



IPCA

Independent Police
Conduct Authority

Mana Whanonga Pirihiimana Motuhake

Fatal shooting by Police in Hamilton justified in Self-Defence, but significant failures in firearms licensing

Summary of the Incident

1. On the afternoon of Friday 9 July 2021, it was reported to Police that Joel Buckley owned illegal firearms and had been threatening to kill or seriously injure his estranged wife's new partner.
2. When Police officers attempted to arrest Mr Buckley on the evening of 14 July 2021, he fired at them with an illegally-owned military style semi-automatic rifle. The officers returned fire, killing Mr Buckley.
3. In addition to reviewing the events of 9 to 14 July 2021, the Authority also considered two related historical matters:
 - 1) Police had earlier seized and then returned the firearm Mr Buckley used on 14 July 2021.
 - 2) Police staff were concerned by Mr Buckley's behaviour on three separate occasions before 14 July 2021, yet did not investigate those concerns.

Issues examined by the Authority

- Issue 1:** Did Police respond appropriately to two calls on 9 July 2021 reporting that Mr Buckley had illegal firearms and was threatening to harm or kill his estranged wife's new partner?
- Issue 2:** Were Police officers justified in deciding to shoot at Mr Buckley on 14 July 2021?
- Issue 3:** Should Police have returned two firearms to Mr Buckley in May 2018?

Issue 4: Did Police respond appropriately to Mr Buckley’s behaviour on 25 August 2019, 7 January 2021, and 16 February 2021?

The Authority’s Findings

4. We found the officers were justified in deciding to shoot at Mr Buckley to protect themselves and others.
5. We also concluded:
 - 1) The Police staff member who answered the calls on the afternoon of 9 July 2021 incorrectly coded the event as 2P (Public Relations) and should have recorded that the caller said Mr Buckley owned illegal firearms. These omissions may have affected Police’s subsequent decisions on prioritisation of their response.
 - 2) Overall, Police failed to respond in a timely manner to the calls on 9 July 2021.
 - 3) Police decided to return two rifles to Mr Buckley in May 2018. This resulted in two firearms being returned to a person who was either not legally entitled to be in possession of those firearms, or who had breached the firearms legislation of the time.
 - 4) Police should have investigated whether Mr Buckley was a fit and proper person to possess firearms after witnessing his behaviour on 25 August 2019, 7 January 2021, and 16 February 2021.

Analysis of the Issues

ISSUE 1: DID POLICE RESPOND APPROPRIATELY TO TWO CALLS ON 9 JULY 2021 REPORTING THAT MR BUCKLEY HAD ILLEGAL FIREARMS AND WAS THREATENING TO HARM OR KILL HIS ESTRANGED WIFE’S NEW PARTNER?

Why did Mr Buckley’s counsellor call Police on 9 July 2021?

6. Mr Buckley and his wife, Ms A, separated in December 2020.
7. Mr Buckley went to Ms B for counselling. During counselling, he told Ms B he planned to take his own life in January 2022 as, after that date, an insurance policy would pay out even if the cause of his death was suicide.
8. On 31 May 2021, Mr Buckley’s mother told Ms B that Mr Buckley had been threatening to kill himself and had been making threats against Ms A’s new partner. However, Ms B decided she did not need to contact Police, as she did not feel there was an imminent threat.
9. On 28 June 2021, Mr Buckley’s mother sent a text to Ms B saying Mr Buckley was “*close to burn out*” and “*unable to leave the house*”. Ms B contacted Mr Buckley to arrange an appointment

and Mr Buckley requested Ms A come also. However, Ms A contacted Ms B before the agreed meeting date, asking to meet her alone.

10. At their appointment on 7 July 2021 (at which Mr Buckley was not present), Ms A told Ms B that Mr Buckley had been making threats to kill or seriously injure her new partner. Ms A also said Mr Buckley owned several military style semi-automatic firearms and intended to die in an armed confrontation with Police ('suicide by cop').
11. The following day (8 July 2021), Mr Buckley and Ms A arrived for the planned appointment with Ms B. Mr Buckley said he was not coping and not eating, and he reiterated his intention to take his own life in January 2022. He said his death would be "*spectacular*" and "*like fireworks*".
12. Ms B told Mr Buckley she would call Police if she felt there was any risk, and Mr Buckley assured her he would not harm anyone else.

What information did Ms B give Police?

13. Ms B phoned Police at 3.15pm on Friday 9 July 2021.
14. According to the Police record of the call, Ms B told the Police call-taker Ms P that Mr Buckley owned firearms and had made threats of serious harm against his estranged wife's new partner. The record of the call states:

"[Mr Buckley] would likely hire someone to harm the current partner – either [to] kill him or give him a severe beating."

15. The record says Ms B asked to speak to a sergeant or senior sergeant for advice and includes further details about Mr Buckley, including his address and that he was a firearms licence holder. Ms P told Ms B someone would call her back. The call was categorised as Priority 2 (P2), meaning Police should attend within 30 minutes, and was coded as 2P (Public Relations).
16. Ms B called Police again at 4.37pm and spoke to Ms P. Ms B again said Mr Buckley had firearms and added that Mr Buckley's mother also had relevant information. The record of the call also notes a Police report from 5 June 2021 of firearms being illegally stored at Mr Buckley's address.
17. In the audio recording of Ms B's calls to Police, she twice described the firearms owned by Mr Buckley as "*illegal*" and stated some were "*unlicensed*". However, Ms P did not note these details in the written record of the call which other Police staff would view.
18. Police did not contact Ms B. On 10 July at 3.40pm, the call was recategorised to P3, which means Police should attend within 24 hours of the call.
19. The Police record notes a comment at 3.28pm on 11 July, referring to the matter being recategorised from P2 to P3:

"[J]ust because we have not attended in the P2 timeframe does not make it P3 and needs to fall within the P2 ... timeframe."

20. Despite categorisation back to P2, Police did not contact anyone regarding this matter until officers visited Ms A on the morning of Monday 12 July (see paragraph 27). This was approximately 66 hours after Ms B's first call.¹

Did Police respond appropriately to Ms B's calls on 9 July 2021?

21. We find that the call-taker who spoke to Ms B wrongly coded the event as 2P (Public Relations).
22. The Police intranet, in providing guidance for staff, describes the type of call that would be coded as 2P:

"Police are regularly called upon to assist and participate in various community initiatives and events. This is in line with ... supporting our commitment to social investment, preventing crime and victimisation and presents Police as a caring, empathetic organisation that values diversity."

23. Examples of the type of call that would be categorised as 2P are also given on the Police intranet:

"I've split up with my partner and need police help to uplift my property from the house. It's likely he / she may start something if I go by myself. ..."

I've just moved out of my flat and would like police onsite while I uplift my belongings. Without police onsite things are likely to become violent. ..."

My daughter is having her 21st at our place on Friday night and we're expecting around 35 people. Is it possible for police to keep an eye on things in case of gate crashers or any other trouble? ..."

My child is refusing to get ready and go to school, can police please come around and speak to him / her"

24. Ms B had reported specific threats of death or serious harm. This is significantly more serious than the examples described on the Police intranet for what constitutes a 2P event. Coding this event as '2P' is likely to have affected subsequent assessment by Police staff of the need to attend.
25. Additionally, Ms B twice told Police that Mr Buckley had "illegal" firearms. However, the call-taker neglected to record this highly relevant detail, and therefore it was not available to those subsequently prioritising Police resources.
26. In considering this issue, we have taken care not to be swayed by the knowledge of the subsequent events of 14 July 2021. Nonetheless, Ms B had reported threats of serious harm and ownership of illegal firearms, and Police also had a report of illegally-stored firearms at Mr Buckley's address. Police should have followed up Ms B's concerns with greater urgency.

¹ 3.15pm on Friday 9 July 2021, to 9.50am on Monday 12 July 2021.

FINDINGS ON ISSUE 1

The call-taker who answered Ms B's calls on the afternoon of 9 July 2021 incorrectly coded the event as 2P (Public Relations) and should have recorded that Ms B said Mr Buckley owned illegal firearms. These omissions may have affected Police's subsequent decisions on prioritisation of this event.

Overall, Police failed to respond in a timely manner to Ms B's calls on 9 July 2021.

ISSUE 2: WERE POLICE OFFICERS JUSTIFIED IN DECIDING TO SHOOT AT MR BUCKLEY?

What happened when Police followed up on Ms B's calls?

27. On the morning of Monday 12 July 2021, Officer Q followed up Ms B's calls from the previous Friday afternoon and visited Ms A's home with a colleague.
28. Officer Q told Ms A that an informant had advised Police of concerns about Mr Buckley and asked if she wanted to discuss anything. Ms A said she was not yet ready to speak to Police and she would contact them once she had finished collecting information. Officer Q estimated their conversation to have lasted 2 minutes.
29. Officer Q emailed Firearms Officer Ms R later that day because of the mention of firearms. They had previously worked together during the Buy-Back programme and therefore knew each other. Officer Q said in his email that Ms A had reported Mr Buckley was "*an unstable and dangerous person*" and had "*several firearms that he did not hand in during the Buy Back [programme]*" (see paragraph 84).
30. Firearms Officer Ms R asked Officer Q that she be kept informed should Ms A provide further information.
31. On the evening of 12 July 2021, Mr Buckley sent the following text message to Ms A:

"... hopefully the insurance covers me getting shot by police

I'm terrified of not being brave enough to start it ...

Or failing to get enough people ... would hate to be laughed at for only getting a handful

...

[The Christchurch Mosque terrorist] set a very high bar if we're being honest :/"

What further information about Mr Buckley did Police receive?

32. Ms A attended Hamilton Police Station at 10.30am the following day (Tuesday 13 July) and asked to speak with Officer Q. Officer Q contacted Firearms Officer Ms R and they interviewed Ms A together.
33. Ms A said Mr Buckley was mentally unstable and was planning a mass shooting. She showed photographs of firearms Mr Buckley owned, which both Officer Q and Firearms Officer Ms R recognised as military style semi-automatic firearms (MSSAs). Ms A did not show them Mr Buckley's text message from 12 July (see paragraph 31).

34. Ms A's formal statement records her saying:

"Today when I spoke to [Mr Buckley], he said that [Ms A's current partner's] parents are his first intended target, then [Ms B], and then ... the health service that has been helping me."

35. Ms A was unable to complete the statement at the time due to other engagements and agreed with Officer Q she would return on Friday (as Officer Q was off-duty on Wednesday and Thursday).

36. Officer Q reported to his seniors, who instructed him to complete Ms A's statement as soon as possible. Officer Q contacted Ms A and they agreed she would return at 2pm the following day.

37. Ms A subsequently sent text messages to Officer Q with more photographs of firearms Mr Buckley owned.

38. Officer Q discussed the matter with his senior colleagues, and they agreed he should try to get Ms A back as soon as possible to complete her statement.

39. At 4.35pm on 13 July, Ms A returned to Hamilton Police Station at Officer Q's urging to continue her statement. The interview carried on until approximately 7.30pm, with Ms A agreeing to return the following day to complete her statement.

40. Ms A returned to the Hamilton Police Station at 3.39pm the next day (14 July) to continue her statement. She provided further information to Police, including that Mr Buckley carried a pistol with him at all times in a backpack, and kept a loaded pistol under his pillow in case he was "raided" by the Police. She said he was a regular user of methamphetamine and 'magic mushrooms', and he also used prescription medicines such as benzodiazepines, morphine, and codeine (some of which he had obtained illegally).

41. Ms A also advised Mr Buckley had made a list of the people he intended to kill. She also stated Mr Buckley wanted to "fight Police in Whanganui".

How did Police plan to respond to Mr Buckley's threats?

42. Officer Q contacted the Waikato District Armed Offender Squad (AOS) Commander (Officer S) at around 1pm on 13 July to alert him to the information they had received about Mr Buckley.

43. Officer Q also advised Officer S that Mr Buckley owned pistols, MSSAs, sniper rifles and other firearms. Mr Buckley was also reported to always carry a pistol with him, and to have hidden firearms at his parents' property.

44. Officer S asked Officer Q to estimate the urgency of the threat. In his subsequent statement, Officer Q responded that in his opinion:

"there was no need to do anything immediately as the situation had been deteriorating for some time and it was not thought that the threat [was] imminent or likely to happen in the next day or so."

45. Officer S decided the best approach was to have the AOS arrest Mr Buckley and then execute a search warrant at his home and his parents' home.
46. Officer S briefed the AOS Forward Commander (who would be responsible for planning the arrest) and instructed another AOS officer to survey Mr Buckley's address and prepare a briefing document on the location.
47. The next day (Wednesday 14 July), as Ms A took a break from making her statement at the Police station at around 4pm, she encountered Mr C in the reception area. Mr C knew her and Mr Buckley as fellow members of the local Pistol Club.
48. Analysis of mobile phone records shows Mr C sent a text to Mr Buckley at 4:05pm:

"Bro I just saw [Ms A] at the police station going out the back with a detective."
49. Mr Buckley responded to Mr C at 4.07pm: *"Right"*. Mr Buckley then sent Mr C's message to Ms A, and she showed the message to Officer Q.
50. Officer Q informed Officer S that Mr Buckley now knew Ms A had gone to Police to make a statement. Officer S concluded that this increased the risk of Mr Buckley carrying out his threats to harm others, and the matter was now urgent, requiring a response that day.
51. Officer S decided it would be best to arrest Mr Buckley away from his home. Police did not know where Mr Buckley was, so they made plans to approach him when he was at work, on his arrival at his home, or while driving his car.
52. Officer S briefed officers involved in the operation on the information they had about the threat Mr Buckley posed and allocated them to cover four sites:
 - 1) the home of Ms A and her new partner, whom Mr Buckley had threatened;
 - 2) the Hamilton Pistol Club, where Mr Buckley had attended that afternoon;
 - 3) Mr Buckley's workplace, where he was due to work later that night; and
 - 4) Mr Buckley's house in Hamilton.

What happened when Police tried to arrest Mr Buckley?

53. From 8.42pm at Mr Buckley's house:
 - 1) AOS Officer T and AOS Officer U (a dog handler) waited behind a fence at the rear of the carpark used by the residents of the building where Mr Buckley lived. AOS Officer T was armed with an M4 rifle and a Glock pistol, and AOS Officer U had a Glock pistol.
 - 2) AOS Officers V and W were waiting in a Police car a short distance away. They were both armed with M4 rifles and Glock pistols.

54. The plan was for AOS Officers T and U to arrest Mr Buckley after he had arrived and got out of his car. The Police car would then block Mr Buckley's exit and AOS Officers V and W would help with the arrest.
55. At approximately 10.20pm,² a car Mr Buckley was known to be driving arrived at the carpark. The car drove into the carpark and manoeuvred so it had stopped with the engine off. It was pointing directly at the exit. AOS Officer U alerted the other members of the team that Mr Buckley had likely arrived.
56. AOS Officers U and T decided it was no longer feasible to wait until Mr Buckley had left the car before attempting to arrest him. This was because of how cars were situated in the carpark, as they blocked the officers' approach to Mr Buckley's car. Instead, they called AOS Officers V and W to come to the carpark immediately and block off Mr Buckley's exit.
57. Meanwhile, AOS Officer U climbed over the fence with his dog and crouched alongside a car which was parked immediately behind Mr Buckley's car.
58. At this point, AOS Officers V and W arrived in their Police car with red and blue lights activated. AOS Officer V stated:

"From the headlights of my patrol vehicle I could clearly see into the vehicle and immediately identified that Joel Buckley was in the driver's seat.

I could only see his head and shoulders. The stop location of my vehicle would have been approximately 7-8 metres from Buckley.

I could see there were no other occupants in the vehicle. I brought the patrol vehicle to a stop, put it into park and yelled out that we were stopping to advise [AOS Officer W] to exit the vehicle and provide cover for me to exit the patrol vehicle.

... I exited the patrol vehicle uplifting my M4 Bushmaster rifle and closed my door.

I brought my rifle up into the aim, turned my torch on and began yelling very loudly at Buckley.

I yelled out very loudly, 'Armed Police, get your hands up, get them up right now, armed Police, show me your fucking hands right now and get out of the vehicle.'

While yelling at Buckley I had moved back slowly trying to get to the rear of my vehicle for better cover but I came to a point where I was standing directly beside [AOS Officer W] and I did not move any further.

...

² The time as recalled by the officers varied from 10:30 to 10:45pm. According to the Police Communications record, an ambulance was requested at 10:23pm. This makes it more likely that Mr Buckley arrived at approximately 10:20pm.

After about 15-20 seconds of voice appeals there had been no response from Buckley at all.

I observed Buckley quickly lift up a large object. I could see that it appeared to be a rubbish bag. ... I did not initially think it was a firearm.

Multiple gunshots erupted from Buckley's vehicle, from his windscreen directly at the pair of us. It took me a second to register that he was shooting at me. I observed multiple flashes from his windscreen accompanied by the sound of loud gunshots and the sound of breaking glass."

59. AOS Officer U, who was still standing behind Mr Buckley's car, saw and heard Mr Buckley firing at AOS Officers V and W. AOS Officer U fired one shot at Mr Buckley from his Glock pistol. He then withdrew over the back fence with his dog, realising he was not equipped to confront Mr Buckley.
60. As Mr Buckley was shooting, AOS Officer V fired his M4 rifle four times at Mr Buckley from behind the cover of the Police car. AOS Officers V and W then moved down the road out of Mr Buckley's sight.
61. Meanwhile, AOS Officer T was providing cover for AOS Officer U, standing behind the fence at the rear of the carpark. AOS Officer T assumed Mr Buckley was using a high-powered semi-automatic firearm "*as the shooting was extremely loud and sustained*".
62. AOS Officer T said that he could no longer see AOS Officers V and W and assumed that they were not able to defend themselves. AOS Officer T decided to fire at Mr Buckley:

"I activated the torch on my rifle and aimed at the driver's seat.

I could not see Buckley, but I was aware he was in the driver's seat, I could only see a silhouette of the driver's seat.

I aimed ... at the upper third of the seat about where I believed his centre mass would be. I fired my weapon multiple times in quick succession. The shots were rapid, probably as fast as I could fire consecutive, aimed shots.

... [A]t the time I fired my weapon I believed Buckley to be an active threat to [AOS Officers V and W]."

63. AOS Officer T concluded he had incapacitated the person who had fired at them, as no further movement came from the car.
64. Audio of the incident was captured on CCTV at a nearby house. It confirms the officers called on Mr Buckley to surrender before the shooting began and indicates that AOS Officer T fired his shots about 3-4 seconds after Mr Buckley's shots.
65. AOS Officers V and W returned to the car park after the firing had stopped and called out to Mr Buckley. Receiving no reply, they approached the car and found Mr Buckley had been fatally

injured. Although the officers immediately recognised from Mr Buckley's injuries that first aid was of no use, they called for an ambulance.

66. Police later found 21 spent cartridge cases from Mr Buckley's rifle in his car, four spent cartridges from AOS Officer V's rifle by the Police car, and ten spent cartridges from AOS Officer T's rifle in the area from which he fired his shots.
67. Mr Buckley was hit by seven of the shots fired by Officer T. There is no evidence Mr Buckley was hit by any of the shots fired by AOS Officers V or U.
68. Police also found a pistol and a large amount of ammunition in Mr Buckley's car. They subsequently found other firearms, ammunition, and other items (assumed to be owned by Mr Buckley) near his parents' house, hidden in bush.

Did AOS Officers T, U and V have legal justification for shooting at Mr Buckley?

69. AOS Officers T, U and V justified their decisions to shoot at Mr Buckley by reference to section 48 of the Crimes Act 1961. This section provides that any person is justified in using reasonable force in defence of themselves or another.

Were AOS Officers T, U and V justified in shooting at Mr Buckley in order to defend themselves and others?

70. AOS Officers T, U and V believed they were justified under section 48 of the Crimes Act 1961 in using force to defend themselves or others. Under section 48, we must consider:
 - a) What were the circumstances as the officers believed them to be?
 - b) Was the officers' use of force against Mr Buckley for the purpose of defending themselves or others?
 - c) Was the officers' use of force against Mr Buckley reasonable in the circumstances as the officers believed them to be?
71. We accept that AOS Officer V shot at Mr Buckley in defence of himself and AOS Officer W, and that AOS Officers U and T shot at Mr Buckley in defence of AOS Officers V and W. We therefore find AOS Officers T, U and V's use of force was justified under section 48 of the Crimes Act 1961.

FINDING ON ISSUE 2

AOS Officers T, U and V were justified in deciding to shoot at Mr Buckley to protect themselves and others.

72. We set out below some background information prior to discussing Issues 3 and 4, which relate to Police responsibilities for firearms licensing.

Firearms licensing and the ‘fit and proper person’ test

73. Police are responsible for firearms licensing, which is mainly administered by Police staff members based in each district who receive and process applications. This process is described in detail in the report of the Royal Commission Inquiry.³

74. The Firearms Supervisor and the Firearms Officer are two key roles in the Police firearms licensing offices. Their position descriptions state as the first key priority area:

“Efficiency and rigour in the Administration of the Arms Act and Arms Regulations to ensure that firearms licences and dealer licences (and any associated endorsements) are only granted to and retained by fit and proper persons.”

75. Guidance for Police staff involved in the firearms licensing process is provided in three Police publications: The Arms Manual, the Master Vetting Guide, and the Firearms Vetting Licence Guide. The Arms Manual says it exists to:

“... provide members of the Police with an explanation of legislation and also to outline Police policy and procedures aimed at promoting both the safe use and control of firearms.”

76. An applicant for a firearms licence must be deemed a fit and proper person to be in possession of a firearm. The definition of a ‘fit and proper person’ was set out in an amendment to the Arms Act 1983 after the Christchurch mosques attack of 15 March 2019 and became law from 24 December 2020. Subsection 24A(1) of the Act says a Police officer may find someone not to be ‘fit and proper’ if, among other things:

“(h) the person shows, or has recently shown, symptoms of a mental or physical illness or injury that may adversely affect their ability to safely possess firearms;

...

j) the person uses drugs (illegal or legal) in a way that affects detrimentally their judgement or behaviour; ...

l) the person has shown patterns of behaviour demonstrating a tendency to exhibit, encourage, or promote violence, hatred, or extremism....”

77. Section 24A(3) of the Arms Act 1983 empowers Police to *“(a) seek and receive any information that the member of the Police thinks appropriate; and (b) consider information obtained from*

³ [Royal Commission of Inquiry into the terrorist attack on Christchurch mosques on 15 March 2019](#) (26 November 2020).

any source” to determine whether someone is a fit and proper person to be in possession of a firearm.

Endorsements to a firearms licence

78. Before March 2019, people needed to apply for a permit (referred to as an ‘endorsement’) in addition to a standard firearms licence in order to own pistols or military style semi-automatic firearms (MSSAs). The B endorsement allowed a person to own pistols; the E endorsement allowed a person to own MSSAs.
79. Police review the application, including speaking to referees, to assess whether the applicant is a fit and proper person to be permitted to own pistols or MSSAs.
80. Police tell us there is a higher standard of the ‘fit and proper person’ test when people apply for endorsements, but the details of this ‘higher standard’ are not recorded anywhere.

Military style semi-automatic (MSSA) firearms

81. Section 2 of the Arms Amendment Act 1992 sets out the legal definition of an MSSA. It defines a ‘semi-automatic firearm’ as a firearm that fires a cartridge and ejects the cartridge case with each pull of the trigger, and automatically loads another cartridge in the firearm’s chamber.
82. Section 2(3) of the Act says modifications or parts of a semi-automatic firearm that would legally define the firearm as an MSSA include:
 - 1) having a folding or telescopic butt (stock), or
 - 2) a military pattern free-standing pistol grip, or
 - 3) having a magazine with a capacity larger than 7 rounds.
83. After changes in legislation following the Christchurch mosques attack of 15 March 2019, the E endorsement on a firearms licence that permitted a person to own an MSSA was scrapped, and it became much more difficult to obtain a permit to own one.
84. Any person who no longer met the requirements for a permit to own an MSSA was required to surrender their firearms and any prohibited parts in a process that became known as the Buy Back programme.

ISSUE 3: SHOULD POLICE HAVE RETURNED TWO FIREARMS TO MR BUCKLEY IN MAY 2018?

Introduction

85. In December 2017, two firearms owned by Mr Buckley were seized by Police, and subsequently returned to him in May 2018.
86. Firearms Officer Mr X initially identified the firearms as MSSAs, but he subsequently returned the firearms to Mr Buckley in May 2018. Firearms Officer Mr X has provided us with two separate and differing accounts of how the firearms came to be returned.
87. In preparing our draft report, we accepted Firearms Officer Mr X's unequivocal account, provided to us during an interview, that both firearms were returned to Mr Buckley on the basis they were not semi-automatic firearms. Firearms Officer Mr X said, because the firearms were single-shot rather than semi-automatic, they could not be classified as MSSAs. How they had been modified, and the accessories with which they were stored, was therefore irrelevant.
88. After viewing a copy of our draft report, Firearms Officer Mr X now says the firearms were returned to Mr Buckley not because they were not semi-automatic firearms, but because the modifications and accessories which defined the firearms as MSSAs (stock, pistol grip, large capacity magazines) were surrendered to Police by Mr Buckley. Therefore, because semi-automatic firearms could be legally owned on a Category A firearms licence (at that time) as long as they had no modifications or accessories that would define them as MSSAs, the firearms could be – and were – returned to Mr Buckley.

How did Mr Buckley's firearms end up in Police's possession in December 2017?

89. Police issued Mr Buckley with a Category A (standard) firearms licence on 8 Nov 2016. Although Mr Buckley subsequently applied for an E endorsement, he was never issued with one.
90. In early 2017, Mr Buckley purchased two semi-automatic Norinco NHM90 rifles. These are Chinese-made versions of the Russian firearm commonly referred to as an AK47. One of these (Rifle 1) was the firearm he later used against Police on 14 July 2021. Police have not found Rifle 2 and have advised us that it was not returned during the Buy Back programme.
91. Up until December 2020, it was legal for Mr Buckley to own semi-automatic firearms under a Category A licence, as long as he did not modify them into MSSAs (see paragraph 82).⁴
92. Mr D provided a reference for Mr Buckley's firearms licence application. Mr D says Mr Buckley showed him he had bought "*one of those military style semi-automatic rifles with a bloody great 30-round magazine*", which Mr D fired himself. He later heard that Mr Buckley had bought another firearm just like it. Adding a 30-round magazine is one of the modifications that, at that time, turned a semi-automatic rifle into an MSA.

⁴ Police advised that Rifles 1 and 2 were prohibited on 12 April 2019, but could be possessed under amnesty until 20 December 2020.

93. In late 2017, Mr Buckley passed Rifles 1 and 2 and some large-capacity magazines to a friend (Mr E) for safekeeping. However, Mr E did not have a firearms licence and in 1980 had been prohibited from owning or possessing a firearm altogether.
94. On 28 December 2017, Police visited Mr E as a result of a ‘tip off’ and found Rifles 1 and 2 stored in an unlocked wardrobe in a back bedroom. Police seized the rifles and magazines and charged Mr E. He pleaded guilty to unlawful possession of firearms.
95. On 9 January 2018, Firearms Officer Mr X sent a message to the officer in charge of Mr E’s prosecution, saying Rifles 1 and 2 were defined as MSSAs due to both being stored with large-capacity magazines and one having a folding or telescopic stock with pistol grip:

“Please be aware that the 2 x Norinco NHM90 (AK47 type) rifles could be both [sic] actually unlisted MSSA firearms. One has been modified with a pistol grip and adjustable stock, the other has an A Cat stock but there are large capacity magazines, so technically they may both be MSSAs because they were both found with large capacity [magazines].”

96. That Rifles 1 and 2 were MSSAs was also Firearms Officer Mr X’s view on 1 May 2018, when he sent an email to one of the Police officers who arrested Mr E:

“But the two NORINCOs are NHM90s (an AK47 copy) and these are BOTH MSSAs. One of them has a pistol grip (makes it an E [category] MSSA), and the other has a thumbhole stock (which means it’s A category). However, there are large capacity magazines with them, which definitely renders them both to effectively be MSSAs, and yes there is case law for this instance.

...

So: BUCKLEY has committed two offences:

One – Illegal possession of 2 x MSSAs because he doesn’t have an E [category] endorsement on his licence (so he wasn’t allowed to possess these), and these guns aren’t listed (so he has converted them to [MSSAs]).

Two – Providing Firearms to a Non-Licence Holder.”

97. Police did not charge Mr Buckley with providing firearms to a person without a firearms licence. They accepted Mr Buckley had given the firearms to Mr E for good reason and in good faith, and Mr E had lied to him by saying he had a firearms licence.

Why did Police return Rifles 1 and 2 to Mr Buckley?

Firearms Officer Mr X’s first account to the Authority

98. When interviewed by the Authority on 28 September 2021, Firearms Officer Mr X stated that the two firearms were returned to Mr Buckley because they were not semi-automatic. The firearms therefore could not be MSSAs, and Mr Buckley was legally entitled to own them on his standard firearms licence.

99. In April 2018, Mr Buckley submitted an affidavit in support of an application to the District Court to have his firearms returned (they had been seized by Police in respect of the prosecution of Mr E). In the affidavit, Mr Buckley described them as “two semi-automatic Norinco rifles”.
100. Rifles 1 and 2 are also described as semi-automatic on seven occasions in the prosecution file for the case against Mr E. The registered firearms dealer who sold Rifles 1 and 2 to Mr Buckley told us the firearms were semi-automatic in operation when he sold them to Mr Buckley in February and April 2017.
101. However, in an email on 2 May 2018 to the officer in charge of Mr E’s prosecution, Firearms Officer Mr X said Mr Buckley told him the firearms were not semi-automatic:

“I spoke to Mr Buckley, sounds weird and he claims the MSSA firearm (and [magazines]) was sold to him by a Dealer in Waikanae who sold it as a Cat A gun by way of disabling the semi-auto function (by cutting the gas-piston rod).

I don’t think this is legally possible but am looking into it and making further inquiries via the Waikanae Arms Officer.

I asked Mr Buckley if he still has the cut gas piston rod, he didn’t think so and then stated he has an A cat stock to convert it into A cat (which was always his intention). Not sure if I should believe him, but that explanation is plausible. ...

The Dealer ... is going to be spoken to by his Arms Officer ... sometime next week.

If it all sounds plausible, I think we could end up with a Warning for Mr Buckley and I return these guns to him, but he will have to surrender the large capacity magazines and the E cat MSSA stock) as well as show me his replacement A cat rifle stock.”

102. Firearms Officer Mr X did not contact the dealer but says he contacted a Firearms Officer from Waikanae, where Mr Buckley purchased the firearms. The Waikanae Firearms Officer confirmed the dealer who sold Rifles 1 and 2 to Mr Buckley had been making modifications to semi-automatic rifles in order to make them single-shot. Firearms Officer Mr X did not document this discussion.
103. On the basis of this report, Firearms Officer Mr X concluded that Rifles 1 and 2 had been modified to be single-shot (that is, were not semi-automatic) and were therefore not classified as MSSAs, despite having large-capacity magazines and other MSSA modifications. Firearms Officer Mr X told us:

“So we couldn’t even charge [Mr Buckley] for illegally converting a firearm into an MSSA because even though he has a 30-round magazine and case law does direct that ... if a person is found to be in possession of a large capacity magazine, even just in their home and another part of their home, they [have] technically got an MSSA. You couldn’t even charge [Mr Buckley] for that because he’s not in possession of semi-autos.”

104. Firearms Officer Mr X could not recall whether he physically checked Rifles 1 and 2 to assess whether they had been modified from semi-automatic to single-shot.
105. Firearms Officer Mr X returned Rifles 1 and 2 to Mr Buckley on 29 May 2018. He recorded in Mr Buckley's firearms licensing file on 30 May 2018 that he had been given a "verbal warning", although it is not known what consequence such a warning had, and he did not document the reason for the warning.

Firearms Officer Mr X's response to the Authority's draft report (second account)

106. Following natural justice principles, on 25 January 2022 a draft of our initial report was sent to Firearms Officer Mr X to allow him to comment. He responded with an entirely different account as to why the rifles were returned to Mr Buckley. His response is echoed by the Police response to the draft report.
107. In his second account, Firearms Officer Mr X stated that only one of the firearms had been modified to MSSA configuration, and that Mr Buckley altered the firearm back to Category A configuration by surrendering the parts that would have defined it as an MSSA: the folding stock with pistol grip, and the large capacity magazines.
108. Firearms Officer Mr X states that, by altering the rifle back to Category A configuration, Mr Buckley was at that time able to legally own the rifle and so it was returned to him, along with the other rifle which had not been modified.

Should Police have returned Rifles 1 and 2 to Mr Buckley?

109. As stated above, Firearms Officer Mr X has provided two different accounts that both resulted in the return of the firearms to Mr Buckley. We discuss these separately, below.

Firearms Officer Mr X's initial account to the Authority – the firearms were not semi-automatic

110. Rifles 1 and 2 were stored with large-capacity magazines and had other modifications that meant that, if the firearms were semi-automatic, they would meet the definition of MSSAs. However, Firearms Officer Mr X concluded they were not semi-automatic based on two discussions he had, neither of which was documented in the firearms licensing section of Mr Buckley's record:
- 1) a Police firearms officer from another district told Firearms Officer Mr X that the dealer who had sold the firearms to Mr Buckley had been reported as modifying semi-automatic firearms to make them single-shot; and
 - 2) Mr Buckley told Firearms Officer Mr X that the firearms were single-shot (not semi-automatic).
111. Firearms Officer Mr X did not check the veracity of either statement and thus relied upon the double hearsay from a fellow firearms officer and the word of Mr Buckley.

112. In contrast, there is compelling evidence (easily available to Police at the time) that Rifles 1 and 2 were semi-automatic:

- 1) In Mr Buckley's affidavit, in which he asked the Judge in Mr E's case to have the firearms returned and not destroyed, Mr Buckley described them as semi-automatic. He did this even though it would likely have helped his case more for him to say they were single-shot firearms, given he was not permitted to own MSSAs. Mr Buckley was clearly extremely interested in firearms; we believe it is unlikely he would inaccurately describe his own firearms (and on such an important point) in an affidavit.
- 2) The dealer who sold Rifles 1 and 2 to Mr Buckley tells us they were semi-automatic when sold. The dealer has no reason to say otherwise, as semi-automatic firearms of this type were legal to own on a Category A firearms licence when Mr Buckley bought them in 2017, so long as they had no other modifications which would require an E endorsement.
- 3) The prosecution file for the case against Mr E describes the rifles throughout as semi-automatic. Had they been single-shot, we believe this would have been raised at some point during the case – not least by Mr E in his defence.

113. Of concern, there is no evidence that Police ever physically checked Rifles 1 or 2 to confirm their operation (semi-automatic or single-shot) before returning them to Mr Buckley in May 2018. In particular, Firearms Officer Mr X does not recall checking the operation of the firearms. Given how specific Firearms Officer Mr X was regarding other details of this matter, we are confident he would remember checking the firearms' operation (requiring him to fire or disassemble both firearms) if he had done so.

114. Additionally, had Police investigated further and approached Mr Buckley's firearms licence referee Mr D, he would have said that he had himself shot Rifle 1 and knew it was semi-automatic, in addition to being fitted with a 30-round magazine.

115. For the above reasons, we are satisfied that Rifles 1 and 2 were most likely semi-automatic in operation in May 2018. We are also satisfied that the firearms were most likely MSSAs as defined by section 2 of the Arms Amendment Act 1992 because:

- 1) they were stored with large capacity magazines;
- 2) one had a folding or extending stock; and
- 3) one had a military-pattern pistol grip.

116. In May 2018, only people with an E endorsement on their firearms licence were authorised to possess MSSAs. Mr Buckley did not have such an endorsement and it was therefore illegal for him to be in possession of such firearms, in accordance with section 50 of the Arms Act 1961.

Firearms Officer Mr X's second account – the MSSA parts were surrendered

117. Firearms Officer Mr X now says that Mr Buckley surrendered the military stock and large capacity magazines, and that this resulted in the firearms being classified as Category A firearms. This

would mean they could be owned by someone who had a standard firearms licence – as Mr Buckley had. The Police file records those items as being surrendered on 30 May 2018.

118. Firearms Officer Mr X says that it was accepted by Police that Mr Buckley’s illegal modification of the firearm and ownership of large capacity magazines was not intentional:

“It was believed that Buckley had not purposefully committed an offence, his explanations were believed to be plausible and as such a warning (plus voluntary surrender of parts) was believed to be the appropriate level of response, and I believed it at the time to be in line with the Solicitor General’s guidelines.”

119. In his response to the draft report, Firearms Officer Mr X makes no comment on the other unlawful act by Mr Buckley: that he had given his firearms to a person who was not permitted to possess firearms and who stored the firearms in an unlocked back-bedroom wardrobe.
120. Firearms Officer Mr X also claims that only one of the two firearms was semi-automatic. This is difficult to reconcile given no physical inspection of either rifle seems to have occurred.

Analysis

121. The two accounts given by Firearms Officer Mr X are irreconcilable: either the firearms were returned to Mr Buckley because they were not semi-automatic and thus not MSSAs, or they were given back as Mr Buckley had surrendered all the parts which made a semi-automatic firearm an MSSA.
122. Firearms Officer Mr X’s explanation for the differing accounts is that, when interviewed, he was relying on his memory and was under pressure to provide responses. We do not accept this explanation. Firearms Officer Mr X had the full Police file and adequate time to prepare for his interview; he had more than 2 weeks’ notice of the interview and had been advised of its focus in advance.⁵ He was accompanied by his supervising manager, who occasionally contributed to the interview responses. Firearms Officer Mr X voluntarily referred to documentation on the Police file throughout the interview and quoted from documents liberally; he was obviously familiar with the file. The recording of the interview reveals his evidence was largely volunteered, and at no time was he pressed in any sense by the interviewer.
123. The genesis of the second account appears to have been the request from his superiors to provide a formal written statement to them, for what purpose we do not know. Firearms Officer Mr X says he gave his Police statement two weeks after his interview with us. For whatever reason, despite the proximity of the two events and despite knowing of the importance of such a change in account, Firearms Officer Mr X did not attempt to correct the account he had provided to us. We do not accept he or his manager would have forgotten that he had told us that the firearms were not semi-automatic and that this was why they were returned to Mr Buckley.

⁵ He was informed on 10 September 2021 that he would be interviewed, and this interview took place on 28 September 2021.

124. We believe this second account is a reconstruction following further consideration of the file note of 30 May 2018 that Mr Buckley had returned the “MSSA parts”. But during the interview, Firearms Officer Mr X had been unequivocal in his explanation that returning the parts was a ‘deal’ he had struck with Mr Buckley to avoid any charges. That explanation was plausible at the time and remains so.
125. We are inclined to the view that Firearms Officer Mr X’s first account, given during the interview with us, is to be preferred. But whatever account is correct, we have criticisms of Police decisions and actions.
126. Taking Firearms Officer Mr X’s original account, that the firearms were returned to Mr Buckley as they were not semi-automatic and thus not MSSAs, our criticism is that Firearms Officer Mr X took Mr Buckley’s word for it without checking, despite the weight of evidence being that the firearms were semi-automatic. We also make this point in response to Firearms Officer Mr X’s second account in which he states only one of the firearms was semi-automatic, when the evidence available is that both were semi-automatic (see paragraph 112).
127. Taking Firearms Officer Mr X’s second account, that one or both firearms were semi-automatic and were returned because Mr Buckley had surrendered the parts that caused the firearms to be categorised as MSSAs, we have different criticisms.
128. Both Police and Firearms Officer Mr X say in their responses to our draft report that Mr Buckley was excused for illegally converting the firearms to an MSSA configuration because he was ignorant of the law surrounding MSSAs. Both responses say that an ‘educative’ approach was taken in cases such as this, and that this was in line with the Solicitor-General’s Prosecution Guidelines at the time.
129. We accept that firearms legislation has significantly altered since March 2019, tightening the rules surrounding ownership of firearms. While we accept that ignorance of the law might be a factor in a decision not to prosecute, it is not a rational reason for returning any firearms – let alone semi-automatic firearms – to a person who had illegally modified at least one of those firearms. While Police and Firearms Officer Mr X state that returning the firearms was in line with the Solicitor-General’s Prosecution Guidelines, we note these guidelines refer to prosecution, not to returning firearms.
130. This was not a minor infraction by Mr Buckley. In addition to the illegal modifications, he had also handed his firearms to a man who was not legally entitled to be in possession of any firearm. While Mr Buckley may have had good reason for removing firearms from his house, this does not excuse the decisions he made. To neither check whether the person to whom he was passing the firearms had a firearms licence, nor to check where they would be stored, was not only unlawful⁶ but also irresponsible, and these factors which should have been considered by Firearms Officer Mr X.

⁶ An offence under section 43(1)(a) of the Arms Act 1983.

131. Whichever account we accept, it is our view that Police should not have returned Rifles 1 and 2 to Mr Buckley. This was a serious error. Mr Buckley later fired Rifle 1 at Police officers on 14 July 2021, and Police have not recovered Rifle 2.

FINDING ON ISSUE 3

Police decided to return Rifles 1 and 2 to Mr Buckley in May 2018. This resulted in two firearms being returned to a person who was either not legally entitled to be in possession of those firearms, or who had breached the firearms legislation of the time.

ISSUE 4: DID POLICE RESPOND APPROPRIATELY TO MR BUCKLEY'S BEHAVIOUR ON 25 AUGUST 2019, 7 JANUARY 2021, AND 16 FEBRUARY 2021?

132. Mr Buckley applied for both a B endorsement (to own pistols) and an E endorsement (to own MSSAs) on 21 March 2019, the same day Prime Minister Ardern announced there would be changes to firearms legislation that would make it more difficult to obtain permits to own certain firearms.
133. Police issued Mr Buckley a B endorsement on 15 August 2019 and he bought his first pistol the same month. It is not recorded in Mr Buckley's firearms licensing file what happened to his E endorsement application; he was never issued with a permit to own MSSAs.

What happened to raise concerns about Mr Buckley at a Buy Back event on 29 August 2019?

134. After the Christchurch mosques attack of 15 March 2019, an amnesty process (referred to as the Buy Back programme) was set up, and people were required to hand in firearms that they would not be allowed to own from December 2019 without an additional permit.
135. Mr Buckley attended a Buy Back event in Te Kuiti on 25 August 2019. At this time, Firearms Officer Ms R was a Firearms Vettor assisting with the Buy Back programme. She describes Mr Buckley's appearance and demeanour as being of such concern that the Police officers present reacted by approaching Mr Buckley's vehicle. Firearms Officer Ms R said:

"When Joel Buckley stepped out of the ute I had a gut instinct that he would be trouble. He raised the hairs on my neck. By this, he would be very capable to harm a lot of people with a firearm.

...

He didn't say or do anything, it was just the way he looked and behaved."

136. Firearms Officer Ms R says she believed a senior sergeant present was going to make inquiries into Mr Buckley, but the senior sergeant subsequently told Police he made no such inquiries, nor made a note of the incident. Firearms Officer Ms R made no note of her concerns in Mr Buckley's firearms licensing file.

137. Mr Buckley handed in some gun parts (two magazines, a scope mount, a fore end for an AK47 firearm, and a muzzle brake) at the Buy Back event, but no complete firearm.

What happened to raise concerns about Mr Buckley on 7 January 2021?

138. Firearms Officer Ms Y met with Mr Buckley on 7 January 2021 because of queries about Ms A's firearms licence. Firearms Officer Ms Y says Mr Buckley made her feel "uneasy", her "instinct told me that he was no good", and he "gave off a dangerous vibe".
139. Firearms Officer Ms Y says in her subsequent Police statement that one of the roles of firearms licensing staff was to:

"... make sure that any firearms licensing matter is investigated and people's profiles are evaluated to ensure that only fit and proper people hold a firearms licence."

140. There was no inquiry into Mr Buckley's suitability to possess firearms after Firearms Officer Ms Y's meeting with Mr Buckley on 7 January 2021, and no reference to her concerns in Mr Buckley's firearms licensing file.

What happened to raise concerns about Mr Buckley on 16 February 2021?

141. On an unrelated matter, Officer Z and a colleague visited Mr Buckley at his home on 16 February 2021. They found him (in Officer Z's words) "under the influence of something" or unwell. Mr Buckley told Officer Z he had been on a night shift. Officer Z later said to Police:

"That didn't convince me, because at that stage it was after 2:00pm in the afternoon and having worked nightshifts myself, I know that by that time of the day, people can function with much less of a struggle than what he was displaying."

142. Officer Z's concern was so great that he video-recorded the meeting on his mobile phone and sent this to Firearms Officer Ms R, with whom he had previously worked in the Police firearms licensing office. Officer Z's email to Firearms Officer Ms R stated Mr Buckley was "out of it" at 2pm. Firearms Officer Ms R replied that Mr Buckley was an "Interesting character. Do need to discuss further". However, there is no record of any further inquiry or action by either Officer Z or Firearms Officer Ms R, and no reference to this event in Mr Buckley's firearms licensing file.
143. Firearms Officer Ms R says she thought Mr Buckley's behaviour as recorded on the video was an act, but she adds that she felt, even at the time, that Mr Buckley should not have a firearms licence. However, she made no further inquiries and there is no evidence she discussed the matter with her superior, who was at that time Mr X.

Should Police have investigated Mr Buckley's behaviour?

144. The overriding responsibility of Police in relation to firearms licensing is to ensure only those who satisfy the 'fit and proper person' test may possess firearms. The definition of a 'fit and proper person' was more clearly described following changes to the Arms Act 1983, which came

into effect on 24 December 2020. In particular, it refers to people with mental health issues, those who use drugs which affect their judgement or behaviour, and those with extreme views.⁷

145. We have viewed the recording of Mr Buckley on 16 February 2021. Mr Buckley appears profoundly affected and adopts a defensive stance (that is, only partially opening the door, not inviting officers inside, and hiding his left side behind the door). Mr Buckley explained to the officers he was tired, having worked on nights. We are unconvinced by that explanation – as was Officer Z, who recorded the video and subsequently contacted his former colleague, Firearms Officer Ms R.
146. We also note a tattoo, “*Hostile Infidel*”, was clearly apparent on Mr Buckley’s right arm in the video. Section 24A(1)(l) of the Arms Act 1983 states Police may find a person not fit and proper to be in possession of a firearm if they show a pattern of behaviour “*demonstrating a tendency to exhibit, encourage, or promote violence, hatred, or extremism*”.
147. The events of 16 February 2021 should have prompted Police to investigate whether Mr Buckley passed the ‘fit and proper person’ test. Had they done this, they could have noted the following information:
- 1) There was compelling and easily-available evidence that the firearms returned to Mr Buckley in May 2018 were likely to have been, or could be easily converted to, MSSAs;
 - 2) Mr Buckley did not return any firearms at the Buy Back event so he may still have been in possession of firearms he was not permitted to own under the changes in legislation;
 - 3) Mr Buckley’s demeanour at the Buy Back event on 25 August 2019 was such to cause concern to Firearms Officer Ms R; and
 - 4) Firearms Officer Ms Y felt Mr Buckley gave off a “*dangerous vibe*” when he visited Hamilton Police Station on 7 January 2021.
148. We accept that demeanour alone (or a tattoo) is not evidence enough to revoke a person’s firearms licence. For that reason, Police staff responsible for firearms licensing are authorised to make inquiries to determine whether an individual is a fit and proper person to be in possession of a firearm. The power to make inquiries is stated in Section 24A(3) of the Arms Act 1983 and is implicit in the position description of the Firearms Officer, yet no such inquiries were made following concerns raised on 25 August 2019, 7 January 2021, and 16 February 2021.
149. Firearms Officer Ms R says she had been of the opinion that Mr Buckley should not possess firearms for some time, yet at no stage did she make any further inquiries, document her concerns, or discuss with her seniors what options were available. The first record of her checking Mr Buckley’s Police record was on 12 July 2021, after Officer Q approached her.
150. Firearms Officer Ms R told us that there was insufficient evidence to revoke Mr Buckley’s licence and that there was not enough information to take any action. Firearms Officer Ms Y was of the

⁷ Respectively, sections 24A(1)(h), (j) and (l) of the Arms Act 1983.

view that more inquiries could not be made because Mr Buckley had not done anything, and that a ‘gut feel’ was not enough to make inquiries.

151. In relation to making inquiries to gather evidence that may result in the revocation of a licence, the Arms Manual at section 11.4 quotes Mr Justice Greig in *Broeren v Commissioner of Police*:⁸

“An important purpose of the [Arms Act 1983] is to ensure public safety. The legislation is administered by the Police and it is their responsibility, through the Commissioner of Police, to act so that the purpose of public safety is effectively carried out.

To do that the Police are bound to act upon evidence of danger or emergency but must also anticipate, in reasonable terms, potential danger and likely apprehension of risk to the public safety which may be inferred on reasonable grounds from information available to them.

The Police in those circumstances may be faced with the dilemma of deciding between acting in circumstances where there is no clear evidence or proof that might be required to the standard of a Court proceeding and being remiss in their duty of administering the legislation by failing to act timeously⁹ and effectively upon suspicion, complaints or other information which may signal the likelihood of some risk.”

152. Importantly, the accounts of Mr Buckley’s demeanour were not rumour or hearsay; all three encounters were face-to-face with Police staff, all of whom had significant firearms licensing experience, and one of whom (a Detective Constable) was so concerned he recorded the encounter and reported his concerns to a Firearms Officer. In addition, by August 2019 (the date of the first encounter), Mr Buckley had been issued a B endorsement, allowing him to own pistols. Although Police advised us the issue of an endorsement requires a higher (albeit unwritten) application of the ‘fit and proper’ test, this still did not prompt any action – not even an inquiry.

153. In conclusion, on 25 August 2019, 7 January 2021, and 16 February 2021, Police staff with specific responsibilities for firearms licensing personally witnessed behaviour by Mr Buckley which raised concerns about his fitness to possess firearms. However, instead of taking action and making further inquiries, they decided that a ‘gut feel’ did not meet the threshold for any action at all, and so they neither formally discussed nor documented their concerns. Yet it is clear that the Police Arms Manual, the position descriptions of Police staff responsible for firearms licensing, case law, and legislation all support the conclusion that Police should have investigated Mr Buckley’s suitability to possess firearms.

⁸ Unreported High Court, 474/92, 24.11.92.

⁹ The Arms Manual misquoted this word as ‘timorously’. This has since been corrected as a result of the Authority’s investigation.

FINDING ON ISSUE 4

Police should have investigated whether Mr Buckley was a fit and proper person to possess firearms after witnessing his behaviour on 25 August 2019, 7 January 2021, and 16 February 2021.

A handwritten signature in black ink, appearing to read "C. Doherty", is centered within a light gray rectangular box.

Judge Colin Doherty

Chair
Independent Police Conduct Authority

24 March 2022

IPCA: 21-8289

About the Authority

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.

We are not part of the Police – the law requires us 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. We do not answer to the Police, the Government or anyone else over those findings. In this way, our 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 and may choose to investigate:

- complaints alleging misconduct or neglect of duty by Police;
- complaints about Police practices, policies and procedures affecting the complainant in a personal capacity;
- notifications of incidents in which Police actions have caused or appear to have caused death or serious bodily harm; and
- referrals by Police under a Memorandum of Understanding between the Authority and Police, which covers instances of potential reputational risk to Police (including serious offending by a Police officer or Police actions that may have an element of corruption).

The Authority's investigation may include visiting the scene of the incident, interviewing the officers involved and any witnesses, and reviewing evidence from the Police's investigation.

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. At significant points in the investigation itself and in the preparation of the report, the Authority conducted audits of both process and content.



PO Box 25221, Wellington 6140
Freephone 0800 503 728
www.ipca.govt.nz
