



IPCA

Independent Police
Conduct Authority

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Police officer fires two shots at stolen Police car in Murupara

INTRODUCTION

1. On 17 October 2017 a Police officer, Officer A, attended a burglary call-out in Murupara. He located three children breaking into a number of properties. While driving the children to their respective homes, Officer A stopped and arrested a male, Mr X, who he suspected was an offender in a recent aggravated robbery.
2. Officer A handcuffed Mr X and placed him in the front seat of the Police car, before proceeding to drop the children home. Upon arriving at the address, Officer A got out of the car and spoke to the children's caregivers, while leaving the engine running. As Officer A was returning to the car, Mr X moved into the driver's seat and reversed the Police car out of the driveway. Officer A drew his firearm, aimed it at Mr X and shouted at him to stop. When Mr X continued to drive away, the officer fired two shots at the tyres in an attempt to stop the vehicle. Mr X escaped in the Police car, remaining at large until 5 November 2017.
3. The Police notified the 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 are reserved for the 'Authority's Findings' section.
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Summary of events

Background to 17 October 2017 incident

6. Police officers stationed in Murupara are regularly rostered to work alone. Four constables rotate through early, late and night shifts while the sergeant works day shifts. Murupara officers cover a large rural area, including remote settlements an hour away. Officers from Rotorua can provide back-up but this is approximately 40 minutes from Murupara.
7. In the months prior to 17 October 2017, Officer A was involved in three incidents that caused him significant concerns about his safety. The first two incidents resulted in Officer A having to shoot domestic animals that he determined were a risk to his and others' safety, and the third was when a fleeing driver rammed into the Police vehicle that he was in.
8. Following these incidents (and other factors referred to in paragraph 38), and in spite of Police policy which prohibits general arming,¹ Officer A decided to routinely carry his Glock pistol when on duty. On 3 October 2017 (the day after the ramming) he advised Officer B, who was the station sergeant and his supervisor, that he was going to routinely arm and Officer B supported his decision to do so.²
9. In the week prior to the 17 October 2017 incident, Police's District Professional Conduct Manager (PCM) enquired as to Officer A's wellbeing following the ramming incident. During their conversation, the PCM "stressed" to Officer A that he should not generally arm himself and that, on every occasion he decided to arm, Officer A was required to conduct an appropriate risk assessment.³ During interview with the Authority, Officer A recalled speaking to the PCM, but denied that there was any discussion about general arming (discussed further at paragraph 44). However, in commenting on the Authority's draft report, Officer A confirmed that there was a discussion about general arming and that it centred on conducting a risk assessment when doing so.

Summary of events - 17 October 2017

10. On Sunday 15 October 2017, two males committed an aggravated robbery at a shop in Murupara. The following day Officer A saw CCTV footage of the incident and made a mental note of the offenders' clothing.
11. On the evening of Tuesday 17 October 2017, Officer A was on duty, alone, at Murupara station. During his shift he was equipped with a radio, Stab Resistant Body Armour (SRBA), Taser, Oleoresin Capsicum (pepper) spray, handcuffs and a baton.⁴ He also carried his pistol in a holster on his hip. In his marked Police car, Officer A had a personal dashboard camera (DashCam) set up, which automatically started recording when the ignition was switched on. There was also a Bushmaster M4 rifle and ammunition locked in the gun safe in the boot.

¹ See paragraph 133 for relevant Police policy.

² The Authority refers to 'routine arming' while Police refer to 'general arming'. The references are interchangeable and are used throughout this report.

³ See paragraphs 128-129 for relevant Police policy.

⁴ Officer A had current training certifications for all relevant tactical options (ASP baton, Bushmaster M4 rifle, Glock pistol, OC spray, and Police Integrated Tactical Training).

12. At about 6.00pm, Officer A received a call regarding some youths breaking into dwellings on Main Road, Murupara. Officer A arrived at the scene at 6.10pm and spoke to the informant before locating three children (aged eight to ten years) breaking into and damaging the properties.⁵
13. At 6.36pm, Officer A left the scene with the three children in the back seat of his vehicle.⁶ Officer A dropped the first child home at 6.38pm, and spent seven minutes speaking to his mother. Officer A then took the remaining two children home, via the address of a fourth child allegedly involved in their offending. En route, Officer A saw two males walking out of a property, and recognised the distinctive clothing of one of the males as the same as that worn by one of the suspects from the earlier aggravated robbery.
14. At 6.48pm Officer A stopped to speak to the males, leaving the children in the car. He did not contact the Northern Police Communications Centre (NorthComms) to notify them of the situation. Officer A approached the males, Mr X and Mr Y, and asked for their details. At this point, another member of the public, Mr Z, pulled up in his vehicle, which Mr X and Mr Y got into. Mr Z confirmed the identity of Mr Y but was unable to do so in respect of Mr X. Officer A subsequently established that Mr X (who he believed was involved in the robbery) had given him false details.

Mr X's arrest

15. Officer A opened the rear passenger door of Mr Z's vehicle, where Mr X was situated, and advised him that he was under arrest for theft. He handcuffed Mr X with his hands to the front, concerned that Mr X might attempt to escape if Officer A waited to apply the handcuffs once he removed Mr X from the vehicle. Officer A was also mindful that Mr X might be concealing a weapon.
16. Officer A elicited the cooperation of Mr Z to assist in the event that Mr X resisted arrest. However, Mr X showed no signs of resistance, so Officer A escorted him to the Police car, gave him a "quick pat down" search and placed him in the front passenger seat. Mr X put on his own seatbelt.

At the children's address

17. Officer A then drove to the remaining children's address, arriving at 6.59pm. When greeted by the children's caregivers, he got out of the car with the children.
18. Intending to only stop briefly, Officer A left the keys in the ignition (which also held the keys to the vehicle's gun safes) and the engine running. In fact, Officer A spoke with caregivers for approximately three and a half minutes. During this period, Officer A approached Mr X twice because of his suspicious activity in the vehicle (on one of these occasions establishing that Mr X had actually locked the car door), before returning to speak with the caregivers. Officer A

⁵ Timings are in accordance with the DashCam timestamps.

⁶ Officer A could not arrest the children due to their age but he intended to report the matter to the Police Youth Aid section.

showed the caregivers photographs taken on his cell phone of the damage caused by the children, during which time no attention was paid to Mr X for about 30 seconds.

19. At 7.02:50pm, the caregivers and the children made their way into the house. Officer A walked around the front of the Police car to the driver's side, where he found the door locked and window closed. Officer A walked back around the front of the car to open Mr X's door and unlock the car. He then opened the rear left passenger door so that he would have an entry point if Mr X tried to do anything "dodgy". However, as Officer A walked around the back of the car, the rear door closed. Mr X locked the car doors again and closed the passenger window.
20. Mr X moved into the driver's seat and put the vehicle into reverse. Officer A said he believed Mr X was locking him out of the car "to be difficult" but soon realised Mr X intended to steal the Police car. Officer A said, at this point, he feared that he might be seriously injured or killed as Mr X now had access to a "moving weapon".
21. At 7.03:29pm Mr X reversed out of the driveway. The DashCam footage shows that, as this was happening, Officer A drew his pistol, aimed it directly at Mr X and repeatedly verbally challenged him to stop. Mr X responded by driving away from the address. As he did so Officer A aimed his pistol at the front left tyre and fired one shot in an attempt to disable the vehicle. Four seconds later, Officer A fired a second shot at the rear left tyre as Mr X accelerated away.⁷

After the escape

22. At 7.03:36pm, Officer A contacted NorthComms to report the incident. He stated:

"Yeah, this is our fella, he's just stolen the Police car, copy? Ah, he's handcuffed. Just talking to a suspect here, and he's locked the doors and he's taken off. Units to attend."
23. NorthComms acknowledged Officer A, and requested the offender's direction of travel. Officer A responded, *"Yeah, he's gone onto...um...gone onto Oregon Drive, Comms. I've fired two shots at the Police car, shooting his tyres out."*
24. While NorthComms and other Police units asked for further specific details, Officer A lost portable radio coverage. Officer A did not attempt to contact NorthComms using his cell phone. Instead, Officer A asked the children's caregivers if he could use their car but they declined. Officer A subsequently waved down a member of the public, who drove Officer A to the local shops, where a security guard advised them of Mr X's direction of travel. The pair continued to search for Mr X for another five kilometres. Another motorist, who Officer A stopped, advised that they had not seen a Police car pass. Officer A was then dropped off at Murupara Police Station.
25. DashCam footage identifies that the Police radio was on in the Police vehicle, and that Mr X could hear the commentary, including NorthComms' advice that there were firearms in the Police vehicle.

⁷ It was later established that he hit the front tyre with his first shot but missed the rear tyre with his second.

26. Dashcam footage also identifies that Mr X lost control of the Police car at 7.13pm after the rubber on the front tyre disintegrated. The Police car was found abandoned later that evening on a rural road about 15 kilometres from Murupara. The Bushmaster M4 rifle and ammunition were found in the safe in the boot of the vehicle but the car (and gun safe) keys had been discarded.
27. At 7.14pm, NorthComms staff contacted Officer A on his cell phone to obtain further information about the incident. When asked for his justification for shooting, Officer A stated, *“Ah to stop him taking the vehicle because it had firearms in it.”* Officer A advised that he had arrested Mr X as he was wearing clothing identical to that worn by the offender for the recent robbery. He advised that the Police-issue Bushmaster M4 rifle and body armour were still in the boot safe. NorthComms contacted Officer A again at 7.35pm with the details of a suspect. After viewing a photograph on the Police computer system, Officer A was able to confirm that it was Mr X.
28. Mr X was located at a residential address in Murupara on 5 November 2017. He was charged with a number of offences relating to this incident, the aggravated robbery on 15 October 2017, and another earlier incident. Mr X pleaded guilty to all charges and was sentenced to four years and six months imprisonment.

POLICE INVESTIGATION

29. On 23 October 2017, a senior sergeant was assigned to conduct an employment investigation into Officer A’s actions. The investigation was overseen by a senior Police Human Resources advisor. The Authority had a number of misgivings about the transparency and adequacy of the Police investigation, including that the senior sergeant:
 - i. was assigned to investigate despite the fact that he was Officer B’s direct line manager and had oversight for all Murupara staff;
 - ii. did not disclose in his ‘Conflict of Interest’ form that Officer B reported directly to him;
 - iii. did not audio record his interview with Officer A, taking only brief notes of the discussion;
 - iv. did not seek Officer B’s account of his role in the matter until after his draft employment investigation report was completed;
 - v. considered Officer A’s ‘Tactical Options Report’ (TOR),⁸ but it is unclear what other investigation tasks he undertook to support his findings; and,
 - vi. did not adequately gather or consider the available material or assess Officer A’s actions against policy or relevant legislation.
30. The senior sergeant examined four issues relating to Officer A’s actions during the incident: the carriage and use of his firearm; the placement of Mr X in the front passenger seat of the Police

⁸ Officers are required to complete a Tactical Options Report when he or she has used force on a member of the public. The report includes each tactical option and a description of the force used and the reasons for using it.

vehicle, with his hands handcuffed to the front; the keys being left in the car's ignition; and the use of a recording device. The senior sergeant determined, on the basis of the explanations given by Officer A, only the issue relating to his placement of the offender in the vehicle with the keys in the ignition could be considered 'potential misconduct'.

31. Despite the obvious flaws in the Police investigation, the District Commander accepted the senior sergeant's findings.
32. The Authority also expressed concerns to Police about the failure to consider Officer B as a subject officer (despite evidence that he had given approval to Officer A to generally arm which was contrary to Police policy) and the absence of any rationale for the decision not to conduct a criminal investigation into Officer A's actions in discharging his pistol.
33. A number of reviews were undertaken by senior Police staff, which were critical of Officer A's actions and of Police's investigation into the incident. Consequently, a detective senior sergeant was assigned to undertake further investigative tasks, including a formal interview of Officer A. However, Officer A exercised his right to silence, essentially requiring the detective senior sergeant to complete a further criminal assessment on the papers and, in particular, Officer A's TOR. Having considered applicable legislation and Police policy, and having obtained a legal opinion, the detective senior sergeant determined that Officer A's decision to shoot at the Police vehicle was justified in the circumstances and that he should not face criminal charges.

THE AUTHORITY'S INVESTIGATION

34. The issues considered by the Authority and its findings differ significantly from Police. This is due, in part, to the Authority's examination of material that was not considered during the employment investigation (or subsequent reviews) and its assessment of the relevant issues. Critically, the Authority obtained additional information having interviewed Officer A and four other officers based at Murupara Police Station (including Officer B).⁹ The Authority also interviewed the PCM and the Area Commander as part of its investigation.
35. The Authority identified and considered the following issues:
 - 1) Did Officer A have proper authority to carry his firearm?
 - 2) Did Officer A have proper authority to use his personal DashCam in the Police vehicle?
 - 3) Did Officer A conduct adequate risk assessments and demonstrate sound decision making at all relevant times?
 - 4) Did Officer A appropriately communicate with NorthComms during this incident?
 - 5) Was Officer A justified in shooting at the Police car?
 - 6) Did staff comply with Police's 'Use of Force' reporting policy?

⁹ There were five constables and one sergeant stationed at Murupara Police Station at the time of the incident.

- 7) Did managers fulfil their roles and responsibilities in addressing Officer A's continued breach of policy following the incident?
- 8) Did Police investigate the incident appropriately?

THE AUTHORITY'S FINDINGS

Issue 1: Did Officer A have proper authority to carry his firearm?

36. New Zealand Police is generally an unarmed service. However, it recognises that firearms need to be available to officers quickly, easily and safely when they are required.
37. Police policy authorises officers who hold the position of Inspector or above, including district or communications centre supervisors, to instruct officers to carry firearms when there is evidence to suggest they are likely to encounter a situation where firearms might be present.
38. In his TOR for the 17 October 2017 incident, Officer A stated that he carried his pistol when on duty for numerous reasons such as two recent robberies at the local Murupara shops (including the one for which he arrested Mr X), the three incidents prior, and concerns about working alone.¹⁰ He also identified a number of risk factors which influenced his decision to routinely arm; being Murupara's gang population, a high use and distribution of methamphetamine, and the associated carriage of firearms by offenders in the area. Furthermore, he reported concerns about increasing numbers of stolen vehicles and a recent high risk offender who had shot at Police.
39. Officer A also stated in his TOR that, on 3 October 2017 (the day after the incident where his Police car was rammed), he had a discussion with his supervisor, Officer B, about routinely carrying his pistol, and that Officer B gave his approval for him to do so.
40. Consequently, Officer A began to routinely carry his pistol due to concerns he held about the high risk nature of his work.
41. During his interview with the Authority, Officer A said that he was not familiar with the firearms policy but was aware that *"general arming is not something that happens. I know that."* He later went on to say:

"If I'm in breach of any policy and it's been a deliberate decision for my own safety, for my own protection, you know, you've got to look out for yourself. You really do."
42. All other officers interviewed by the Authority said they were aware that policy did not permit them to routinely carry firearms. All of them (including the sergeant) believed that they could safely and confidently carry out their duties in the Murupara area without carrying a firearm at all times. None of them felt that the risk factors in the local area meant that their individual safety would be compromised if they did not routinely carry a firearm.

¹⁰ See paragraphs 6-8

43. The officers were aware that Officer A was routinely carrying his pistol. One of the officers informed the Authority that he had had robust conversations with Officer A about his decision to routinely arm and, that as a consequence of these discussions, he was certain that Officer A knew he was not complying with Police policy.
44. The PCM was the senior officer who reviewed Officer A's TOR. He recorded in the report that he had a conversation with Officer A the week before the incident, where the PCM
- “stressed to him that there was no ‘general arming’ but that on every occasion that he felt the need to carry a firearm he applied the TENR approach and preferably endorsed his notebook accordingly.”*
45. It is evident that Officer A was sufficiently aware of Police policy to discuss his decision to routinely arm with his supervisor on 3 October 2017, and that his colleagues were satisfied that he was aware of the expectations for carrying firearms. As per his comments above (in paragraph 41), it is evident that Officer A was actively and knowingly breaching Police policy by routinely arming. During the course of his interview with the Authority it also became clear that he felt justified in doing so. Of particular note is the fact that when he attended an interview with the Authority's investigator, he wore his Glock pistol on his hip.
46. Aside from routine arming, officers may carry a firearm if their perceived cumulative assessment (PCA) of a situation is that it is in, or likely to escalate to be within, the death/grievous bodily harm range.¹¹ Officers must advise their immediate supervisor and the Police Communications Centre of their decision to deploy with firearms, unless it is impractical in the particular situation.¹²
47. 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. The overriding principle when applying TENR is that of 'safety is success'.
48. When officers arm themselves they are required to consider 'fire orders'. These are instructions which set out the circumstances under which Police may use firearms. Police may only use firearms for the purposes of defending themselves or others, arresting an offender, or preventing escape. These instructions are printed on the inside cover of Police notebooks and are also stored in vehicle firearm security cabinets.¹³
49. Officer A said that he had considered fire orders at the beginning of his shift on 17 October 2017, as recorded in his notebook. He was called to attend an incident in which three children were found to be burgling properties in Murupara.
50. As per Police policy, there was no evidence that Officer A would encounter circumstances in which a firearm may be required on 17 October 2017. Had Officer A completed an adequate

¹¹ See paragraph 130 for relevant Police policy.

¹² See paragraph 135 for relevant Police policy

¹³ See paragraph 138 for relevant Police policy

risk assessment he would have recognised the risk of firearms being present was extremely low and that it was not appropriate to carry his pistol when attending an incident reportedly involving young people burgling properties.

51. Although Officer B was aware there was a firearms policy, he was not aware that he did not have authority to approve routine arming, as he was not an Inspector. However, Officer B told the Authority: *“I still back my decision in allowing [Officer A] to be armed routinely.”* He said that he did not give consideration to the firearms policy when he supported Officer A to routinely arm himself as he was more concerned that his staff be safe. He said he was confident that his staff had significant policing experience and that they knew how, and when, to operate their firearms. In the Authority’s view, this is not sufficient justification for allowing routine arming and breaches the firearms policy.
52. The Area Commander informed the Authority that he believed and expected his staff to be conversant with the firearms policy and to apply TENR risk assessments when operating in the field. He said: *“My expectation of anyone who puts a firearm on is they’ve got to justify it”.*

Other policy breaches

53. Police policy requires officers to notify the Police Communications Centre when they carry a firearm.¹⁴ However, Officer A did not notify NorthComms that he was carrying a firearm on 17 October 2017. Nor did he, by his own admission, advise NorthComms when he armed himself on other occasions. According to Officer A: *“It’s not about seeking authority to arm up because that’s our decision in those environments.”* Such a statement demonstrates his clear disregard for policy and procedure.
54. Police policy also requires officers to wear approved ballistic body armour, or hard armour plates (HAP) over stab resistant body armour (SRBA) when deploying to an incident where firearms are or may be present.¹⁵ During his interview with the Authority, Officer A said he wore ballistic body armour if he was going to an incident where he believed another firearm may be present. However, if Officer A believed the risk was sufficient for him to routinely carry his firearm, then he should also have routinely worn his HAP given his belief that he was likely to encounter firearms in the course of his duties.

FINDINGS

Officer A should not have routinely carried his pistol.

Officer A did not have sufficient justification to carry his pistol on 17 October 2017.

Officer B did not have authority to allow Officer A to routinely arm.

Officer A also failed to comply with Police policy by not wearing ballistic body armour or notifying NorthComms when arming himself.

Issue 2: Did Officer A have proper authority to use his personal DashCam in the Police vehicle?

¹⁴ See paragraph 135 for relevant Police policy

¹⁵ See paragraph 141 for relevant Police policy

55. Police policy states that recording equipment must be Police-issued and approved. Approval from the National Manager: Response and Operations, based at Police National Headquarters is required before fitting any video recording devices to Police vehicles.¹⁶
56. In his TOR, Officer A stated that he sometimes used a personal DashCam in Police vehicles for his own safety. Officer B was aware he was using the DashCam.
57. Officer A told the Authority that he believed Police officers should be provided with body cameras and that cameras should be routinely fitted in Police vehicles.
58. Officer B told the Authority that he was unaware that policy existed in respect of staff using personal recording devices. He was not aware that approval from the National Manager was required before any such devices could be installed. He acknowledged that he should have sought advice to determine whether or not Officer A could use his personal DashCam. Officer B said that he notified his previous supervisor that Officer A was using a personal DashCam but had not informed his current supervisor. Irrespective of this, Officer B was satisfied that the DashCam afforded Officer A additional safety, and he did not object to him using it.
59. It is evident that Officer A took it upon himself to install and use his own personal DashCam in the Police vehicle he was using. However his supervisor, Officer B, was aware of this. The Authority appreciates Officer A's rationale, (particularly given the isolated community in which he works) and the fact that the footage assisted Police in their criminal proceedings against Mr X and the Authority's investigation into this matter. However, the use of the personal device breached Police policy as it currently stands.

FINDING

Officer B did not follow proper process when approving Officer A's use of a personal DashCam in his Police vehicle.

Issue 3: Did Officer A conduct adequate risk assessments and demonstrate sound decision making at all relevant times?

60. The Authority's investigation found that the following decisions made by Officer A on 17 October 2017 were problematic and did not demonstrate adequate risk assessment and sound decision-making. Officer A:
 - a) was routinely arming and, in doing so, was breaching a number of aspects of Police policy;
 - b) failed to put his firearm in the vehicle safe when he was dealing with the three children;
 - c) failed to inform NorthComms that he was stopping to speak to, and subsequently arrested, an aggravated robbery suspect;

¹⁶ See paragraphs 124-126 for relevant Police policy.

- d) handcuffed Mr X to the front, conducted a cursory search, and placed him in the front seat of his patrol vehicle;
- e) drove Mr X together with the children to the children's home address;
- f) left Mr X unsupervised in the vehicle, with the engine running and the keys in the ignition;
- g) failed to properly secure Mr X and the vehicle when he noticed Mr X acting suspiciously (including locking the doors);
- h) failed to give an adequate situation report to NorthComms following the theft of his vehicle;
- i) involved a civilian driver in the search for Mr X and the stolen Police car.

61. Officer A maintains that he continued to evaluate the risk posed by Mr X throughout the incident. He recorded in his TOR that his assessment of the risk posed by Mr X was low when he first arrested him because Mr X was compliant. Yet Officer A had never met Mr X before, had arrested him for giving false details and believed him to be a suspect in a violent crime. This demonstrates a poor use of the TENR risk assessment tool.

62. From the Authority's review of the DashCam footage it is evident that Officer A did not continue to evaluate the risk throughout the incident. For example, when at the children's home, Officer A left Mr X in the Police car, with the engine running and the keys to the gun safe accessible. When Mr X first locked the doors of the Police car Officer A spoke to Mr X briefly, but returned to speak to the children's caregivers, during which time Mr X was unsupervised. It was not until Officer A returned to find the car doors locked for the second time, that his risk assessment increased. Given Mr X had locked the car doors once already, Officer A had the opportunity to take action and remove the keys. However, by failing to do so he demonstrated a level of complacency that was completely at odds with the hypervigilance he purported to have as a result of all of the incidents that led to his decision to routinely arm.

FINDING

Officer A did not conduct an adequate risk assessment or demonstrate sound decision making during the incident.

Issue 4: Did Officer A appropriately communicate with NorthComms during this incident?

63. Unless forced to act immediately in a situation, Police policy requires officers to take time to plan an arrest and organise any necessary back up. Officers must inform the Communications Centre where they are and what is happening.¹⁷

¹⁷ See paragraph 123 for relevant Police policy

64. During interviews with the Authority, all of the officers, with the exception of Officer A, said they would notify NorthComms if they made an arrest. Officer A said that “*more often than not*” he would advise NorthComms of an arrest but that “*it depends on the situation*”.
65. Officer A did not advise NorthComms that he had arrested Mr X, which was of particular concern given the aggravated robbery was a relatively high-profile incident in the township and was a serious, violent offence.
66. His first communication in relation to this incident was notifying NorthComms that Mr X had stolen the Police car and that he had shot at the tyres.¹⁸ However, within a matter of seconds, Officer A’s radio ceased to work when the car went out of range.
67. Officer A made no attempt to contact NorthComms on his Police cell phone with further critical information about the suspect and his access to Police firearms. There were serious implications resulting from Officer A’s failure to provide an adequate situational report and failure to make further contact with NorthComms once his radio went out of range. These impacted on the effectiveness of the Police response to the incident.
68. Instead, Officer A flagged down a civilian motorist and went in search of Mr X. He did not notify NorthComms of his wellbeing, his whereabouts or that he was travelling with a civilian. It is understood that NorthComms made contact with Officer A on his cell phone as he arrived back at the Murupara Station. While he was outside the Murupara township he had no reception, rendering him uncontactable. It took NorthComms almost 10 minutes to make contact with Officer A following his initial radio transmissions.
69. Information in Officer A’s possession could have provided a significant tactical advantage to Police had he communicated that information to NorthComms. The Authority considers that he was grossly negligent in failing to clearly advise NorthComms and his colleagues of the situation and potential risks. This not only narrowed the tactical options available to them but impacted on their ability to make an informed and safe assessment of the situation, potentially putting the safety of staff at risk. It is appreciated that Officer A’s actions would have been influenced by stress. However, he failed to act in a manner that would be reasonably expected of an experienced, well-trained and professional Police officer.

FINDING

Officer A did not provide necessary information to NorthComms during this incident.

Issue 5: Was Officer A justified in shooting at the Police car?

70. The Authority has assessed whether Officer A’s actions were justified; either pursuant to section 40 of the Crimes Act 1961 (to prevent escape) or under section 48 of the Crimes Act (acting in self-defence).¹⁹

¹⁸ See paragraph 22

Preventing Mr X's escape

71. As Mr X began to reverse the vehicle out of the driveway, Officer A shouted, "Stop, stop" and aimed his pistol at Mr X. However, Mr X ignored Officer A.
72. Officer A was mindful that Mr X could access the firearm and ammunition in the boot of the car (as the keys to the gun safe were with the car keys). He said in his TOR that he felt the need to present and fire his pistol to prevent Mr X's escape, in accordance with section 40 of the Crimes Act.
73. In his TOR, Officer A explained why he had used his pistol rather than other tactical options. He stated that pepper spray and a Taser would have been ineffective as the windows and doors were closed, rendering them ineffective.
74. Officer A also said that he hoped presenting his pistol would be a sufficient show of force to stop Mr X. He reported that *"it was clear the subject was not concerned for his own safety because he clearly saw me pointing the gun at him as he looked at me on several occasions as he reversed out."*
75. Officer A also recorded in his TOR that he was in a built-up residential area, during daylight, where there were children out on the streets in the nearby area and at least three family groups in the immediate area, approximately 70 metres from the scene. However, he stated that he did not see any persons or vehicles in the immediate vicinity that would have been exposed to harm. Based on the environmental conditions, he considered it unsafe for Mr X to drive away in the Police car but he did not consider it to be unsafe to fire at it.
76. The DashCam footage does not support Officer A's account that he considered the environmental conditions before firing. The footage shows that he was focused on Mr X and the vehicle. At no point did he look behind or around him for other people. It is also evident from the DashCam footage that, as the car reversed into the street, there were no pedestrians in the surrounding area. He therefore could not have seen anyone until he left the address on foot to flag down a civilian vehicle.
77. Police policy states that firing at a moving vehicle should be reserved for very exceptional circumstances as the margin for error imposes a high probability of misdirection or ricochet, increasing the risk of causing death, injury or damage.²⁰ The margin of error in shooting at the tyres was high (as it was a small target area and a moving vehicle), particularly in a residential area with civilians nearby.
78. There is no evidence to suggest Mr X intended to use the vehicle for anything other than to escape. He had been cooperative, compliant, and showed no tendency towards aggression. At the time he drove away in the Police car, it is extremely unlikely that Mr X knew there were firearms in the boot of the car, or that the gun safe keys were attached to the car keys in the ignition. It therefore would not have been part of his motive for stealing the Police car. Mr X's

¹⁹ See paragraphs 120-121

²⁰ See paragraph 140 for relevant Police policy.

actions did not reach the threshold for serious harm or death. Officer A was therefore not justified in firing at the Police car for the purposes of preventing Mr X's escape.

Acting in self-defence

79. Officer A also stated in his TOR (and at Authority interview), that he believed that he was at risk of death or grievous bodily harm (GBH). He believed he was therefore acting in self-defence by presenting his pistol at Mr X and firing at the Police car's tyres, in accordance with section 48 of the Crimes Act.²¹
80. 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:
- 1) What were the circumstances as Officer A believed them to be? (a subjective test)
 - 2) Did Officer A use force for the purpose of defending himself or another? (a subjective test)
 - 3) If force was used for the purpose of defending himself or another, was the force used reasonable in the circumstances as Officer A believed them to be? (an objective test)

What were the circumstances as Officer A believed them to be?

81. Officer A initially believed that Mr X was being obstructive by locking the car doors but, when Mr X moved into the driver's seat, he realised Mr X intended to steal the Police car. Officer A asserted that at the point Mr X began to reverse the vehicle, Mr X now had a "mobile weapon". Officer A also stated that Mr X was "clearly determined and driven to avoid Police".
82. Officer A told the Authority that he was unsure what Mr X was going to do but believed it was "certainly on the cards" that Mr X might drive into him. In accordance with his TOR, he considered he was therefore, at risk of being seriously injured or killed. He said that he believed that this was likely as the front left tyre was still facing him as Mr X reversed away.
83. During his interview with the Authority, Officer A said that he feared serious injury or death "because the difference between reverse and drive is one inch". Based on this fear, Officer A said he positioned himself to prepare to defend himself if Mr X drove towards him by aiming his pistol at Mr X.
84. Officer A said that there was a fence to the side and behind him, limiting his options to move out of the way if required. He said he could have tripped or fallen if he had attempted to jump the fence but that even if he had done so, the fence would not have protected him from the car if Mr X had driven through it. However, Dashcam footage shows that Mr X was always reversing the vehicle away from Officer A and out of the driveway, indicating his intent to escape rather than to cause harm to Officer A.

²¹ See paragraph 121.

85. Officer A firstly believed Mr X was going to escape as he reversed away from him. However, he also believed Mr X was going to assault him with the vehicle. During his interview with the Authority, Officer A said that *“there’s a multitude of reasons...there’s not any one thing”* which influenced his decision to draw, aim, and fire his pistol. Officer A provided differing accounts as to whether, at the time, he was most concerned that Mr X would run him over or whether Mr X was going to escape. Curiously, in commenting on the draft report, Officer A said he never acted in self-defence but to prevent Mr X’s escape.

Did Officer A fire two shots from his pistol for the purpose of defending himself?

86. As detailed above, Officer A has provided various explanations for why he used his pistol. However, for the following reasons, the Authority considers that he did not use the pistol for the purpose of defending himself.
87. The DashCam footage shows Officer A walking towards the reversing vehicle, as he shouts *“Stop”*, and aiming his pistol at Mr X. Officer A then took two more steps forward as he repositioned his pistol towards the front left tyre. At no point did Officer A appear to look around for a means to get out of the way if the vehicle drove towards him. The fact that Officer A approached the vehicle in the manner shown on the Dashcam footage, belies his later assertion that he was in fear of his life.
88. When Officer A spoke to NorthComms he initially told them his justification for shooting at the tyres was to disable the vehicle (see paragraph 27). He later advised them that he did so because the vehicle had firearms in it. At no point when he contacted NorthComms did he mention fear of harm to himself or others.
89. Officer A also recorded in his TOR (completed eight days after the incident), that he decided to use his pistol *“as a tyre deflation device to render the vehicle inoperable”*.
90. Officer A fired two shots at the tyres when the police car was reversing away from him. All of the evidence leads the Authority to the view that he was not acting in self-defence and that each shot was an attempt to immobilise the vehicle.

Was the force used reasonable in the circumstances as Officer A believed them to be?

91. This question need not be answered as the Authority has determined that Officer A was not acting in self-defence and was therefore not justified in shooting at the Police car, pursuant to section 48 of the Crimes Act 1961.
92. However, even if the Authority had concluded that Officer A was acting in self-defence, it would have determined that the force used was unreasonable.
93. The Authority considers that Mr X would never have had the opportunity to steal the Police car but for Officer A’s actions in leaving him in the Police car with the engine running. Indeed, the situation need never have occurred had Officer A appropriately assessed the situation and mitigated any potential risk posed by Mr X during their earlier interactions.

FINDING

Officer A was not justified in shooting at the Police car, either in self-defence or to prevent Mr X's escape.

Issue 6: Did staff comply with Police's 'Use of Force' reporting policy?

94. In accordance with Police policy, a constable must generally complete and submit a Tactical Options Report (TOR) to their supervisor before the end of the shift in which they used force. A supervisor can approve a delay in submitting the report but it still should be completed within three days/72 hours of the shift and prior to any rostered days off or leave during this period. Supervisors must complete their review (and sign-off) within the same timeframe, commencing from the date that they receive the TOR. After a supervisor considers the TOR it is sent to an Inspector for review. Inspectors must complete their review (and sign-off if they agree with the officer's actions) within seven days of receipt.²² Any issues are to be raised with the Police Professional Conduct team.
95. Officer A started completing a TOR a few hours after the incident on 17 October 2017 and saved it as a draft. However, he then withdrew the document the following morning. Officer A created a new TOR on 25 October 2017, which he forwarded to Officer B for sign-off later that same day. Officer A told the Authority that he did not submit his TOR within the required timeframe because he wanted some time to think about what he wanted to say and to seek advice from other people. Officer A refused to provide the Authority with the names of those from whom he sought advice.
96. The purpose of the TOR is to outline decision making at the time of the incident, based on information that was known at that time by an officer. It should be completed contemporaneously, and without external input, for the purpose of accuracy. However, Officer A's TOR was unnecessarily long and included detail that was not relevant to his decision making in the moment.
97. Officer B failed to complete his review of the TOR or forward it to an Inspector until he was contacted by the PCM on 5 December 2017, six weeks after receiving it from Officer A. Officer B recorded that he supported Officer A's actions and did not consider that any further action or review was required.
98. The PCM, an Inspector, advised the Authority that it was not his normal role to review the TOR. However, due to staff changes, and the fact that no review of the incident had taken place, he took it upon himself to consider the TOR in this instance. The PCM completed his review of the TOR on 18 December 2017. He documented a number of concerns about Officer A's actions, including that Officer A had continued to routinely arm despite the PCM advising him prior to the incident that this was not acceptable (see paragraph 44). The PCM also recorded his concerns about Officer A's decision-making regarding the manner in which Mr X

²² See paragraphs 142-144 for relevant Police policy.

was handcuffed and his failure to remove the keys from the vehicle despite several opportunities to do so.

99. Officer A failed to submit his TOR, and Officer B failed to review it, in the given timeframe. It is evident that Officer B failed to recognise and address the poor practice and decision-making demonstrated by Officer A.

FINDINGS

Officers A and B failed to complete the Tactical Options Report in line with the timeframes set out in Police policy.

Officer B's review failed to recognise and address the poor decision-making and inappropriate use of force undertaken by Officer A.

Issue 7: Did managers fulfil their roles and responsibilities in addressing Officer A's continued breach of policy following the incident?

100. The PCM initially spoke to Officer A about routinely arming prior to the incident on 17 October 2017. The day after the incident, the Area Commander and the senior sergeant met with Officer A to discuss his welfare and the investigation process that would follow. However, no further action was taken at this time. Officer A continued to routinely arm himself and thereby continued to breach policy.
101. It was not until a debrief meeting on 22 February 2018 that senior management, (including the Area Commander, four Inspectors, a detective senior sergeant, a senior sergeant, and Officer B) discussed the issues, and made recommendations, in relation to the 17 October 2017 incident.
102. During the debrief, in which notes were taken, it became clear that Officer B lacked knowledge about the firearms policy. Although he was aware that there were instructions around who can authorise routine arming, he had not notified his own supervisor that Officer A was doing so. However, the content of the firearms policy was not made clear to Officer B nor was it made clear that he should have spoken to Officer A to ensure he was no longer routinely arming.
103. The debrief notes indicate that the PCM was clear that there is no general arming and raised concerns that Officer A felt the need to do so when his colleagues did not. He recognised that the incidents prior to 17 October 2017 would have had a cumulative effect on Officer A and that he would likely need support. Officer B told the other participants that he thought welfare support was put in place for Officer A but he was not absolutely certain and said he would follow it up. The Authority notes this was four months after the incident occurred.
104. It is evident that the recommendations resulting from the debrief were not specifically assigned to anyone to action and, therefore, were not followed up. In April 2018, the PCM again raised his concerns (particularly that Officer A was continuing to routinely arm) with the Area Commander.

105. The Area Commander stressed to the Authority that there was no general arming among his staff, and that he felt that this expectation was clear to them. The Area Commander stated that it was the role of Officer B to speak to Officer A about this issue, and to escalate the matter to his supervisor if Officer A persisted. However, it is evident from the debrief notes that Officer B was not conversant with policy and, as expectations were not made clear to him at the meeting, he did not take steps to rectify this. Officer B told the Authority that no one had instructed him to tell Officer A to cease carrying his firearm routinely and it is clear that he had not thought to do so himself.
106. In July 2018, Officer A attended his interview with the Authority while wearing his pistol. There was no justification for Officer A to be armed in such a situation and this further demonstrated his complete disregard for policy and his lack of insight into the issue.
107. It is clear that there was an inconsistent and delayed approach to ensuring Officer A's welfare and, despite earlier discussions, he continued to routinely arm. Officer B was responsible for speaking to Officer A about carrying a firearm but this was not followed up and enforced. The Area Commander did not take reasonable steps to ensure the recommendations were actioned.

FINDINGS

The Area Commander did not fulfil his responsibilities in addressing Officer A's continued breach of policy following this incident, including not giving Officer B clear instruction to tell Officer A to stop routinely carrying his pistol.

Issue 8: Did Police investigate the incident appropriately?

Employment investigation into Officer A's actions

108. As outlined in paragraph 29 a senior sergeant was assigned to undertake an employment investigation in relation to Officer A's actions. The Authority considers that the senior sergeant did not have the necessary experience, knowledge, independence or support to conduct an investigation of this nature. Consequently, his investigation, overseen by a senior Police Human Resources employee, did not comply with the applicable policy concerning Police investigations into notifiable incidents.²³ The investigation did not adequately gather or consider the available material or assess the actions of Officer A against applicable legislation, (such as the Crimes Act 1961, Arms Act 1985, or Summary Offences Act 1981) and Police Use of force and Firearms policies. This led to a lack of transparency and a failure to comply with the key principles of policy namely:

- 108.1 To ensure that notifiable incidents are investigated in a timely, effective and objective manner;

²³ A notifiable incident means an incident involving death or serious harm caused, or apparently caused, by a Police employee acting in the execution of their duty.

108.2 To ensure that all reasonable steps are taken to investigate notifiable incidents;

108.3 To ensure that notifiable incidents are investigated within the guidelines of good practice, without bias or conflict of interest.²⁴

109. Inadequacies in the quality of the employment investigation had implications for further Police actions (as outlined in paragraph 33).

Other investigations

110. Police did not consider Officer B to be a subject officer, nor did they examine his actions despite evidence that he had not complied with Police policy. Police should have undertaken an employment investigation in relation to Officer B's actions in allowing Officer A to routinely arm and have a personal dashcam in his Police vehicle.

111. Officer A's use of his pistol pointed to the possibility of criminality. However, no criminal investigation was initially undertaken. The Authority raised concerns about this approach which led to a detective senior sergeant undertaking a review and criminal assessment.²⁵

FINDINGS

The senior sergeant did not conduct the employment investigation into Officer A's actions in a timely, effective and objective manner.

Police did not consider Officer B as a subject officer or examine his actions.

SUBSEQUENT POLICE ACTION

112. Police released a nationwide 'Lessons Learnt' bulletin after the incident. The bulletin clearly stated that shots may only be fired at moving vehicles in exceptional circumstances. It noted that if a person stealing a car poses no reasonable threat of death or grievous bodily harm, it is both unlawful and contrary to Police policy to shoot at a moving vehicle. The bulletin states that it is widely accepted by experts and enforcement leaders that a ban on shooting at vehicles should be strictly enforced.

113. As a result of this and another incident in the Murupara area, Police conducted a review into the service being provided by Murupara Police. The review identified a number of issues relating to resourcing, leadership, and community engagement. The report made a number of recommendations for action.

114. Officer A has moved to work in a larger station where there is more oversight and support. Officer B has also transferred to another station as part of the sergeant's rotation policy.

²⁴ See paragraph 145-148 for relevant Police policy

²⁵ See paragraph 32 for further detail.

POLICING IN SMALL COMMUNITIES PROJECT

115. The Authority acknowledges that officers working in rural and remote areas face unique challenges that are distinct from that of their urban colleagues. This makes it essential that they receive the requisite training and support to undertake their role effectively. The Authority is currently undertaking a project, which is examining issues relating to policing in small and isolated communities around New Zealand. The purpose of the project is to:
- a) more clearly identify the issues that are unique to police officers who support rural and remote communities; and
 - b) facilitate a process whereby Police can learn from each other about what works well in policing rural or remote communities.

CONCLUSIONS

116. Officer A did not have authorisation to routinely arm himself and on 17 October 2017 he made a number of poor decisions which enabled Mr X to escape in a Police patrol vehicle. Officer A was not justified in shooting at the Police car, either in self-defence or to prevent Mr X's escape. Had Officer A been more diligent in his risk assessment, the situation need never have occurred.
117. The Authority also determined that:
- 1) Officer A should not have routinely carried his pistol;
 - 2) Officer A did not have sufficient justification to carry his pistol on 17 October 2017;
 - 3) Officer A failed to comply with Police policy by not wearing ballistic body armour or notifying NorthComms when arming himself;
 - 4) Officer B did not have authority to allow Officer A to routinely arm;
 - 5) Officer B did not follow proper process when approving Officer A's use of a personal DashCam in his Police vehicle;
 - 6) Officer A did not conduct an adequate risk assessment or demonstrate sound decision making during the incident;
 - 7) Officer A did not provide necessary information to NorthComms during this incident;
 - 8) Officers A and B failed to complete the Tactical Options Report in line with the timeframes set out in Police policy;
 - 9) Officer B's review failed to recognise and address the poor decision-making and inappropriate use of force undertaken by Officer A;

- 10) The Area Commander did not fulfil his responsibilities in addressing Officer A's continued breach of policy following this incident, including not giving Officer B clear instruction to tell Officer A to stop routinely carrying his pistol;
 - 11) The senior sergeant did not conduct the employment investigation into Officer A's actions in a timely, effective and objective manner;
 - 12) Police did not consider Officer B as a subject officer or examine his actions.
118. Finally, during the course of its investigation, the Authority came to recognise the extent to which the critical incidents involving Officer A had had on his wellbeing (particularly given the isolated and unique environment in which he was required to undertake his duties) and how these undoubtedly came to influence his general decision-making and policing practice. Consequently, the Authority asked Police to ensure that Officer A was provided with appropriate support to address his ongoing welfare needs and professional development.



Judge Colin Doherty

Chair
Independent Police Conduct Authority

26 March 2019

IPCA: 17-0834

Law

119. Section 39 of the Crimes Act provides a Constable can 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.
120. Section 40(1) of the Crimes Act 1961 provides for Police officers to use reasonable force to “prevent the escape of that other person if he takes flight in order to avoid arrest”.
121. Section 48 of the Crimes Act 1961 states: “Everyone is justified in using, in the 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.”
122. Under section 62 Crimes Act 1961, anyone who is authorised by law to use force is criminally responsible for any excessive use of force.

Arrest and detention policy

123. Unless forced to act immediately in a situation, Police policy requires officers to take time to plan an arrest and organise any necessary back up. Officers must inform the Communications Centre where they are and what is happening.

Police filming and audio recording of operations and events

124. Recording equipment must be Police-issued and approved.
125. Approval is required before fitting any video recording devices to Police vehicles.
126. Employees must not be overtly equipped with or use body worn cameras or other video recording devices (which may also include audio) to record policing activities without prior authorisation from the National Manager: Response and Operations.

Police policy on use of force

127. 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.
128. 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.

129. The overriding principle when applying TENR is that of 'safety is success'. Public and employee safety are paramount, and every effort must be made to minimise harm and maximise safety.
130. 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)).
131. 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. Ultimately, the legal authority to use force is derived from the law and not from Police policy.
132. 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.

Firearms policy

133. The New Zealand Police is generally an unarmed service. However, it recognises that firearms need to be available quickly, easily and safely.
134. The Police Manual authorises officers who hold the position of Inspector or above, or a district or communications centre supervisor to authorise officers to carry firearms when there is evidence to suggest they are likely to encounter a situation where firearms may be present.
135. Employees who carry firearms because their assessment of a situation is that it is in, or is likely to escalate to be within, the death/grievous bodily harm range, must advise their immediate supervisor and the Police Communications Centre of their decision to deploy with firearms, unless it is impractical to do so in that particular instance.
136. Policy provides that potentially lethal force may be used when an offender presents a threat of death or grievous bodily harm.
137. The policy instructs 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."
138. Any officer issued with a firearm is personally responsible for ensuring that he or she is thoroughly familiar with relevant law and all relevant instructions and guidelines in the Police

Manual. When firearms are issued, if time and circumstances permit, supervisors must draw officers' attention to the 'Fire Orders', which set out the circumstances in which Police officers may use firearms. Police may only use firearms for the purposes of defending themselves or others, arresting an offender, or preventing escape. These instructions are printed on the inside cover of Police notebooks and are also stored in vehicle firearm security cabinets.

139. An offender must not 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 cannot be disarmed or arrested without first being shot; and*
 - *further delay in apprehending the offender would be dangerous or impractical.”*
140. Shots may only be fired at moving vehicles in very exceptional circumstances. It is extremely difficult to disable a vehicle by discharging a firearm at tyres or other parts. The small target area and the margin for error impose a high probability of misdirection or ricochet increasing the risk of causing death, injury or damage.
141. When deploying to an incident where firearms are or may be present, officers must wear approved ballistic body armour, or hard armour plate (HAP) which must be worn over stab resistant body armour (SRBA).

Timeframes for submitting and reviewing Tactical Options Report forms

142. A Constable must submit the Tactical Options Report form (TOR) to their supervisor before the end of the shift in which they used force, or with their supervisor's approval, within 3 days/72 hours of this shift and prior to any rostered days of or leave during this period.
143. Supervisors must complete their review (and sign-off, if applicable) before the end of the shift in which they receive the TOR from the reporting constable, or with their supervisor's approval, within 3 days/72 hours after the end of this shift and prior to any rostered days off or leave during this period.
144. Inspectors must complete their review (and sign-off, if applicable) within 7 days of receiving the TOR form from the supervisor and prior to any rostered days off or leave during this period.

Police investigations of complaints and notifiable incidents

145. Police investigators must carry out investigations in a timely, effective and objective manner. This includes assessing potential criminal liability of a person and potential liability under the Code of Conduct.
146. The District Commander must ensure that the test for prosecution detailed in the Solicitor-General's Prosecution Guidelines has been complied with. If charges are not recommended a report explaining the rationale of that decision must be provided.

147. Recommendations around disciplinary processes must be reviewed by the District Human Resources Manager or a Senior Human Resources Advisor, and a Police Professional Conduct Manager.
148. Unless determined otherwise by the Commissioner, the overall responsibility for managing investigations into notifiable incidents or complaints against Police employees rests with the District Commander or National Manager of the Service Centre where the employee is normally employed.

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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