal options to help them secure Mr Patterson if he came out of the house following the use of tear gas (see paragraph 45). However, none of these tactics offered them effective protection against a firearm.
100. The Authority agrees that STG Officer 1 had no other way to defend himself or the officers close to him than by firing towards Mr Patterson in order to incapacitate him. STG Officer 1 fired ten rounds, which was not an unreasonable response to Mr Patterson's sustained gunfire.

### *STG Officer 2*

*What circumstances did STG Officer 2 believe he was facing?*

101. STG Officer 2 had the same knowledge as STG Officer 1, as set out in paragraph 93.
102. In addition, STG Officer 2 said he believed that Mr Patterson was firing at him, and he was concerned that the bullets from a "high calibre" firearm were capable of travelling through the shipping container, which put all of them at risk of being shot and killed (see paragraph 52). He stated:

*"[Mr Patterson] started firing an automatic weapon from inside the address at what I believed at the time to be in our direction. I was expecting to hear the rounds start hitting the container that we were standing behind due to it being in the direct line of where he was firing from... I was not sure of the thickness of the steel and could not discount the possibility that bullets could pierce..."*

103. As with STG Officer 1, the Authority is satisfied that STG Officer 2 genuinely believed that he and the officers close to him were at imminent risk of being shot and killed by Mr Patterson.

*Did STG Officer 2 use force for the purpose of defending himself or another?*

104. The Authority is satisfied that STG Officer 2 felt he needed to act to stop Mr Patterson from firing towards himself and the other officers taking cover behind the shipping container. He stated that he acted to incapacitate Mr Patterson:

*"I feared death or grievous bodily harm and the decision was made in my mind that I needed to act quickly to prevent the loss of life."*

105. As with STG Officer 1, STG Officer 2 did not know Mr Patterson and consequently had no personal reason to use force against him.

*Was it reasonable for STG Officer 2 to fire at Mr Patterson in the circumstances he believed he was facing?*

106. STG Officer 2 believed that he was facing automatic gunfire directed at himself and the other officers close to him. He believed that he had inadequate protection from these bullets, and there was nowhere he or the other officers could safely retreat to.
107. The Authority accepts that STG Officer 2 had no other way to reliably incapacitate Mr Patterson other than to fire directly towards him. As with STG Officer 1, STG Officer 2 fired a reasonably low number of rounds (eight or nine, see footnote 14) before waiting to see how Mr Patterson responded. Mr Patterson stopped firing, and neither STG officer fired any further shots.
108. In the normal course of events, Police have an obligation to provide timely medical assistance to any person injured during a Police action. Aside from the fact that it is unclear whether Mr Patterson was shot by Police (see paragraph 63), the intense fire that quickly engulfed Mr Patterson's house made it too dangerous for officers to approach and attempt to rescue him.

## FINDINGS

It was lawful and reasonable for STG Officer 1 and STG Officer 2 to fire at Mr Patterson in defence of themselves and the other officers in the immediate vicinity.

Police could not safely approach Mr Patterson's burning house to rescue him or provide him with medical assistance.

### Issue 5: Did Police exercise appropriate control and command?

109. Control and command is the exercise of authority and direction by a properly designated commander for the purpose of accomplishing a task. It includes responsibility for effectively controlling the available resources for that purpose.
110. Control of this incident was initially taken by the NorthComms shift commander, as policy required (see paragraph 24). He ensured that the area was cordoned to contain the threat, and that specialist tactical officers were called to deal with the armed offender.
111. It was appropriate that control was then passed to the District Commander (see paragraph 25). The seriousness of the incident meant that the incident needed to be controlled at district level, with the benefit of district resources.
112. The Area Commander took the Forward Commander role, reporting directly to the District Commander. The AOS Tactical Commander appropriately consulted with the Forward Commander, as the representative of the Local Controller. Major tactical decisions (such as the involvement of the STG and the use of tear gas at Mr Patterson's house) were executed with the District Commander's approval.



113. Control and command was clear and well-understood by Police at all levels during this incident.

#### FINDING

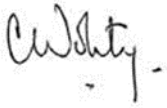
Police exercised good control and command at all levels throughout this incident.

## CONCLUSIONS

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114. This was an extremely serious and tragic incident which Police responded to swiftly and professionally. The two officers who fired towards Mr Patterson were legally justified in doing so in the circumstances. Mr Patterson's own actions precluded a peaceful resolution.
115. Although certain information should have been recorded, the Authority is satisfied that Police did not have sufficient knowledge about Mr Patterson's access to firearms or state of mind to have reasonably pre-empted or prevented the events of 26 July 2017.
116. The Authority has concluded that:
- 1) Police should have recorded in the Police database that Mr Patterson had attempted to import Airsoft gun parts and empty AK-47 magazines without a firearms licence or appropriate permits;
  - 2) Officers A and B acted appropriately during and after their visit to Mr Patterson's property;
  - 3) Overall, the information available to Police about Mr Patterson was disparate and insufficient to raise significant concerns or warrant an emergency response before 26 July 2017;
  - 4) The immediate Police response to the initial information that Mr Patterson had shot three civilians was timely and well-coordinated;
  - 5) It was appropriate for Police to focus initially on rescuing Wendy Campbell-Rodgers and Natanya Campbell. Upon establishing that this was not possible, it was appropriate to cordon the property and attempt to negotiate a surrender with Mr Patterson;
  - 6) Police were legally justified in firing tear gas canisters into the house in order to safely arrest Mr Patterson;
  - 7) Tear gas did not cause or contribute to the fire at the property;
  - 8) It was lawful and reasonable for STG Officer 1 and STG Officer 2 to fire at Mr Patterson in defence of themselves and the other officers in the immediate vicinity;

- 9) Police could not safely approach Mr Patterson's burning house to rescue him or provide him with medical assistance; and
- 10) Police exercised good control and command at all levels throughout this incident.



**Judge Colin Doherty**

Chair  
Independent Police Conduct Authority

24 July 2018

**IPCA: 17-0225**

### Use of force by Police

117. Section 39 of the Crimes Act 1961 provides for Police officers to use reasonable force in the execution of their duties such as arrests. Specifically, it provides that officers may use *“such force as may be necessary”* to overcome any force used in resisting the law enforcement process unless the process *“can be carried out by reasonable means in a less violent manner.”*
118. Section 48 of the Crimes Act states: *“Everyone is justified in using, in defence of himself or herself or another, such force as, in the circumstances as he or she believes them to be, it is reasonable to use.”*
119. Section 62 of the Crimes Act makes a Police officer criminally responsible for any excessive use of force.

### General guidelines on use of force

120. 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. Specialist groups, such as the AOS and STG, have additional tactical options available to them.
121. Police policy provides a framework for officers to assess, reassess, manage and respond to use of force situations, ensuring 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.
122. 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. Officers must choose the most reasonable option (use of force), given all the circumstances known to them at the time. This may include information on: the incident type, location and time; the officer’s and subject’s abilities; emotional state, the influence of drugs and alcohol, and the presence or proximity of weapons; similar previous experiences; and environmental conditions. Police refer to this assessment as an officer’s Perceived Cumulative Assessment (PCA).
123. A key part of an officer’s decision to decide when, how, and at what level to use force depends on the actions, or potential actions, of the people involved, and depends on whether they are: cooperative; passively resisting (refuses verbally or with physical inactivity); actively resisting (pulls, pushes or runs away); assaultive (showing an intent to cause harm, expressed verbally or through body language or physical action); 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.

124. 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.

### Use of firearms

125. The Crimes Act provisions are mirrored in Police General Instruction F061 (Fire Orders) in the 'Police Firearms' chapter of the Police Manual. F061 instructs members of the Police to always be aware of their personal responsibilities in the use of firearms, reminds them of the relevant sections of the Crimes Act and also sets out the circumstances in which the use of lethal force is justified.

126. General Instruction F061 provides for the use of firearms by Police officers to defend themselves or others if they fear death or grievous bodily harm and cannot reasonably protect themselves or in a less violent manner.

127. General Instruction F061 directs that an offender is not to be shot until all of the following conditions have been satisfied:

- *“they have first been asked to surrender (unless it is impractical and unsafe to ask them)*
- *it is clear that they cannot be disarmed or arrested without first being shot*
- *further delay in apprehending the offender would be dangerous or impractical.”*

128. In operational situations where firearms are issued, General Instruction F061 also requires that the officers' attention is drawn to the fire orders printed in their Police issue notebooks *“if time and circumstances permit”*.

129. At the time of this incident, policy required officers to wear approved ballistic body armour when deploying to an incident where they believe firearms are present or could be present.

### Responding to armed offenders

130. The Police Manual outlines the role of AOS in an armed incident. Where time and the offender's actions permit it, all forward operations against armed offenders, particularly any direct approaches to the offender, must be carried out by AOS members assisted by a Police Negotiations Team (PNT).

131. During an AOS incident, the AOS tactical commander is responsible for establishing an AOS base and commanding and directing the AOS in the forward area.

## Tear gas

132. Tear gas causes eye, skin and throat irritation, shortness of breath and disorientation, and can be used to detect an offender's presence or location, or to dislodge an offender from a building where negotiations have not been able to resolve a situation.
133. The use of tear gas must be in accordance with the 'Use of force' policy (paragraphs 120-124) and statutory obligations (paragraphs 117-119).
134. Tear gas canisters can be fired through windows into a property using a 40mm launcher. The deployment of tear gas using this method presents a risk of death or serious harm if a person is hit by the projectile gas canister.
135. AOS and STG may only use tear gas and associated equipment *"against person(s) believed to be armed or otherwise potentially dangerous"* in certain specified situations where the perceived risk is *"deemed serious enough to warrant its use."* For example:

*"Where there are good grounds to believe an offender is in an address, but there is an unacceptable risk to staff (and others) in entering or approaching that address to search for that offender."*

### 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.

It is not part of the Police – the law requires it to be fully independent. The Authority is overseen by a Board, which is chaired by Judge Colin Doherty.

Being independent means that the Authority makes its own findings based on the facts and the law. It does not answer to the Police, the Government or anyone else over those findings. In this way, its 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 complaints alleging misconduct or neglect of duty by Police, or complaints about Police practices, policies and procedures affecting the complainant in a personal capacity;
- investigates, where there are reasonable grounds in the public interest, incidents in which Police actions have caused or appear to have caused death or serious bodily harm.

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 of investigators, report writers and managers. 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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