

# Police use of firearm when stopping a car in Hastings

## OUTLINE OF EVENTS

1. On 16 July 2018, Police received a report of a burglary at a house in Taradale, Napier. The items stolen included a silver Mercedes-Benz and ten firearms. Information about the burglary was passed to all officers in the area.
2. On 21 July 2018 Police had still not located the stolen Mercedes and firearms. At about 1am, Officer A was patrolling in his Police car in Hastings. Mr Y was in the front passenger seat as a 'ride along', observing Police duties in anticipation of joining the Police later in the year.
3. Responding to an incident, Officer A started driving with his emergency lights on. As he was driving, he saw a car travelling in the opposite direction, which he thought matched the description of the stolen Mercedes. He noticed there was no licence plate attached to the front of the vehicle.
4. Officer A immediately turned and followed the Mercedes, with his emergency lights and siren on. He advised the Central Police Communications Centre (CentComms) via radio that he was behind a car and believed it was *"possibly stolen in a burg last week with some firearms"*. He advised he was going to conduct an armed vehicle stop.
5. The Mercedes stopped, and Officer A parked about five to ten metres behind it, slightly out to the right hand-side. He armed himself with his Glock pistol, removing it from a locked box by the front passenger seat. At about the same time the driver of the Mercedes, Mr X, got out of his car.
6. Officer A got out of the Police car holding his pistol and stood behind the open driver's side door. Mr X was standing on the road. There are conflicting accounts as to whether Officer A was pointing his pistol at Mr X, or at the ground. This is discussed in further detail below.
7. Officer A, as well as other officers who arrived shortly after, spoke with Mr X on the footpath beside the road. Police searched Mr X's car but did not find any firearms. Police established that

it was not the stolen Mercedes they were searching for. An inspector arrived and spoke to Mr X, at which point he was allowed to leave.

8. Officer A subsequently served Mr X with an infringement notice alleging that Mr X had committed three traffic offences while driving the Mercedes.<sup>1</sup>
9. Mr X complained to the Authority that:
  - a) he was not asked for relevant information in a respectful manner;
  - b) Officer A was aggressive and pointed a gun at him for a long period of time, which he found distressing;
  - c) the officers did not apologise; and
  - d) he was not offered victim support after this incident.

## THE AUTHORITY'S INVESTIGATION

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10. The Authority has spoken with Mr X, Mr Y and two Police officers in relation to this matter. It has also reviewed relevant Police documentation.
11. The Authority has considered the following issues:
  - 1) Did Officer A lawfully stop Mr X?
  - 2) Did Officer A comply with Police firearms policy and 'High Risk Vehicle Stop' training when stopping Mr X?
  - 3) Did Police lawfully search Mr X's car?
  - 4) Did Police offer Mr X appropriate support following the incident?

## THE AUTHORITY'S FINDINGS

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### Issue 1: Did Officer A lawfully stop Mr X?

12. Section 121 of the Search and Surveillance Act 2012 provides that a Police officer may stop a vehicle to search it without a search warrant if they are satisfied that they have grounds to search the vehicle under a specific search power conferred by the Act.
13. One such power is contained in section 18(3) of the Search and Surveillance Act 2012, which states that a Police officer may search a vehicle if they have reasonable grounds to suspect there are firearms inside, in respect of which an offence punishable by imprisonment for two years or more has been committed.

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<sup>1</sup> An infringement notice was served on Mr X for operating an unlicensed and unregistered vehicle on a road, and for operating a private vehicle on a road that was not displaying current evidence of a vehicle inspection.

*Did Officer A have reasonable grounds to suspect that there were firearms in the car which were connected to an offence punishable by imprisonment for two years or more?*

14. Officer A explained to the Authority he stopped Mr X because he “*believed [the car Mr X was driving] was the vehicle that was stolen*” and thought it likely there were firearms in the car.
15. The burglary in which the Mercedes and firearms were stolen constituted an offence punishable by imprisonment for two years or more.
16. After the burglary had been reported to Police, information about the burglary was distributed to local officers, including a photograph of the model of car which was stolen. Officer A told the Authority he had read that information and discussed the burglary with the investigation team. At the start of the shift, Officer A and Mr Y had also discussed the burglary and Officer A had shown Mr Y a picture of the car they were looking for.
17. The stolen car was a 2014 silver Mercedes-Benz E 250 saloon. Mr X was driving a relatively new, newly imported, silver Mercedes Benz C 300.
18. The Authority has viewed a photograph of the car being driven by Mr X and the photograph distributed to officers and notes they look very similar. Officer A also told the Authority that, when he first noticed Mr X’s car, he could see it had no front licence plate. As he was following the car, he saw it had a dealer’s plate in place of a rear licence plate. Officer A said although he recognised the rear plate as a trade plate, he was still unsure whether or not the vehicle was stolen. Officer A also thought it was unusual to see a car “*like that out at this time of night*”.
19. The Authority accepts that Officer A had reasonable grounds to suspect it was the stolen Mercedes, which could have contained the stolen firearms. It was therefore reasonable for Officer A to stop Mr X in order to search his vehicle.

*Obligations when stopping a vehicle for the purpose of conducting a warrantless search*

20. Section 129 of the Search and Surveillance Act requires an officer to identify themselves to the person they are stopping and state the legislation under which they are stopping the person as well as the reason for the stop.
21. Mr X told the Authority that when he got out of his Mercedes, Officer A shouted at him to put his hands in the air and asked if there was anyone else in the car. He does not recall Officer A saying anything else. Mr X said:

*“...I was basically very unsure of what was happening and I saw what looked like a gun being aimed at me ... so I just went into a slight state of shock... I had no idea what I had been pulled over for. I knew I hadn’t been speeding....”*

22. Mr X recalled that another officer spoke to him after he had moved to the footpath, and explained there had been a car similar to his, stolen with firearms in it.
23. Officer A said in interview that when he opened his door, Mr X was out of his car with his arms in the air and said “*what the fuck is all this about?*” Officer A told Mr X he was armed, and to “*show me your hands*”. Mr X replied along the lines of “*you’re obviously going somewhere so*

*fuck off and find the right car*". Officer A asked Mr X to move to the footpath, saying he needed to "check out" Mr X's car, as Police were looking for a similar one. According to Officer A, Mr X kept telling him to "fuck off" but eventually moved over to the footpath as other officers were arriving.

24. Officer A said he:

*"...told [Mr X] that we'd stopped him under the Search and Surveillance Act 2012. I introduced myself by name, rank and station and I told him that basically his car was going to be searched under the Search and Surveillance Act 2012 to make sure that that wasn't the car that was stolen."*

25. Officer A also recorded in his Police notebook: *"Advised [Mr X he was] stopped under S&S Act 2012, vehicle was going to be searched for firearms"*.

26. Mr Y told the Authority that after the cars had stopped, Mr X got out of his car quickly and walked towards Officer A, who was standing next to the Police car. Mr Y did not recall exactly what Officer A and Mr X said to each other but recalled generally that Officer A told Mr X he was armed and told him to move to the side of the road so he could explain what was happening. Mr Y described Officer A's demeanour as *"assertive"*. Mr Y said Mr X responded by saying he had done nothing wrong and Officer A had no right to stop him.

27. Mr Y also recalled Mr X saying something along the lines of *"you're obviously going somewhere else, how about you get back in and piss off to where you were going"*. He described feeling *"really shocked"* at the way Mr X acted.

28. Although Mr X does not recall being told the reason that he was stopped, the Authority notes that he acknowledged he went into a *"state of shock"*. The Authority considers that it is probable that Officer A did advise Mr X why he was stopped, and his car was being searched, given Officer A's training, the consistency between his and Mr Y's accounts, and Officer A's notebook entry. The Authority is satisfied that Officer A complied with the law when speaking to Mr X, and that a supervisor later explained to Mr X the reason he had been stopped.

## FINDINGS ON ISSUE 1

Officer A lawfully stopped Mr X's car.

Officer A complied with his obligations under section 129 of the Search and Surveillance Act.

## Issue 2: Did Officer A comply with Police firearms policy and 'High Risk Vehicle Stop' training when stopping Mr X?

### Arming

29. The Police firearms policy states that firearms may be carried when an officer's "perceived cumulative assessment"<sup>2</sup> of the situation is that it is in, or likely to escalate to be within, the

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<sup>2</sup> The term "perceived cumulative assessment" in Police policy refers to an officer's subjective assessment of all the circumstances confronting him or her.

‘death/grievous bodily harm range’. That is, that the officer considers they are at risk of, or likely to be at risk of, being seriously injured or killed.

30. The Mercedes was stolen together with ten firearms. Officer A therefore considered that the driver of the silver Mercedes would likely be in possession of firearms. He said: *“in terms of risk assessment I guess it’s fairly high that there is likely... to be persons involved in that burglary carrying firearms in that vehicle.”*
31. The Authority considers that while it is not likely that that the firearms would still be with the vehicle five days after the burglary, the possibility still existed and could not be easily discounted.
32. The Authority accepts that Officer A reasonably formed the belief that an incident involving the driver of the Mercedes could be life-threatening. It therefore considers Officer A was justified in arming himself in the circumstances.

#### *Requirements when arming*

33. Employees who carry firearms must advise their immediate supervisor and Police Communications Centre of their decision to arm and wear ballistic body armour.<sup>3</sup>
34. When Officer A saw Mr X’s car, he immediately advised CentComms of his intention to arm himself and stop the vehicle. Officer A’s emergency lights were already on, because he had been on the way to another incident when he spotted the Mercedes. Mr X pulled over almost immediately when Officer A signalled for him to stop. Officer A quickly armed himself with his Glock pistol from the front passenger footwell, but saw Mr X getting out of his car. Officer A therefore did not think he had time to get his ballistic body armour, which was located in the boot of his Police car, before engaging with Mr X.
35. The Authority accepts that Officer A complied with most of the requirements of arming. In the circumstances, it would have been impractical for him to have gone to the boot to remove his ballistic body armour before speaking to Mr X.

#### *High Risk Vehicle Stop*

36. Police policy states:

*“If you suspect the occupants [of a vehicle] have firearms, you must stop the vehicle in accordance with the High Risk Vehicle Stops ... procedure....”*

37. Officer A has been a member of the Armed Offenders Squad (AOS) for approximately six years and has been trained in stopping vehicles containing armed offenders.
38. Police training on ‘High Risk Vehicle Stops’ includes the following key points:

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<sup>3</sup> Police policy requires officers to wear ballistic body armour – in this case, hard armour plating (HAP) over their standard issue Stab Resistant Body Armour (SRBA) – which provides additional protection of vital organs during incidents involving firearms.

- Officers should not initiate a High Risk Vehicle Stop until they are fully prepared and have all the available resources in place.
  - The use of the AOS must always be considered before conducting a High Risk Vehicle Stop.
  - The driver of the first patrol vehicle is to stand in the “V” created between their open door and the main body of the car, with their pistol drawn.
  - The driver then gives instructions to the occupants of the vehicle (to get out of the car with their hands raised and to get onto the ground).
39. While Officer A did not comply with the first part of the training requirement to fully prepare, in the circumstances it was not practicable and the Authority accepts that it was appropriate to conduct the vehicle stop.
40. However, in doing so, Officer A should comply with the remaining training requirements, and did comply.
41. The Authority accepts that although Officer A did not comply with all the requirements of training and policy, he was justified in initiating and conducting the high risk vehicle stop.

#### *Presenting the firearm*

42. Mr X complained to the Authority that Officer A “*drew his firearm and pointed it at me for a prolonged period of time. He was extremely aggressive and what I term ‘fired up’*”.
43. Officer A disagrees with Mr X’s recollection, saying that he aimed the pistol at the ground throughout the interaction.

#### *Mr X’s account*

44. Mr X told the Authority that when he was pulled over, he waited in the car for a “*considerable amount of time*”. He got out of the car and saw a Police officer standing behind the door of his patrol car, pointing a gun at him and yelling continually for him to put his hands up. Mr X said: “*Basically I just remember having a gun aimed at me and someone shouting at me for a considerable period of time, and the nature of the officer was he was highly aggressive....*”
45. Mr X told the Authority he put his hands above his shoulders in response to the directions given by Officer A. He was standing between the back of his Mercedes and the front of the Police car. Mr X said:
- “I started moving towards the footpath and that’s when he came from behind his vehicle with the firearm pointed at me ... he had his hands outstretched with the gun basically level with his head and pointing towards my upper body”.*
46. Officer A then walked towards him, until he was about a metre away from Mr X.
47. Mr X recalled Officer A putting his gun back into the holster on his body while Mr X was on footpath and after Officer B told him he knew Mr X was a car dealer.

### *Officer A's account*

48. While Officer A was arming himself, Mr X got out of the Mercedes and started moving towards him. As Officer A was in a hurry to get out of the car, he did not have time to attach the pistol's holster to his belt.
49. Officer A said he never aimed his pistol at Mr X. Rather, he always kept the pistol pointing at the ground in the "Sul" position.<sup>4</sup> Officer A demonstrated the Sul position, with the pistol held in one or both hands at chest height, against the officer's body, facing downwards. Officer A said he was confident the pistol was in the Sul position at all times while he was speaking to Mr X.
50. Officer A described Mr X's demeanour as "agitated". He said Mr X said he was unhappy at being pulled over. Officer A does not recall Mr X putting his hands above his head. However, he said he could see Mr X's hands and that he was not holding a firearm. Because of this, Officer A did not feel the need to aim his pistol at Mr X. Officer A told Mr X he was looking for a similar car, so he wanted to search Mr X's car. Mr X told him repeatedly that he had the wrong person, and to "fuck off".
51. Officer A said Mr X was on the road when he spoke to him, in the space between the Mercedes and the Police car. Officer A remained in the gap between the driver's door and the frame of the Police car. After a minute or so, Officer B arrived. Officer B told Officer A he knew Mr X, and provided his name. Once Officer A was satisfied Mr X was not a threat, he gave Officer B his pistol to put back into the safe in his car. Officer A was not wearing his gun holster; therefore, he was unable to holster the pistol. Officer A said he was holding the pistol for less than a minute.
52. Officer A told the Authority he did not change his position from behind the driver's door until after Officer B arrived. Officer A then approached Mr X and spoke with him on the footpath beside the road.
53. Other officers arrived and searched the car while Officers A and B spoke with Mr X.
54. After some time, an inspector, Officer C, arrived and spoke with Mr X. Officer C again explained the situation, and apologised for any inconvenience caused.

### *Mr Y's account*

55. When he spoke with the Authority, Mr Y explained that he and Officer A are good friends.
56. Mr Y told the Authority that while standing behind the car door, Officer A told Mr X to "get onto the footpath, we can sort this out, but stop coming towards me". Officer A and Mr X then walked between the cars to the grass verge at the side of the road.
57. Mr Y said Officer A only ever aimed his pistol at the ground, and while walking towards the grass verge:

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<sup>4</sup> This is a 'safe carry' position. 'Sul' means "south", indicating that the pistol's muzzle is directed downwards.

*“...it wasn’t pointed at the driver, it was more he was using it to get him to move, it was just there ... I never thought the firearm was used as a display of force ... I didn’t at any point see the firearm pointed anywhere but down at the ground.”*

58. Mr Y was unable to recall precisely how Officer A was holding the pistol but told the Authority:

*“...he had one arm free from my recollection and [the pistol] was just down towards the ground rather than pointing out ... [it seemed like Mr X] was under the impression [Officer A] was pointing the gun at him, but I didn’t see at any stage the gun pointing towards him.”*

#### *Officer B’s account*

59. Officer B said that when he arrived, Officer A and Mr X were standing on the footpath beside the road, talking. Officer A was standing about one and a half to two metres away from Mr X. Officer B said he and his partner would have armed themselves, but when they arrived they could see that the situation was under control. When Officer B saw Officer A:

*“... he either had [the gun] in the SUL Position or pointing down in front of him or pointing down at his side. I can’t remember which one it was but I know that gun was pointing down at the ground...”*

60. Officer B described Mr X talking over the top of Officer A, but said Officer A did not appear flustered. Officer B said, “[Officer A] is pretty calm when it comes down to things... he wasn’t raising his voice or anything”.
61. Officer B confirmed that he returned Officer A’s gun to the safe in Officer A’s car.

#### *Concluding comments*

62. The Authority has been provided with differing accounts of whether Officer A was holding the pistol when he walked between the cars to the side of the road and if so, how he was holding it. Officer A said he did not move from behind the car door until after Officer B arrived and that he gave him the pistol to return it to the glovebox in the car. However, Mr X and Mr Y recalled Officer A holding the pistol when he walked to the side of the road, and Officer B said Officer A was standing at the side of the road when he handed him the pistol.
63. The Authority prefers the recollections of Officer B, Mr X and Mr Y on the first point and considers it is probable that Officer A was holding the pistol in his hand when he walked to the side of the road. Although Mr X described Officer A putting the pistol in a holster, the Authority accepts that Officer A was not wearing a holster and he ultimately gave the pistol to Officer B.
64. Officer B and Mr Y could not recall the exact position Officer A was holding his gun in. However, they were both clear that it was pointed towards the ground. Officer A is an experienced AOS officer, who has been a member of Police for ten years. Officer A acknowledged that Mr X did not pose an immediate threat when he got out of his car to speak to Officer A, so it seems reasonable to conclude that, given his experience and training, Officer A would have kept his pistol pointed downwards; he had no reason to do otherwise. The Authority prefers the

evidence of Officer A in this regard as Officer A had no reason to march Mr X to the side of the road.

### *Tactical Options Report*

65. When a Police officer ‘shows’ a firearm, they must report this in a Tactical Options Report (TOR). The Police’s ‘Firearms’ policy defines “show” as “*presentation*”, but does not define what presenting a firearm means. Officers are not required to report the ‘carriage’ of a firearm.
66. The High Court has determined that deploying, brandishing or displaying a firearm in a threatening way can amount to ‘presenting’ a firearm.<sup>5</sup> Officer A was holding his firearm in a clearly visible position, intending it to be taken notice of for the purpose of controlling Mr X and encouraging him to comply with his directions. The Authority considers that the use of the firearm in this context amounts to a ‘presentation’.
67. However, Officer A did not complete a TOR about his interactions with Mr X. He explained that this was because his Police training taught him that ‘presenting’ a firearm means pointing it at a person.
68. Considering Officer A’s training and the lack of a definition for “*presentation*” in the ‘Firearms’ policy,<sup>6</sup> the Authority accepts that Officer A did not complete a TOR because he believed he was not required to complete one, as he had not aimed his pistol at Mr X.

### FINDINGS ON ISSUE 2

Although Officer A did not comply with all the Police firearms policy and ‘High Risk Vehicle Stop’ training requirements, he was justified in conducting the vehicle stop in the circumstances.

Officer A aimed his pistol at the ground during his interaction with Mr X.

### Issue 3: Did Police lawfully search Mr X’s car?

69. While Police lawfully stopped Mr X’s car, the Authority has also separately considered whether the subsequent search of the car was legal.
70. When he stopped Mr X, Officer A asked him if there was anybody else in the car. Officer A said he shone his torch in the windows of the Mercedes to see whether there were any other people inside. This was reasonable and prudent in the circumstances.
71. When Officer B arrived, one minute and sixteen seconds later, Officer A was speaking with Mr X. Officer B told Officer A that he recognised Mr X, and that he was a car dealer. After returning Officer A’s pistol to the car, Officer B returned to speak to Mr X. Officer B told the Authority he

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<sup>5</sup> Ashby v Police (1993) 12 CRNZ 114 (HC). In this case the appellant confronted the complainant with an unloaded shotgun. Even though it was not pointed at the complainant, the weapon was being used in an intimidatory way and fell within the concept of ‘presenting’. The Court noted that “*In some circumstances, the use of a firearm in a threatening way could be the forerunner of aiming it at a person, but that is not a necessary prerequisite for presenting the weapon.*”

<sup>6</sup> Police are amending their policy to address this – see paragraph 86.

suggested to Officer A that, because he knew Mr X, he might be able to “*reason with Mr X and explain the situation*”.

72. While Officers A and B were speaking to Mr X, Officer C and other officers arrived. Because the car did not have a registered number plate attached, officers searched for the Vehicle Identification Number to check if the car was stolen. Other officers were also searching for any firearms.
73. Officer B told the Authority that he tried to explain the situation to Mr X, but Mr X was talking over the top of him and “*there was no reasoning with him*”. Officer B left and joined the other officers searching the vehicle.
74. As noted above, the Authority accepts that at the time the vehicle was stopped, Officer A had reasonable grounds to suspect that there were firearms in the vehicle and could lawfully search the vehicle for firearms pursuant to Section 18(3) of the Search and Surveillance Act.
75. The other officers who arrived soon after and commenced the search of the vehicle had heard Officer A report the vehicle stop over the Police radio, and were aware Officer A believed the vehicle had been recently stolen together with several firearms.
76. The officers therefore had reasonable grounds to suspect there were firearms in the vehicle and the search of the vehicle was lawful.
77. Because the vehicle was not registered in New Zealand, Police had no record of the vehicle. Officer A told the Authority he inspected the vehicle while Officer C was talking with Mr X and found a model number on the back of the car. After further enquiry Officer A identified that the vehicle being driven by Mr X had a slightly different body shape to the stolen vehicle and the search of Mr X’s vehicle was concluded at this point.

#### *Obligations following a search*

78. Section 169 of the Search and Surveillance Act places certain reporting obligations on Police officers who have carried out a warrantless search. Officer A was obliged by the Act to complete a report following the search of Mr X’s car.
79. Although Officer A told the Authority he thought he had completed the report as required, he was unable to find a copy of that report. Without seeing evidence of this report, the Authority concludes that it is probable Officer A did not complete one.

### FINDINGS ON ISSUE 3

Police lawfully searched Mr X’s car.

Officer A did not comply with his obligation under Section 169 of the Search and Surveillance Act to report the search of Mr X’s vehicle.

#### Issue 4: Did Police offer Mr X appropriate support following the incident?

80. Mr X told the Authority this incident left him feeling shaken. He was disappointed that Police did not follow up with him and offer him some kind of victim support.
81. Police have no specific policy on the issue of provision of support to innocent parties in situations like this, and told the Authority that this would usually be dealt with as a matter of judgement, on a case-by-case basis. In this particular case, Police said it is likely support was not considered because of the confrontational way in which Mr X responded to the incident.
82. The Authority accepts that any incident in which a firearm is drawn in the presence of a member of the public, whether aimed or not, would likely be distressing for that person. The Authority notes that in this case, a supervisor attended and explained the reasons for Officer A's actions to Mr X.

#### FINDINGS ON ISSUE 4

Police had no specific obligation to offer Mr X support following the 'High Risk Vehicle Stop'.

## CONCLUSIONS

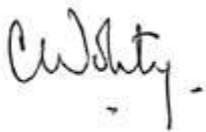
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83. The Authority considers that it was reasonable and appropriate for Officer A to stop Mr X in the circumstances.
84. It is unfortunate that an innocent member of the public was stopped in such a manner, and the Authority accepts that this could understandably leave that person shaken.
85. The Authority also found:
- 1) Although Officer A did not comply with all Police firearms policy and ‘High Risk Vehicle Stop’ training requirements, he was justified in conducting the vehicle stop in the circumstances.
  - 2) Police lawfully searched Mr X’s car, but Officer A did not comply with his obligation under Section 169 of the Search and Surveillance Act to report the search of Mr X’s vehicle.
  - 3) Police had no specific obligation to offer Mr X support following the ‘High Risk Vehicle Stop’.

## SUBSEQUENT POLICE ACTION

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86. Police have advised the Authority they are amending their ‘Firearms’ policy to clarify that:
- the “*presentation*” of a firearm means “*the intentional aiming of a firearm directly at a subject*”, which requires a Tactical Options Report; and
  - “*carriage*” of a firearm includes officers holding firearms in the ‘Sul’ and ‘ready’ positions, which does not require a Tactical Options Report.



**Judge Colin Doherty**

Chair  
Independent Police Conduct Authority

1 October 2019

**IPCA: 18-0199**

**Search and Surveillance Act 2012**

87. Section 129 of the Act states:

*“If an enforcement officer exercises a power to stop a vehicle, he or she must, immediately after stopping the vehicle,—*

*(a) identify himself or herself to the driver of the vehicle, either by name or unique identifier; and*

*(b) state the name of the enactment under which the search is taking place and the reason for the search under that enactment unless it is impracticable to do so in the circumstances; ....”*

88. Section 169 provides:

*“(1) Any constable who exercises a warrantless entry power, search power, or surveillance power conferred by Part 2 or 3 of this Act must provide a written report on the exercise of that power to the Commissioner or a Police employee designated to receive reports of that kind by the Commissioner as soon as practicable after the exercise of the power...*

*(3) A report referred to in subsection (1) or (2) must—*

*(a) contain a short summary of the circumstances surrounding the exercise of the power, and the reason or reasons why the power needed to be exercised:*

*(b) state whether any evidential material was seized or obtained as a result of the exercise of the power:*

*(c) state whether any criminal proceedings have been brought or are being considered as a consequence of the seizure of that evidential material....”*

**Police firearms policy**

89. Police firearms policy emphasises that when dealing with an armed offender, or someone who may be armed, it is *“better to take the matter too seriously than too lightly”*. Policy stipulates that Police may carry firearms when they assess that the situation is *“within, or is likely to escalate to be within the death/grievous bodily harm range”*. When arming themselves in this situation, officers must advise their immediate supervisor and the Police Communications Centre, deploy with a Taser, and wear their ballistic body armour.

90. Policy states that Police may *“present”* or *“show”* a firearm as a deterrent in situations where their assessment of the situation is that it is likely to, or could potentially, escalate to the death/grievous bodily harm range. If an officer *“presents”* or *“shows”* a firearm, they are required to complete a Tactical Options Report.

## ABOUT THE AUTHORITY

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### 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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