

Disappearance of nine firearms surrendered to Police

INTRODUCTION

1. On 28 January 2017, Mr X was served with a temporary Protection Order. As Mr X had a firearms licence, Police ensured he surrendered it and the nine firearms in his possession.
2. On 4 April 2017, a Family Court Judge discharged the temporary Protection Order. Shortly afterwards, Mr X sought the return of his firearms but Police could not locate them.
3. The Police notified the Independent Police Conduct Authority of the missing firearms, and the Authority conducted an independent investigation. This report sets out the results of that investigation and the Authority's findings.
4. The Authority has examined issues relating to whether Police complied with policy and standard operating procedures for the storage of the firearms, what happened to the firearms, and whether Police conducted appropriate audits of exhibit management.

BACKGROUND

5. 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.
6. 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.

Summary of events

Mr X surrenders his firearms to Police

7. On 26 January 2017, a Family Court Judge granted Mr X's former partner a temporary Protection Order against him.
8. On Saturday, 28 January 2017, Officer A served the order on Mr X at his address in Glenfield, Auckland. Officer A checked the Police database and saw Mr X had a firearms licence. Mr X surrendered his firearms licence and nine firearms (eight rifles and one shot gun) to Officer A who detailed the make, model and serial number of each of the firearms in his notebook, in the presence of Mr X.
9. Officer A returned to North Shore Policing Centre ('the centre') with the firearms. He completed two Arms Surrender Forms ('arms forms')¹ and took photographs of the firearms. The arms form is a carbon-copy form which produces three copies. The top copy should be given to the owner of the firearms, the second copy should be put in a dedicated folder and the third copy should remain attached in the arms forms book (this copy has no perforations so is designed to stay in the book). Officer A taped the second copies of the two arms forms to one of the firearms.
10. As 28 January 2017 was a Saturday, Arms Office staff were not working so after-hours procedures had to be followed for the storage of Mr X's firearms. Officer A obtained keys to the Interim Property Store ('interim store') and the Firearms Storage Safe ('firearms safe') from the duty sergeant. The keys are kept in a lock box opened with an access code.
11. CCTV footage shows Officer A moving the firearms on a trolley from the carpark on the first floor of the centre into the interim store. Officer A put all nine firearms in the firearms safe.
12. Officer A did not complete the Exhibits Register that was on a desk in the interim store because he believed it was only necessary to complete that register if the firearms were exhibits, as opposed to seized or surrendered firearms.
13. Officer A said he put Mr X's firearms licence in an envelope and wrote on the outside of it that nine firearms surrendered by Mr X were in the firearms safe. He said he left the envelope on one of the desks in the Arms Office. However, none of the Arms Office staff recall seeing it and it was not attached to the physical file at the time this matter was being investigated by Police.
14. As required by policy, Officer A recorded in the Police database that Mr X's firearms licence and firearms had been surrendered and stored in the interim store at the centre. He then returned to Mr X's address and gave him his copies of the arms forms.

¹ As an arms form only has space to detail five firearms, Officer A had to complete two forms for the nine firearms that had been surrendered. They were numbered 233651 and 233652.

Police lose track of Mr X's firearms

15. Arms Office staff should have become aware of the firearms being in the firearms safe on the following Monday, 30 January 2017, and moved them to the centre's armoury. However, this does not appear to have happened as:
 - the envelope left by Officer A was not seen by Arms Office staff;
 - there was no system in place for Arms Office staff to routinely check the firearms safe; and
 - the Exhibits Register was not completed so the Property Exhibits Officer was not aware of any firearms being in the firearms safe.²
16. Once Arms Office staff became aware of Mr X's firearms being in the firearms safe, they were required to complete the Arms Register and put safety flags and identification labels or tags (including information such as the surname of the owner, the arms form number and Arms Register number) on each firearm.
17. Arms Officer B had his first day back at work on 30 January following a period of medical leave. As the District Arms Officer, he was primarily responsible for completing appropriate paperwork, receiving firearms, labelling or tagging them and placing them in the armoury.
18. On 9 February 2017, one of the arms forms completed by Officer A was scanned into the Police database under Arms Officer B's user name and Police identification number. Arms Officer B did not recall doing this and said he would have needed assistance as he did not know how to scan documents into the Police database.
19. From 4 July 2016 to 4 March 2017, Arms Officer C, a retired Police superintendent, was contracted to work in the Arms Office to relieve for, and subsequently assist, Arms Officer B.
20. After interviewing the Arms Office staff and reviewing documentation, it has not been possible to determine if or when Mr X's firearms were moved from the firearms safe to the armoury or by whom.

Mr X begins process to regain his firearms

21. On 4 April 2017, the temporary Protection Order against Mr X was discharged by the Family Court. Mr X's firearms licence had expired in the intervening period so he had to apply to renew his licence rather than just having his licence returned to him. Once granted, Mr X would then be able to have his firearms returned to him. Mr X said he submitted an application to renew his firearms licence to Police in April 2017.

² On 2 February 2017 a detective tried to place a rifle in the firearms safe but there was no space so he placed it on a shelf in the interim store. He entered the firearm in the Arms Register and an Arms Office staff member retrieved it from the interim store on 3 February. If that staff member had checked the firearms safe at this time, he would have discovered Mr X's firearms.

22. On 15 May 2017, firearms from the centre's armoury that had been identified for destruction were loaded into a vehicle and taken to a private company for destruction. Police subsequently viewed CCTV but it was not possible to identify any firearms matching the description of Mr X's firearms.
23. On 21 June 2017, Mr X went to the centre to enquire about progress with the renewal of his firearms licence but was told that Police had no record of his application.
24. On 23 June 2017, Police received Mr X's renewal application along with a copy of the discharge order from the Family Court.
25. On 26 June 2017, the discharge order was attached to Mr X's file. Arms Officer D assigned the file to a Police vetting officer to carry out interviews and security checks.
26. Firearms from the centre's armoury were again loaded for destruction on 24 August 2017 but again it was not possible to identify any firearms matching the description of Mr X's firearms from a subsequent review of CCTV footage.
27. The vetting officer provided his report to Arms Officer D on 28 August 2017, concluding that there was no valid reason not to grant Mr X a firearms licence. Arms Officer D reviewed the file and agreed with the vetting officer's decision. On 6 September 2017 Mr X was granted a renewal of his firearms licence.

Police attempt to locate Mr X's firearms

28. On 10 and 16 October 2017, Mr X called Arms Officer D about the return of his firearms.
29. On 17 October 2017, Arms Officer D assigned the file to Arms Officer B so that Mr X's firearms could be located and returned to him. Arms Officer B found no record of the firearms in the Arms Register. The Arms Register is a book that has multiple hand-drawn columns to complete: the Arms Register number, date, the arms form or file number, a description of the firearms, the purpose the firearms have been received, where they are being kept, any action required and the date of that action. There is no centralised Arms Register for the Waitemata District.
30. Arms Officer B also found no record of the firearms in the Exhibits Register and could not find the second copies of the arms forms in the dedicated folder. However, he found the third copies of the arms forms completed by Officer A in the arms forms book.
31. On 18 October 2017, Arms Officer D checked for any reference to Mr X's firearms being at the centre's armoury or the other District armouries. He only found the one arms form that was scanned by Arms Officer B on 9 February. Arms Officer D also conducted physical checks of these armouries but did not locate Mr X's firearms.
32. On 19 October 2017, Arms Officer D spoke to Mr X to check whether the firearms had been returned to a nominated person. They had not. Arms Officer D arranged a meeting for the following morning to obtain any relevant documentation from Mr X but Mr X did not attend this meeting.

33. On 24 October 2017, Mr X contacted Arms Office staff wanting to know when he would have his firearms returned. Arms Officer D advised Mr X that he had attempted to locate the firearms and again confirmed the firearms had not been returned to a nominated person.
34. On 27 October 2017, Mr X called Arms Officer D again who informed him that Police had been unable to locate his firearms and an internal investigation was underway.
35. Arms Officer B advised the Authority that he attended a couple of destructions early in 2017 but did not recall seeing Mr X's firearms. He said he may have seen them at one of the other District armouries, when they had to take a lot of firearms there that were supposed to be destroyed but could not be because the machine at the private destruction company was not working.
36. Arms Officer C did not recall seeing Mr X's firearms at the two destructions he attended with Arms Officer D in the period he worked in the Arms Office (July 2016 to March 2017).
37. Arms Officer D thought he had seen three, possibly four, of Mr X's firearms at the destruction on 24 August 2017.

Police investigation

38. The Police investigated this matter and concluded that:
 - a) there were systemic failings at all levels in Waitematā District from the time Mr X's firearms came into Police possession;
 - b) there were inadequate internal audit procedures to identify these failings; and
 - c) at least four of Mr X's firearms were inadvertently destroyed on 24 August 2017.
39. Arms Officers B and D have been subject to performance plans.

THE AUTHORITY'S INVESTIGATION

40. As part of its investigation, the Authority interviewed Officer A and Arms Officers B and D. Arms Officer C was not interviewed but provided responses to questions posed by the Investigator. The Authority also reviewed CCTV footage, monitored the Police investigation throughout and reviewed all the documentation provided by Police.
41. The Authority identified and considered the following issues:
 - 1) Did Officer A comply with Police policy and standard operating procedures for the surrender and temporary storage of the firearms?
 - 2) Did Arms Office staff comply with Police policy and standard operating procedures for the storage of the firearms?

- 3) What happened to Mr X's firearms?
- 4) Were audits of exhibit management conducted appropriately in the time that Mr X's firearms were likely to have been held at the centre?

THE AUTHORITY'S FINDINGS

Issue 1: Did Officer A comply with Police policy and standard operating procedures for the surrender and temporary storage of Mr X's firearms?

42. Police policy requires Police to demand the surrender of all firearms and firearms licences when serving protection orders.³
43. While he was at Mr X's address, Officer A checked the Police database and discovered Mr X had a firearms licence. Mr X surrendered his licence and nine firearms to Officer A.
44. At the centre, Officer A completed two arms forms and took photographs of the firearms. He then took the firearms to the interim store and put them in the firearms safe.
45. Officer A did not label or tag each of the nine firearms individually but taped copies of the two arms forms around one of them. The instructions on the outside of the firearms safe at the time stated "*Place label or tag on firearm*".⁴ Arguably, it is not clear whether each firearm in a group of firearms must be individually labelled or tagged or not, and placing the arms forms around one firearm could satisfy this instruction.
46. Officer A did not complete the interim store's Exhibits Register, as he was required to do.⁵ However, it is noted that the instructions on the outside of the firearms safe at the time did not mention completing the Exhibits Register.
47. Officer A said he left an envelope on a desk in the Arms Office with Mr X's firearms licence inside and wrote a note on it about the firearms being in the firearms safe. However, none of the Arms Office staff recall seeing this envelope.
48. Arms Officer C told the Authority he was concerned with the number of firearms that could remain in the interim store, sometimes on shelving and not in the firearms safe, without Arms Office staff being aware they were there. He discussed the issue with Arms Officer D and then spoke to an Inspector. An email instruction was subsequently issued to Area/District staff in early September 2016 (before this incident) which required frontline staff to email the Arms Office when they had left firearms in the firearms safe.

³ Section 21(1) of the Domestic Violence Act 1995 (see para 101).

⁴ These instructions were dated 24 October 2006 and have since been replaced (see paragraph 97).

⁵ The Property Exhibits Officer said she removed this requirement after starting in the role on 20 February 2017, several weeks after Mr X's firearms were surrendered. When spoken to by the Authority, however, Arms Office staff were unaware of the change and believed the Exhibits Register was still being completed when firearms were seized or surrendered after hours.

49. In this case, Officer A did not email the Arms Office to advise that the firearms were in the firearms safe. However, he said he left an envelope stating that Mr X's firearms were in the firearms safe, and the Authority is of the view that he did do this and sufficiently advised the Arms Office staff.
50. On the date he served the order on Mr X, Officer A noted in the Police database: *"Firearms Licence and 9 x firearms were also surrendered and seized. All firearms have been exhibited and stored at the NSPC interim exhibit storage"*.
51. Officer A later returned to Mr X's address to give him his copies of the arms forms.
52. The Authority finds that Officer A should have completed the Exhibits Register with the details of Mr X's surrendered firearms. If he had done so, the Property Exhibits Officer at the time would likely have alerted Arms Office staff to the fact that Mr X's firearms were in the firearms safe.
53. While Officer A could have labelled or tagged each firearm individually before putting them in the firearms safe, and emailed Arms Office staff rather than leaving them a message on an envelope, the Authority notes that he took photographs of Mr X's firearms, which was not required but assisted with the investigation of this matter.

FINDINGS

Officer A should have completed the Exhibits Register with the details of Mr X's surrendered firearms. In all other respects, he sufficiently complied with Police policy and standard operating procedures for the surrender and temporary storage of Mr X's firearms.

Issue 2: Did Arms Office staff comply with Police policy and standard operating procedures for the storage of Mr X's firearms?

Who dealt with Mr X's firearms?

54. Arms Office staff should have become aware of Mr X's firearms being in the firearms safe on Monday, 30 January 2017, and moved them to the centre's armoury.
55. The Arms Office staff who could have removed Mr X's firearms from the firearms safe were Arms Officers B, C or D. None of them recalled dealing with Mr X's' firearms.
56. Arms Officer B told the Authority *"I would have logged them in and I put them into the book. ... it would have been part of my job but I don't think I done that. ... I cannot recall even seeing the firearms in that early part ... or at all to be quite honest"*.
57. Arms Officer C could not recall removing Mr X's firearms from the firearms safe but said he may have done so to help Arms Officer B who was on light duties after his medical leave. If that had happened, he said he would have expected Arms Officer B to complete the paperwork.

58. Arms Officer D told the Authority “[o]ne of my functions is the overall management but as in relation to Mr [X’s] firearms no I didn’t have any dealings with them”. He confirmed the only two staff who would have dealt with them were Arms Officer B or Arms Officer C.
59. Arms Officer B scanned one of the second copies of the arms forms into the Police database on 9 February 2017. Therefore, it is likely he removed Mr X’s firearms from the firearms safe, possibly with the physical assistance of Arms Officer C, and put them into the armoury.
60. The Arms Office staff member who dealt with Mr X’s firearms would only have had to move them a few metres, as the armoury is next door to the interim store. Unfortunately, no CCTV footage of Mr X’s firearms being moved into the armoury was available as the location of the camera at the time did not capture the entrance to the armoury.⁶
61. It is possible Mr X’s firearms were moved to one of the other District armouries at some point by one of the Arms Office staff when the centre’s armoury was full⁷ but there is no record of this in a register or on the Police database.

Compliance with policy and standard operating procedures

62. Police policy in relation to the storage of firearms states, “Police must provide suitable storage for all weapons seized under the Domestic Violence Act 1995 or the Arms Act 1983 for the period of the suspension of the firearms licence”.⁸
63. Arms Officer D told the Authority there was no written procedure in place for Arms Office staff at the time Mr X’s firearms went missing.

Failings by Arms Officer B

64. There was no entry in the Arms Register relating to Mr X’s firearms. Arms Officer B should have completed the Arms Register, which is kept on the ground floor of the centre in the Arms Office, after removing Mr X’s firearms from the firearms safe and (presumably) moving them to the centre’s armoury. At this point, he would have found the second copies of the two arms forms, which Officer A had taped to one of the firearms.
65. All arms forms should have Arms Register numbers on them. The first two digits of the number represent the year and the next digits represent the order in which the firearms have been received by the Arms Office, for example, 17/43 means the 43rd firearm (or group of firearms) received in 2017.
66. The arms forms book shows that the two arms forms completed by Officer A have no Arms Register number recorded on them. Arms Officer B should have written the number allocated to the firearms in the Arms Register on the arms forms (and, conversely, the arms form numbers should have been written in the Arms Register).

⁶ This has now been remedied (see paragraph 96).

⁷ The centre’s armoury is only able to store 100-120 firearms.

⁸ See paragraph 108 for policy.

67. Assuming Arms Officer B found both of the second copies of the arms forms, he either did not put them in the arms form folder or they were removed at some point by him or another Arms Office staff member. Only the second copy of one of the arms forms was scanned into the Police database by Arms Officer B on 9 February 2017.
68. If Mr X's firearms were placed in the centre's armoury, it is possible they were not labelled or tagged by Arms Officer B. Arms Officer B should have written both the Arms Register number and the arms form numbers on the labels. Although there were differing views among Arms Office staff about what should be included on labels or tags (various combinations of name, arms form number, Arms Register number and the reason for the firearm being in the armoury were provided), it is clear that labels or tags should have been attached to the firearms.

Failings by Arms Officer D

69. Arms Officer D had not put any system in place for Arms Office staff to routinely check the firearms safe. Checking the firearms safe was either done on an ad hoc basis by Arms Office staff or reliance was placed on the Property Exhibits Officer or frontline staff notifying Arms Office staff that firearms had been placed in the firearms safe.
70. Access to the centre's armoury required a key which was kept in a lock box in the Arms Office. Arms Office staff were provided with access codes for the lock box and the armoury's alarm system. It does not appear that either access code was ever changed, which is not good security practice, particularly in the context of the storage of firearms.
71. It also appears there was no proper racking number system for the armoury, so firearms were just identified as being on the top shelf, middle shelf and so on. That system was also not being consistently utilised by Arms Office staff.

FINDINGS

On the balance of probabilities, Arms Officer B dealt with Mr X's firearms.

There were multiple failings by both Arms Officer B and Arms Officer D in relation to the storage of Mr X's firearms.

Appropriate procedures were not in place to ensure surrendered firearms were properly received, registered, stored and tracked.

Issue 3: What happened to Mr X's firearms?

72. Arms Officer D thought he had seen three, possibly four, of Mr X's firearms at the destruction on 24 August 2017. However, there was no information confirming that any of Mr X's firearms were destroyed at this time.
73. In order for Mr X's firearms to be lawfully destroyed, there needed to be either a Court order or written permission from him to destroy them. There was no Court order and Mr X did not provide permission for his firearms to be destroyed; he was seeking to have them returned.

74. At the time of this incident, a specific District form had been developed for a commissioned officer (in this case it was the Operations Manager who was an Inspector) to authorise the destruction of firearms and ammunition. This form does not appear to have been completed in relation to Mr X's firearms and therefore there is no evidence that the Operations Manager authorised their destruction.
75. As noted under the previous issue, there were no arms forms relating to Mr X's firearms in the dedicated folder. If the firearms were to be destroyed, the arms forms should also have been removed from the folder and the words 'for destruction' or similar written on them. Once destruction had been completed, the arms forms should have been placed back in the folder. There is a specific section on the arms form that should also have been completed by those who witnessed the destruction.
76. The Arms Register should also have been date stamped after the firearms had been destroyed. As noted under the previous issue, there was no entry in the Arms Register relating to Mr X's firearms.
77. When firearms are identified for destruction at the centre, they are placed in a blue bin in the armoury. It is not clear if labels or tags attached to firearms are removed at this point or not. Arms Office staff gave different responses about this, ranging from them never being removed to them being removed when put in the blue bin or when taken for destruction.
78. The Authority believes it is unhelpful to remove labels or tags, as it prevents cross-checks being made before firearms are destroyed. If Mr X's firearms were not labelled or tagged by Arms Officer B when they were placed in the armoury, this could have resulted in an Arms Office staff member believing they were to be destroyed and placing them in the blue bin for destruction.
79. In terms of the cross-checking of firearms to be destroyed, Arms Officer B said he did this "over a period of time". He said when they were put in a vehicle to be taken for destruction, he would remove the labels or tags at that point and cross-check them with the available paperwork.
80. Arms Officer D said he did not do any cross-checking to ensure firearms were only destroyed with the appropriate authority. He thought that, by the time firearms were ready to be destroyed, Arms Office staff had completed the appropriate checks.
81. There was no documented arrangement between Police and the private company which destroys firearms, and the company seems to simply have relied on Police to ensure the correct firearms were destroyed. The private company does not keep any records of the firearms they have destroyed.
82. Police physically checked all of the District armouries but could not locate Mr X's firearms at any of them.

83. Arms Officer D was unable to explain how Mr X's firearms could be destroyed without proper authorisation and said there had been a *"failure in the system"*. He told the Authority that *"from now on any firearms for destruction will be double checked"* and accepted that he should initial the District form to evidence that he has seen the appropriate paperwork.
84. Arms Officer B mentioned that it would be helpful to have a clearer process for the prosecution section and frontline staff to advise the Arms Office when firearms can be destroyed, otherwise firearms can sit in the armoury unnecessarily.
85. The Police investigation concluded that at least four of Mr X's firearms were inadvertently destroyed on 24 August 2017. The Authority does not share that view. Due to the multiple failings to comply with procedure, particularly in relation to paperwork not being completed, it is not possible to determine what happened to Mr X's firearms. CCTV did not capture the transfer of the firearms out of the interim store and they have not been located in any of the District armouries. There is also no conclusive proof that any of them have been destroyed because destruction procedures were not complied with. Therefore the possibility that someone within Police may have stolen the firearms cannot be ruled out.

FINDINGS

It is not possible to determine what happened to Mr X's firearms.

If they were destroyed, there were multiple failings by both Arms Officer B and Arms Officer D in relation to complying with procedures for destruction.

Issue 4: Were audits of exhibit management conducted appropriately in the time that Mr X's firearms were likely to have been held at the centre?

86. Area Commanders must ensure that station audits in relation to the management of exhibits (which includes firearms) are performed every month by the 20th of the month. The relieving Area Commander at the time was unaware of this requirement but measures have now been put in place to ensure this occurs.
87. Area Commanders then complete monthly summary reports for District Commanders by the end of the month. The Waitematā District Commander delegated the authority for ensuring the audits were conducted and producing the summary reports to the District Operations Manager.
88. The Station Supervisor was responsible for completing the centre's monthly audits. Officer E conducted an audit in May 2017 (in relation to April 2017) with no issues being identified. Officer F conducted audits when Officer E was not available, however, he was unable to provide any of the missing audit documentation for February to April 2017 or June to December 2017.

89. While the audits conducted by Officer E seemingly raised no issues, the Authority notes they were of limited value as the samples under the 'Firearms (receiving)' section for the January 2017 audit were not random (the audit looked at five consecutive 'firearms received' in the Arms Register) and only exhibited firearms were considered under the 'Firearms (disposing)' section.
90. In the May 2017 audit, all of the questions under the 'Firearms (receiving)' section were answered 'NA' (not applicable) due to the firearms having been surrendered rather than received by Police as exhibits. In addition, it appears that no register of these audits was being kept at the centre.
91. Every six months District Headquarters⁹ should perform an independent audit of exhibit management practice within the District. Records show that for January to March 2017 and August 2017 only audits from Rodney were provided. There were no audits provided for North Shore or Waitakere.
92. The Authority is of the view that, at least during the time Mr X's firearms were likely to have been held at the centre, monthly audits and District audits were either not being conducted or not being conducted to a standard that adequately identified any issues.

FINDING

Monthly and six-monthly audits of exhibit management were either not conducted or not conducted appropriately by Police during the time Mr X's firearms were likely to have been held at the centre.

SUBSEQUENT POLICE ACTION

93. Police have reached agreement with Mr X to compensate him for the missing firearms and will be formally apologising to him for their disappearance.
94. As a result of this matter and other issues with firearms handling in the Waitemata District, a District audit was conducted in mid-2018. Following the audit, a new process for handling seized and surrendered firearms has been implemented. Arms Office staff no longer physically handle these firearms. The Property Exhibits Officer now fulfils this role, which means there is one central point for the storage of firearms that are exhibits or have been seized or surrendered.
95. The Police investigation and the District audit identified a number of issues with the accurate keeping of records which have been brought to the attention of Arms Office staff.
96. The CCTV camera outside the centre's armoury has been relocated so it now captures the door to the armoury.
97. New instructions have been placed on the front of the firearms safe for Police staff needing to store firearms and ammunition after hours.

⁹ The District Headquarters for Waitemata District is based at Henderson Police Station.

98. There is now a dedicated Armoury Exhibit Register for all firearms and ammunition. There are also new instructions regarding armoury exhibits which provide guidance on their handling and storage. These instructions have been provided to staff, including on Police mobility devices.

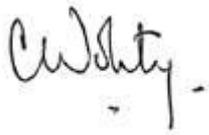
CONCLUSIONS

99. The Authority concluded that:

- 1) Officer A should have completed the Exhibits Register with the details of Mr X's surrendered firearms. In all other respects, he sufficiently complied with Police policy and standard operating procedures for the surrender and temporary storage of Mr X's firearms.
- 2) On the balance of probabilities, Arms Officer B dealt with Mr X's firearms. There were multiple failings by both Arms Officer B and Arms Officer D in relation to the storage of Mr X's firearms.
- 3) It is not possible to determine what happened to Mr X's firearms. If they were destroyed, there were multiple failings by both Arms Officer B and Arms Officer D in relation to complying with procedures for destruction. Appropriate procedures were not in place to ensure surrendered firearms were properly received, registered, stored and tracked.
- 4) Monthly and six-monthly audits of exhibit management were either not conducted or not conducted appropriately by Police during the time Mr X's firearms were likely to have been held at the centre.

RECOMMENDATION

100. The Authority is aware that Police are currently in the process of developing an electronic system to manage exhibits, as previously recommended by the Authority. In accordance with section 27(2) of the Independent Police Conduct Authority Act 1988, the Authority recommends that the system Police develop to manage exhibits should also apply to seized and surrendered firearms.



Judge Colin Doherty

Chair
Independent Police Conduct Authority

9 July 2019

IPCA: 17-1359

Domestic Violence Act 1995

101. Section 21(1) of the Domestic Violence Act 1995 makes it a condition of every protection order that a respondent must not have any weapon in his or her possession or under his or her control, must not hold a firearms licence and must surrender any weapons and the licence to a constable.

Arms Act 1983

102. Section 27 of the Arms Act 1983 states that a commissioned officer of Police (Inspector or above) may revoke a person's firearms licence if it is considered that the person is not a "*fit and proper person*" to be in possession of a firearm.
103. Under section 27A of the Act, a commissioned officer of Police may decide that a person is not 'fit and proper' to be in possession of a firearm if satisfied that:
- there are grounds under the Domestic Violence Act 1995 for making an application for a protection order against that person; or
 - such an order is in force under the Domestic Violence Act in respect of that person.
104. Section 70 of the Act allows firearms detained by Police for 12 months or more to be disposed of "*as the Commissioner may direct*".

'Exhibit and property management' policy

Protection and property-related orders

105. Among other reasons, Police must serve protection orders if a respondent holds a firearms licence.
106. At the time of service, Police must demand surrender of all firearms and the firearms licence under section 21 of the Domestic Violence Act.
107. If a respondent holds a firearms licence, Police should consider invoking sections 27 or 27A of the Arms Act 1983.
108. Police must provide suitable storage for all weapons seized under the Domestic Violence Act 1995 or the Arms Act 1983 for the period of the suspension of the firearms licence.
109. Firearms should be disposed of in accordance with section 28 of the Arms Act when a final order is made.

Receiving property and exhibits

110. An Arms Surrender Form must be completed for all firearms surrendered to Police. The National Recording Standard also requires surrendered firearms to be recorded in the Police database.

Custody and disposal of exhibits

111. Exhibits can be destroyed when there is an order from the court for destruction.
112. The policy sets out the preferred and two alternative methods for destroying firearms, all of which must be witnessed by Police staff.

Reporting and internal control checks

113. Internal control checks must be completed for firearms, among other exhibits. Monthly station checks must be summarised at an Area level and reported to District level monthly.

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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