

Discharge of firearms in Morrinsville

INTRODUCTION

1. Shortly after midnight on 13 August 2017, a man fired a semi-automatic rifle at a Police officer following a short pursuit near Morrinsville. After the officer in the patrol car had retreated by driving up a nearby driveway, two more officers arrived at the scene and the man aimed his rifle at them.
2. The two officers exchanged fire with the man using their Glock pistols, before retreating on foot. No-one was injured during this encounter and, despite an extensive search throughout the night, the gunman was not located until 12 days later.
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

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.

Summary of events

6. In August 2017, Officer A was on a four-month secondment as an acting sergeant based in Morrinsville. He was permitted to use a Police patrol car to commute each day from Hamilton.

7. At about 12.05am on Sunday 13 August 2017, Officer A was nearing the end of his shift and was driving his patrol car through Morrinsville on his way to Hamilton. He had left his Police firearms, ballistic body armour (also known as Hard Armour Plates or HAP) and Taser at the Morrinsville Police station, because the location in Hamilton where he parked his vehicle did not have appropriate storage facilities.
8. As Officer A was driving out of Morrinsville he saw a red Holden Commodore, driven by Mr X, exceeding the speed limit by travelling at over 90kph in a 50kph zone.
9. The vehicle was driven by Mr X, who has an extensive criminal history and was the subject of Police database alerts relating to firearms, use of force and gang affiliations. Mr X had been on the run from Police for almost a year after absconding while on bail for serious drug charges. Police did not know his identity until after this incident.
10. Officer A did not know Mr X had just picked up two passengers.

The pursuit

11. Officer A completed a U-turn and caught up to the Holden, signalling it to stop by activating his patrol car's lights. When Mr X accelerated away, Officer A activated his patrol car's siren and radioed the Police Northern Communications Centre (NorthComms) to advise that he was in pursuit.
12. The pursuit lasted about two minutes, during which Officer A provided commentary over the radio. Towards the end of the pursuit, Officer A radioed that he was on Kuranui Road heading west. Kuranui Road is a country road, on the outskirts of the Morrinsville township.
13. Officers B (driver) and C (passenger) were on patrol covering the Morrinsville area. Two Glock pistols were secured in a locked box in the front passenger's foot well, and two Bushmaster M4 rifles and two sets of ballistic body armour were secured in the boot of their patrol car.
14. Officers B and C had been listening to Officer A's reports of the pursuit over the Police radio and were heading in the direction of Kuranui Road, with the intention of getting ahead of the vehicle driven by Mr X to lay road spikes.
15. As the pursuit proceeded along Kuranui Road, the Holden came to a stop on the left side of the road, about 50 metres before the intersection with Avenue Road South. Officer A pulled to a stop about 20 metres behind Mr X's car.

Mr X fires shots at Officer A

16. As Officer A came to a stop, he saw Mr X exit the driver's door of the Holden. He saw that Mr X was carrying a firearm, which he described as a military style semi-automatic (MSSA) rifle with a large magazine. Officer A said that Mr X raised the firearm to his shoulder into a horizontal position and aimed it at him. Officer A told the Authority he could remember screaming "no, no, no!" and that when Mr X aimed the weapon at him, he was "staring down the barrel essentially".

17. Officer A immediately reacted by putting his patrol car into reverse and leaning down to his left over the centre console, seeking cover under the dashboard while he reversed at speed. He told the Authority: *"Shortly after I started reversing I could hear the firearm being discharged at me, multiple shots one after the other ... boom boom."*
18. When the shooting started, Mr X's passengers exited the Holden and fled on foot. One of them ran across the road and hid in a hedge, the other ran into the darkness in the direction of the Morrinsville township.
19. Officer A saw through his patrol car's reversing camera that there was a farm driveway on his left. He decided this provided a better opportunity to evade Mr X.
20. Officer A applied the brake and put the patrol car into forward gear. As he did this he raised his head slightly above the dashboard and saw Mr X in the same position, still with the firearm pointed at him. He then saw two bright yellow muzzle flashes from the firearm barrel accompanied by two loud booms.
21. Re-taking cover behind the dashboard, Officer A accelerated heavily up the farm driveway. He advised NorthComms on his radio: *"I've been shot at Comms, I've been shot at, I'm going up a driveway."*
22. When Officers B and C heard this call they were on Avenue Road South, about 30 seconds away from Kuranui Road. They did not, however, know where the pursuit had ended or the location of Officer A or Mr X. When interviewed by the Authority, Officer C said he believed he heard Officer A say *"I have been shot"* (as opposed to *"I have been shot at"*). Likewise, Officer B believed he heard Officer A say he had been shot.
23. As they drove along Avenue Road South, Officer C retrieved a pistol from the locked box, readied it for firing and placed it by the centre console for potential use by Officer B. He then obtained the second pistol for himself. Neither officer considered stopping to obtain their rifles from the boot, or to put on their ballistic body armour, explaining to the Authority that their priority was to provide a timely rescue of Officer A who they believed had been shot.
24. As Officer A continued to drive up the driveway and away from Mr X, he heard what he believed was a bullet hit his patrol car. He drove for several hundred metres before coming to a stop by a nearby barn. He parked his patrol car beside a tractor and ran off on foot, fearing that Mr X may be pursuing him.
25. As Officer A left his patrol car, he heard the sound of bullets traveling over his head. He thought that one bullet hit a high tension wire or a power line above him. Realising that his patrol car still had its blue and red lights flashing, and was probably attracting Mr X, he returned to the car and turned them off, before heading into a paddock to seek refuge.

26. At this time Officers B and C reached the intersection with Kuranui Road. Officer B's pistol was still in the console beside him and Officer C was holding his own pistol in his hand. Not knowing the precise location of either Officer A or Mr X and therefore which way to turn into Kuranui Road, they decided to turn left. As soon as they did, they encountered Mr X's Holden parked on the right side of the road, facing them. Officer C thought that he saw someone (most likely one of the passengers who had fled the Holden) standing on the left side of the road.

Officers B and C exchange fire with Mr X

27. Officer B applied the brakes heavily and the patrol car came to a stop approximately one car length in front of the Holden. Almost immediately he and Officer C saw Mr X appear from the rear of the Holden, holding a semi-automatic rifle. Officer B said that, in that split second, he saw that the rifle had a banana-shaped oversized magazine which he thought, if loaded, would hold *"quite a bit of fire power"*. Officer B then leaned down behind the dashboard for cover.
28. Officer C said that Mr X had the rifle pointing downwards, but instantly raised it and pointed it at him. Officer C told the Authority: *"I thought we were going to die ... we were confronting someone who was intent on killing us."*
29. Officer C immediately reacted by aiming his pistol at Mr X and firing several bullets at him through the patrol car's windscreen. Officer C believed he discharged these bullets in three groupings, leaning down behind the dashboard briefly between each one.
30. During this period Mr X fired his rifle at the officers, hitting the patrol car's bonnet and windscreen.
31. While Officer C was shooting, Officer B attempted to reverse the car to escape, but there was no response when he pressed down on the accelerator pedal. He believed the car engine may have been disabled or rendered inoperable by Mr X's bullets hitting the engine, and he advised Officer C of this.
32. With some live rounds still in the magazine, Officer C handed his pistol to Officer B and then leaned across and tried to start the car himself by turning the ignition key. He said the car made an unusual noise and did not respond.
33. Unable to mobilise the patrol car, Officer B opened the driver's door and discharged the remaining bullets from the pistol Officer C had handed to him, aiming down the side of Mr X's Holden, before loading a second magazine and firing further shots in the same direction. About this time, Officer B thought he saw another person crouching down inside the Holden.
34. When interviewed by the Authority, Officer B said that as he was firing his weapon, he could not see Mr X, but his intention was to keep Mr X at bay *"to make him aware that we were armed and returning fire"*.

35. Meanwhile Officer C took the second pistol from the console and continued to fire through the patrol car windscreen in the direction of Mr X.
36. Officer B said the only time he saw Mr X was when he initially appeared from the rear of the Holden. He knew that Mr X remained actively shooting at them however, because at one stage when he and Officer C were reloading, he heard “*sounds of impact*” and bullets fired by Mr X were “*coming through the vehicle*”.
37. With the patrol car disabled, both officers decided to retreat on foot. Officer B told the Authority: “*I was terrified he was going to come forward and kill us ... if we couldn’t get out of there, we were going to get shot.*”
38. Officer B ran to the rear of the patrol car and ‘covered’ for Officer C who fired two final bullets through the windscreen before exiting the patrol car. Both then ran for cover in a nearby property and sought refuge behind a tree.
39. According to Officer B, the lapse of time from encountering Mr X to leaving the patrol car was about 10 seconds.¹

Aftermath of the shooting

40. The NorthComms shift commander was advised of the incident and assumed the role of ‘Incident Controller’. He took responsibility for managing the initial Police response and deployment of resources to Morrinsville, and ensured that a Safe Forward Point (SFP) for officers to assemble and to operate from was identified. He also arranged for the Police helicopter (Eagle) to attend from Auckland.
41. The senior officer working in Waikato that evening was also advised of the incident and he drove to Morrinsville, arriving at 12.45am. Shortly after 1am he formally took over the role of Incident Controller from the NorthComms shift commander who remained in a support role to the operation.
42. The Waikato District Command Centre (DCC) also supported the Police response, and dispatched the Armed Offender Squad (AOS) and other resources to Morrinsville.
43. The Waikato District Commander drove to Morrinsville to provide support to staff and ensure the operation was running smoothly in conjunction with the Incident Controller, AOS Commander and other support units.
44. In the hours that followed, the Police operation focused on safely extracting Officers A, B and C from the area, and searching for Mr X whose whereabouts was unknown. The officers were extracted at about 3am and Mr X’s passengers were also located and interviewed.
45. By 6am it had become clear that Mr X had evaded Police and left the area. The Incident Controller was stood down and Police commenced an investigation phase to search for and arrest Mr X.

¹ Officer B has 29 years’ policing experience.

46. Twelve days later Police arrested Mr X. He was charged with three counts of attempted murder, possession of a military style semi-automatic firearm and ammunition, failing to stop for Police and possession of material to manufacture methamphetamine.
47. On 6 July 2018 Mr X pleaded guilty to a representative charge of using a firearm against law enforcement officers.

Scene and vehicle examination

48. A full scene and vehicle examination was conducted by Police and The Institute of Environmental Science and Research (ESR). The examination noted the position of the vehicles involved and the damage caused by bullets and fragments. A search of the wider scene was also conducted to assist in the reconstruction of events.
49. Based on the results of that examination, the following is a summary of the bullets that were discharged:
 - Officers B and C collectively discharged a total of 29 9mm bullets at or in the direction of Mr X, nine of which are known to have hit the Holden on the driver's side and windscreen. None of the bullets are believed to have hit Mr X (and he did not have any wounds or injuries when arrested 12 days later);
 - Mr X discharged 16 .762mm bullets from his semi-automatic rifle.² Of these:
 - One bullet hit Officer A's patrol car. It penetrated the rear passenger door and travelled through the front passenger's seat, lodging into the inner passenger's door. It is likely this bullet was fired when Officer A was driving up the driveway.
 - Three bullets, which were aimed at Officer B and C's patrol car, hit Mr X's Holden.
 - Seven bullets hit Officer B and C's patrol car including the driver's door, front bonnet and windscreen. The bullets penetrated the engine bay, sump and the front windscreen, with one lodging in the dashboard in front of the driver's seat.
 - The remaining five bullets were not accounted for but are believed to include the initial shots fired at Officer A when Mr X first got out of the Holden.

Police investigation

50. Police completed a policy, practice and procedure review, which found that there had been "*highly proficient management and oversight*" of the incident by NorthComms. The review also noted that there were some lessons to be learned regarding, among other things, unnecessary radio transmissions and officers "*self-deploying*" to assist with critical incidents.

² The spent cartridges (and one live round) were found on the ground next to the Holden where he had been standing.

THE AUTHORITY'S INVESTIGATION

51. The Authority conducted 10 interviews with Police officers involved in this incident and the subsequent Police investigation. Senior officers involved in the command and control aspects of the operation were also interviewed.
52. The Authority reviewed the documentation produced by the Police investigation team, visited the scene of the incident with the officer in charge of the scene examination, and received a briefing on the reconstruction of events.
53. Mr X was invited to speak to the Authority, but declined. The Authority did not consider it necessary to summon Mr X to provide information.

THE AUTHORITY'S FINDINGS

54. The Authority identified and considered the following issues:
 - 1) Were Officer A's actions appropriate under the circumstances?
 - 2) Did Officers B and C comply with Police policy when arming themselves?
 - 3) Were Officers B and C justified in firing shots at Mr X?
 - 4) Did Police comply with requirements in respect of command and control during the incident?

Issue 1: Were Officer A's actions appropriate under the circumstances?

55. Officer A signalled Mr X to stop after observing him speeding in a Holden near Morrinsville. When Mr X failed to stop, Officer A commenced a pursuit which lasted for about two minutes. Officer A provided NorthComms with a commentary of the pursuit over the radio and advised his location. This alerted Officers B and C, who began travelling towards the pursuit to assist.
56. Mr X then pulled over and stopped on the left side of the road, and Officer A stopped about 20 metres behind him. Mr X got out of his vehicle and aimed a firearm at Officer A, who reacted by leaning down to take cover and reversing his patrol car at speed. As Officer A made his escape by reversing and then driving up a driveway, he heard Mr X firing his weapon at the patrol car.
57. Officer A told the Authority that Mr X was carrying a semi-automatic rifle with a large magazine and, before Officer A reversed the patrol car, he was "*staring down the barrel*". He did not have access to any firearms or a Taser, and feared for his safety. Officer A did not know there were passengers in the Holden and had no reason to think anyone else was in immediate danger from Mr X.
58. The Authority considers that Officer A reacted correctly in accordance with his assessment of risk by immediately retreating from Mr X and seeking cover.

FINDING

Officer A responded appropriately to Mr X's actions by seeking safety.

Issue 2: Did Officers B and C comply with Police policy when arming themselves?

59. Police are permitted to carry firearms when they assess that there is a risk of death or grievous bodily harm. When arming themselves with firearms, officers are required to notify the Police communications centre, carry a Taser, and remind themselves of the Police 'fire orders'.³ Officers must also wear ballistic body armour.
60. The Authority considers that it was clearly appropriate for Officers B and C to arm themselves with Glock pistols during this incident. In compliance with policy, they were also carrying Tasers.
61. However Officers B and C advised the Authority they did not stop to put on ballistic body armour, because they believed Officer A had been shot and needed their immediate assistance. For the same reason, the officers did not take the time to notify NorthComms that they were armed or to remind themselves of the 'fire orders'. As it happened, they encountered Mr X very shortly after they heard on the radio that he had shot at Officer C.
62. The Authority accepts that, in the particular circumstances of this case, it was imperative that the officers get to the scene as quickly as possible and they did not have time to fulfil all the policy requirements. In particular, it was not practical for them to stop and retrieve the ballistic body armour from the boot of their patrol car.

FINDING

Allowing for the urgent circumstances of this event, it is understandable that Officers B and C did not fully comply with Police policy when arming themselves.

Issue 3: Were Officers B and C justified in firing shots at Mr X?

63. Section 48 of the Crimes Act 1961 provides legal justification for any person, including a Police officer, to use reasonable force in defence of themselves or another. '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.⁴

³ 'Fire orders' are an explanation of the circumstances under which Police may use firearms (see paragraphs 95-100 below).

⁴ Crimes Act 1961, section 2.

64. 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:⁵

- 1) What were the circumstances as the person believed them to be? (a subjective test)
- 2) Did the person use force for the purpose of defending himself or herself or another (a subjective test)?
- 3) Was the force used reasonable in those circumstances (an objective test)?

65. Police policy on the use of force reflects the legal position under section 48 of the Crimes Act.⁶ It provides that potentially lethal force may be used when an offender presents a threat of death or grievous bodily harm.

66. Officers must give an offender the opportunity to surrender if practicable, and employ less lethal tactical options to affect an arrest or disarm an offender if they are available. However if further delay in apprehending the offender would be dangerous or impractical, officers are justified in firing at an offender.

1) What circumstances did Officers B and C believe they were facing?

67. Officers B and C initially became involved in this incident because they thought they could help to end the pursuit of Mr X by laying road spikes. As Officer A was retreating from his encounter with Mr X, he advised NorthComms that someone had shot at him. However Officers B and C thought Officer A said he had been shot.

68. In response to this information, Officer C retrieved two Glock pistols from the locked box in the patrol car as Officer B drove them towards the scene. The officers soon came across Mr X's Holden parked on the side of the road, and saw Mr X at the rear of the vehicle, holding a semi-automatic rifle.

69. The Authority finds that both officers believed Mr X:

- had failed to stop for Police and attempted to escape;
- was carrying a very powerful firearm;
- had used the firearm to shoot a Police officer; and
- was intent on shooting and potentially killing them.

2) Did Officers B and C use force for the purpose of defending themselves or others?

70. When Officer C saw Mr X raise the rifle and point it at him, Officer C responded by firing several bullets through the patrol car's windscreen at Mr X, in three bursts. Mr X also repeatedly fired his rifle at the officers.

⁵ Adams on Criminal Law (Brookers, Wellington, 1992) Crimes Act, para CA48.01

⁶ See paragraphs 89-100 below for Police policy on use of force and firearms.

71. While this was happening, Officer B initially tried to take cover behind the dashboard of the patrol car. He then attempted to retreat by reversing the patrol car, but found that the vehicle was disabled.
72. Officer B subsequently opened the driver's door of the patrol car and fired a number of shots down the side of Mr X's Holden. He said he could not see Mr X at the time, but he intended to keep Mr X at bay by firing these shots. Officer C also fired further shots at Mr X through the windscreen of the patrol car, before both officers retreated on foot.
73. The Authority considers that all the shots from Officers B and C were fired in order to defend themselves and each other from the threat Mr X posed.

3) Was it reasonable for Officers B and C to fire at Mr X in the circumstances?

74. Immediately before the exchange of fire with Mr X, Officer C saw a person, likely one of the passengers from the Holden, on the left side of the road (and well out of his line of fire, which was aimed towards Mr X at the rear of the Holden). He did not see anyone inside the Holden.
75. After the shooting began, Officer B saw a person crouched down inside the Holden. He directed his fire down the side of the Holden to discourage Mr X from shooting at him and Officer C, but acknowledged that some of the bullets he fired may have hit both the windscreen and driver's side of the Holden. He commented that, at the time he fired the shots, he was "terrified" Mr X was going to come forward and kill him and Officer C, and so he did not consider that he might accidentally hit the person inside the Holden. Both passengers were later found to be unharmed.
76. The Authority assesses the risk to the passengers to have been minimal, and considers that Officer B's actions were acceptable in light of the fast-paced nature of the incident and the extremely high level of danger to which both he and Officer C were exposed.
77. Officers B and C said that Mr X was firing at them throughout their encounter, which Officer B said lasted for about 10 seconds. From interviewing the officers, the Authority is satisfied that Mr X continually posed an active threat of serious bodily harm and death during the time Officers B and C were shooting at him.
78. Therefore the Authority finds that it was reasonable for both Officers B and C to respond to the immediate and serious threat Mr X posed by firing their pistols at him. Less forceful tactical options (such as Police dog, Taser, pepper spray or baton) were neither appropriate nor available in the circumstances. Nor was it practical to ask Mr X to surrender before the shooting began.

FINDING

Officers B and C were lawfully justified in firing shots at Mr X.

Issue 4: Did Police comply with requirements in respect of command and control during the incident?

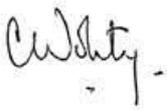
79. In accordance with standard operating procedures, the NorthComms shift commander initially assumed the role of 'Incident Controller'. The Police response was assisted by the Waikato DCC and supported through the deployment of numerous resources, including AOS and Eagle.
80. The Incident Controller role was appropriately re-assigned once a senior officer arrived at the scene.
81. The Authority considers that Police managed the incident appropriately and ensured the response was coordinated and properly resourced as it transitioned from initial response through to the search and investigation phases.

FINDING

Police complied with requirements regarding command and control in their handling of the incident.

CONCLUSIONS

82. During this incident Mr X carried a semi-automatic rifle which he aimed and fired at Police. The Authority found that two officers who were confronted by Mr X were both lawfully justified in firing at him in defence of themselves and each other.
83. The Authority also determined that the first officer who encountered Mr X reacted appropriately, and that Police complied with requirements regarding command and control in their handling of the incident.



Judge Colin Doherty

Chair
Independent Police Conduct Authority

6 November 2018

IPCA: 17-0356

Legislative authority for pursuits

84. Section 114 of the Land Transport Act 1998 empowers Police to stop vehicles for traffic enforcement purposes.
85. Under section 9 of the Search and Surveillance Act 2012, Police are also empowered to stop a vehicle to arrest a person if they have reasonable grounds to suspect that a person in that vehicle has committed an offence punishable by imprisonment.

Use of force

86. Section 39 of the Crimes Act 1961 provides for law enforcement officers to use reasonable force in the execution of their duties such as arrests and enforcement of warrants. 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.”*
87. Section 48 of the Crimes Act states: *“Everyone is justified in using, in the defence of himself or herself or another, such force as, in the circumstances as he believes them to be, it is reasonable to use.”*
88. Under section 62 of the Act, anyone who is authorised by law to use force is criminally responsible for any excessive use of force.

Police policy on the use of force

89. 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), OC spray, batons, Police dogs, Tasers and firearms.
90. 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.
91. Police officers must also constantly assess an incident based on information they know about the situation and the behaviour of the people involved; and the potential for de-escalation or escalation. The officer must choose the most reasonable option (use of force), given all the circumstances known to them at the time. This may include information on: the incident type, location and time; the officer 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)).

92. A key part of an officer's decision to decide when, how, and at what level to use force depends on the actions of, or potential actions of, the people involved, and depends on whether they are: 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.
93. 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.
94. Ultimately, the legal authority to use force is derived from the law and not from Police policy.

Firearms

Authorisation to carry firearms

95. The Police Manual authorises an officer to carry firearms when *"their perceived cumulative assessment of a situation is that it is in, or likely to escalate to be within, the death/grievous bodily harm range as specified by the tactical options framework"*

Use of firearms

96. Police policy provides that Police may only use firearms for the purposes of defending themselves or others, arresting an offender, or preventing escape, in the circumstances referred to in paragraph 95 and in accordance with the Crimes Act provisions referred to in paragraphs 86-88).
97. The policy reminds officers that *"An overriding requirement in law is that minimum force must be applied to effect the purpose."* It also says that: *"Where practical, Police should not use a firearm unless it can be done without endangering other persons."*
98. 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 they cannot be disarmed or arrested without first being shot; and
 - further delay in apprehending the offender would be dangerous or impractical.

99. The Police Manual sets out the following requirements when officers arm themselves:
- 1) Notification of Police Communications: In any case where Police arm themselves to attend an incident, or are already at an incident and carry firearms, they must notify their supervisor and the communications centre that they are armed *“unless this is impractical in the particular situation”*. When it is impractical to notify them immediately, officers must *“advise the appropriate person at the first reasonable opportunity”*.
 - 2) Taser: Police should take a Taser with them (if one is available).
 - 3) Fire Orders: Any officer issued with a firearm is personally responsible for ensuring that he or she is thoroughly familiar with relevant law, particularly sections 39, 40, 41, 48 and 62 of the Crimes Act 1961, and all relevant instructions and guidelines in the Police Manual.
100. 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.

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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