

REPORT OF THE POLICE COMPLAINTS AUTHORITY
ON THE SHOOTING OF GORDON DREWETT
AT AUCKLAND ON 6 AUGUST 1999

Introduction

On the morning of Friday 6 August 1999, the Police were called to a domestic incident at the address of Gordon Drewett's former partner in Greenhithe, Auckland. The incident ended when Mr Drewett, aged 33, was shot by the Police after he advanced towards an officer with a knife. Mr Drewett was shot once in the lower right chest and suffered injuries which were life threatening but from which, following hospital treatment, he recovered. He was subsequently sentenced to a substantial term of imprisonment on charges arising out of the matter.

Background Information Leading to the Event

Because of the nature of the incident it is appropriate to set out the background leading to it.

Mr Drewett and his former partner had formed their relationship in December 1997 but had separated in May 1999 following allegations by her of domestic violence.

The couple had a daughter from their relationship, aged 10 months at the time of this incident. She had remained with Mr Drewett's former partner following their separation.

Mr Drewett's access to his daughter had been an ongoing source of discord between them since the separation.

During the three months prior to the incident, Mr Drewett's former partner made to the Police several allegations against Mr Drewett of assault and threatening behaviour.

On 16 June 1999, Mr Drewett voluntarily presented himself at the Takapuna Police Station, where he was charged with offences arising out of these alleged incidents.

In Court the Police opposed bail and Mr Drewett remained in custody until 12 July when he was successful in obtaining bail subject to several conditions, one of which was that he reside with friends at their home in Katikati and that he not approach or contact his former partner.

On 3 August, Mr Drewett's former partner alleged to the Police that Mr Drewett had breached the conditions of his bail by telephoning her that day and threatening to shoot her if she did not let him see their daughter.

Katikati Police were unable to locate Mr Drewett on 3 August but an arrangement was made through the people with whom he was living in Katikati that he would come to the Katikati Police Station on the morning of 4 August, which he did.

On 4 August Mr Drewett made a statement to the Katikati Police in which he admitted making the call to his former partner, but he denied threatening her. He was warned by them that any further breaches of the conditions of his bail would result in his arrest.

On the following day (5 August) the Police went to the address of Mr Drewett's former partner after a friend had telephoned them on her behalf to report that Mr Drewett was at the property in breach of his bail conditions.

Mr Drewett had left the address before the Police arrived but his former partner made a statement to the Police alleging that he had assaulted her and threatened to kill her and, according to her, to *"take out as many Police officers as he could by stabbing them"* if she rang the Police. She said that Mr Drewett had also said that *"the Police will have to shoot me because I'm not going to jail"*.

Katikati Police were notified of the incident and intended to arrest Mr Drewett when he reported to them, as required by his bail, on the morning of 6 August.

During the night of 5-6 August, shortly after midnight, Mr Drewett telephoned his former partner to say that he had been told by a friend that the Police were looking for him and he accused her of informing on him to the Police. She responded by rescinding her agreement for access to their daughter, access which she had agreed to in order, she later said, to placate him when he had arrived at her address on 5 August. She also reported later that she felt quite safe in doing so because she had suggested to the Police during the evening of 5 August that Mr Drewett could be arrested when he reported at Katikati on the morning of

6 August (which in the event he did not do) and because he had no means of driving to Auckland as he had telephoned her yet again to say that he had crashed his car after leaving her address on 5 August.

In a statement to the Police made after the shooting, Mr Drewett admitted that he had threatened his former partner during his telephone call to her on 3 August. He also later pleaded guilty to a charge, arising from that incident, of threatening to cause her grievous bodily harm. Although he denied making any threats while at her address on 5 August, he later pleaded guilty to a charge of male assaults female arising from that occasion.

The Incident

At approximately 9 o'clock on the morning of 6 August, Mr Drewett arrived at his former partner's address, having driven from Katikati (a distance of approximately 185 km) in a vehicle that belonged to one of the friends he was living with.

At subsequent interview, Mr Drewett acknowledged that he had "*had a couple of joints*" before leaving Katikati and that he was "*still quite out of it*" from the effects of non-prescription pills which he said that he had taken during the afternoon and evening of 4 August. An analysis of urine taken from him after the shooting was found to contain indications of cannabis and opiate use. In the urgent circumstances of his eventual hospital admission no blood sample could be taken prior to his receiving a blood transfusion and accordingly no reliable blood analysis became available.

The main entrance to the property owned by Mr Drewett's former partner was the front door, which opened into a large open plan family/dining room with an adjoining kitchen. At one end of the family/dining room was a short flight of stairs which led up to a lounge. Leading downstairs was a flight of stairs which led to a double garage directly beneath the lounge. At the other end of the family/dining room there was a bedroom and a hallway leading to further rooms, including the bathroom and the master bedroom, which had an ensuite. Several rooms, in addition to the family/dining room, had external doors, including the kitchen, the lounge, and the master bedroom.

Mr Drewett gained entry to the house through an insecure window to the ensuite and proceeded to the master bedroom, where he found his former partner and a man, Witness X, asleep in bed.

Mr Drewett jumped onto the bed and punched both his former partner and Witness X in the head and face, causing his former partner's nose to bleed heavily.

He then left the bedroom and was heard opening the utensil drawer in the kitchen. While he was doing so, Witness X left the house through the external door in the master bedroom, running some distance from the house before he was able to find an address where someone was home and from where he telephoned the Police.

Mr Drewett's former partner initially hid in the bathroom but later retreated from the house through the external door in the kitchen when she saw Mr Drewett moving back towards the master bedroom with a knife.

Still in possession of the knife, Mr Drewett then went out the external door in the master bedroom in pursuit of Witness X and followed him for a short distance before returning to the house and picking up his daughter from her cot which was in another bedroom.

In doing so he put down the knife which he was carrying. This knife, which had a blade measuring 20 cm in length, was later discovered amongst the bedding in the child's cot. Mr Drewett then took possession of another knife with a blade measuring 11 cm in length. He kept this knife with him throughout the remainder of the incident.

Mr Drewett next appeared at the external door in the kitchen. He was holding his daughter in one arm and carrying the knife in his other hand and he told his former partner, who was in the garden, to come inside, but this she refused to do.

Mr Drewett then moved to the master bedroom and stood at the external door in that room again telling her to come inside, which at this point she did.

After she had returned inside, Mr Drewett told his former partner that he was going to kill her and he placed his daughter on the floor before taking his former partner by the throat and starting to strangle her. While he was doing so he dragged her down the hallway, during which time it appears that she became briefly unconscious.

Upon regaining consciousness, she found Mr Drewett leaning over her and repeating his earlier statement that he was going to kill her.

Mr Drewett then tied her hands with an item of clothing and her feet with another item of clothing before dragging her through the house and down the internal stairs into the garage.

While in the garage, she was able to partially free herself and she ran for the internal stairs, only to be pulled back into the garage by him.

A brief period of discussion then followed during which Mr Drewett accused her of informing on him to the Police. She denied that she had done so and Mr Drewett said that he would telephone the Police to find out.

As the telephone was in the kitchen, they left the house through one of the garage doors and walked through the garden to the kitchen.

As they walked past Witness X's car which was parked in the driveway, Mr Drewett carved scratches into the paintwork with the knife which he was holding and he also threw a garden fork at it. Marks were found on the passenger side of the vehicle which were consistent with his having kicked it as well.

Once in the kitchen Mr Drewett made a telephone call to the Takapuna Police which has been traced as having been made at 9:32 am. After finishing this conversation, which lasted several minutes, he told his former partner that the Police were looking for him in relation to a breach of bail and he accused her of informing on him to the Police and of denying him access to their daughter. He then drove the knife into the kitchen table.

It was at this juncture that his former partner noticed Police officers approaching the address. She seized the opportunity to run from the house through the external door in the kitchen and to meet the approaching officers.

The Police Response

The officers who attended the scene and who were involved in the incident are referred to throughout this report as Officers 1 to 8, descriptions assigned to them at the outset by the officer in charge of the criminal investigation conducted by the Police. The descriptions did not indicate rank.

The first call about the incident was received by the Northern Communications Centre (referred to in this report as NorthComms) at 09:18:30 hrs. This was a 111 call made by Witness X from the house in which he had taken refuge.

Witness X advised the call taker that he had been assaulted and threatened with a knife by a male called Gordon, who was in breach of his bail conditions. He described Mr Drewett as someone *“who’s breached parole. He’s not even meant to be on the Shore. He’s threatened to kill yesterday, threatened to stab as many cops as he could yesterday...”* He also advised the call taker that the incident had occurred at a property in B Street and that he was calling from an address in C Street.

A second 111 call was received by NorthComms at 09:28:59 hrs. This call was from Witness Y, a neighbour, who advised another call taker that a violent domestic incident was occurring at a property on the corner of B Street and C Street. Witness Y told the call taker that he could hear the woman who lived at the address screaming *“no, no, no”* and that she had a young baby.

A further call was received by NorthComms at 09:48:12 hrs from Witness Z, a member of the public who had been driving along C Street and who told a third call taker that she had seen a suspicious-looking partly dressed male run across C Street about half an hour earlier. As her call was made using the general Police line rather than the 111 system it was, she said, approximately 10 minutes before it was answered by NorthComms.

Subsequent Police enquiries established that the person seen by Witness Z was Witness X as he fled from the scene.

The first radio call from NorthComms was logged at 0927 hrs and was from a dispatcher to Officer 5 and Officer 7, who were operating the Takapuna I (for Incident) car.

Officers 5 and 7 were advised by the dispatcher that Witness X had reported that he had been threatened by a male with a knife. The officers were also advised that Witness X had called the Police from an address in C Street and that the offender was thought to be still at the address in B Street where the incident had occurred.

A second radio call from NorthComms was logged at 0929 hrs during which the dispatcher advised Officers 5 and 7 that Witness Y had reported a domestic incident at an address on the corner of B Street and C Street, from which screaming could be heard.

The Officers were advised by the dispatcher that the incidents reported by Witness X and Witness Y might be *“one and the same”*.

Officer 1, who had heard the radio calls from NorthComms about the incidents, advised that he would provide back up to Officers 5 and 7. However as he did not have access to a firearm Officer 2, who also had heard the radio calls, decided that he too would attend because he was driving the Sergeant's vehicle which had the safe containing firearms.

A safe arrival point was set up at an area removed from the immediate scene, where the attending staff were to assemble.

A total of 8 officers eventually responded, all of whom arrived at the safe arrival point, one or two at a time, until all but Officer 8 were present.

Officer 1 and Officer 2 were Constables who were acting as Sergeants. There were no substantive NCOs present during this incident, each of the other officers being Constables.

Because of the report received from Witness X that he had been threatened by a male with a knife, the decision was made to arm staff and firearms were issued to Officers 1, 2, 5 and 7, the first officers to arrive at the safe arrival point. Officers 3, 4 and 6 were also issued with firearms upon their arrival, with all but Officer 6 being issued with a 9mm Glock automatic pistol with a holster. Officer 6 was issued with a rifle. No firearm was issued to Officer 8, a Police dog-handler, who arrived at the scene only moments before Mr Drewett was shot. The decision to arm staff was made in accordance with Police General Instructions and their rules of best practice.

Because the officers could not discount the possibility that two different incidents were occurring at the same time and in the near vicinity, the attending staff had to split up so as to respond to two events.

Officers 1 and 7 were deployed to the property identified by Witness Y as the address from which screaming had been heard. This was the property owned by Mr Drewett's former partner. Officers 2 and 5 were deployed to go to the address from which Witness X had telephoned the Police and the remaining officers commenced a mobile patrol looking for the offender.

As Officers 1 and 7 approached the front door of the property owned by Mr Drewett's former partner, they were met by her as she retreated from the address through the external door in the kitchen. It was then 9:48 am. She had a bloodied face and clothes and she told the

officers *"He's inside and he's got the baby"*. When asked whether he had any weapons, she replied *"Yeah, he's got a knife"*.

It was at this juncture that Officer 1 drew his holstered firearm, having previously racked the weapon at the safe arrival point so that it had a round in the chamber. Officer 7, who was behind Officer 1, drew his short baton.

Fearing for the safety of the baby, Officers 1 and 7 approached the external door to the kitchen. Officer 1 later said that as they did so, Mr Drewett stood up from where he was sitting in the kitchen and walked towards him carrying a knife in his right hand and the baby in his left arm. Officer 1 said that *"[Mr Drewett] was holding the knife in a threatening position, more towards the baby than me. It was only 20 cm away from the baby"*.

Officer 1 reported that he reacted by pointing his firearm directly at Mr Drewett's chest and telling him to put the knife down. He said that Mr Drewett responded by saying *"You're going to have to shoot me"*, which is corroborated by his former partner, who reported hearing Mr Drewett say *"Shoot me, just shoot me"* before she was escorted from the property by the Police.

Officer 1 then drew his OC spray canister and while holding his firearm in his right hand he sprayed Mr Drewett in the face, hitting him in the region of his right eye from a distance of approximately two metres. Some spray also hit Mr Drewett's daughter, who was still being held by him. Officer 1 paused and then sprayed Mr Drewett a second time.

The spray had little effect on Mr Drewett, who retreated back into the house with his daughter.

Fearing for the safety of the baby, Officer 1 followed Mr Drewett into the house. As Officer 1 did so, Officer 7 stepped forward and, at that point or shortly after, also entered the house. Mr Drewett, as Officer 1 later recalled, *"continued saying that he wanted to be shot and that he wanted to die"* and that *"he wasn't going to go back to prison and that he would die before he did"*.

At Officer 1's request, Officer 7 made several attempts to communicate by radio with the other officers who were in the vicinity in order to obtain their urgent attendance, but he was unable to make contact due to the difficulties of radio reception in that area.

Officer 1 told Mr Drewett that he did not want to hurt him and began talking with him in an attempt to get him to put both his daughter and the knife down. He also pointed his firearm towards the floor in an attempt to calm the situation.

Officer 1 said that after a few minutes of talking to Mr Drewett and telling him that he did not want his daughter to be hurt, he was able to persuade him to put the child down on the floor and to back away from her.

Officer 1 then picked the baby up and gave her to Officer 7, who took her from the house.

Officer 1 has acknowledged that the knife was momentarily out of Mr Drewett's hand while he placed his daughter on the floor. However he said that the knife was never more than a few centimetres away from Mr Drewett and that, while he considered the possibility of tackling him, he thought that there was a good possibility that the baby would be hurt if he did so. He said that as he backed away from the officer and his daughter, Mr Drewett picked the knife up from the floor.

After taking the child to safety, Officer 7 returned to the house.

Officers 2 and 5 had by this stage approached the property because they had not received a situation report over the radio from Officers 1 and 7 and they were concerned about their welfare.

Officer 5 approached the external door in the family/dining room and Officer 7 let him into the house by unlocking the door.

Mr Drewett had by this stage walked up the half flight of stairs to the lounge. Just before doing so, Officer 1 later reported, Mr Drewett had advanced a few steps towards him but had stopped when Officer 1 brought his firearm up and warned Mr Drewett not to move any closer.

Officer 1 initially followed Mr Drewett to the top of the stairs, so as to keep him in sight and to ensure that he did not leave the house through the external door in the lounge which gave access to a deck and external stairs. Officer 1 was conscious that there was an area of bush close to the house and he held fears for the safety of the public and the attending Police if Mr Drewett were to leave the house. He then backed down to the bottom of the stairs, keeping Mr Drewett contained in the lounge, and maintained a watch over him from that position.

At this stage Officer 2, who came and went from the house several times as the incident unfolded, advised Officer 1 that a Police dog-handler and a specialist negotiator were on their way. He also cleared all but Officer 1 out of the house for fear of crowding Mr Drewett, although a short time later he positioned Officer 5 in the doorway between the kitchen and the family/dining room to cover Officer 1, and Officer 7 outside the front door. The remaining officers were deployed either around the front of the house or in the street. This is how the situation remained up until the shooting.

While in the upstairs lounge, Mr Drewett asked Officer 1 on several occasions to shoot him and he held the knife to his chest and told the officer that he was going to kill himself. He also made frequent references to not going back to prison.

Mr Drewett's behaviour continued to be volatile and unpredictable, speaking one minute and walking around the lounge in silence the next.

At one stage he asked for a cigarette and one was placed for him on the bannister at the top of the stairs, which he later took and smoked. He declined the offer of a drink.

After approximately 15 minutes in the upstairs lounge, Mr Drewett moved towards the stairs. At interview, Officer 1 said:

"He stood at the top of the stairs. He stared at me for a few seconds. He had done it a couple of times before, but there was something different about it this time. I formed the belief that he had decided that he was going to kill someone right there and then.

Within a split second he was coming down the stairs towards me. He was moving faster than I could move back.

He had the knife out in front of him at chest level and I said 'Don't come any further' and he carried on coming towards me. He was about three metres away when I said 'Don't come any further' but he kept coming.

I feared for my life and for the safety of the people around me as well.

I thought I was going to die or be seriously injured if I did not stop him.

At that stage I had absolutely no doubt that he would kill someone in order to force the Police to shoot him.

I thought if I hadn't brought my firearm up and shot him he would have stabbed me.

As he came towards me with the knife I believed that there were no other options available to me to stop him other than shooting him.

I was trying to move backwards, I brought my firearm up and fired one shot into centre mass. I didn't have time to speak to him other than 'Don't come any closer', I didn't have time to say anything else".

Officer 5, who was covering Officer 1 from his position in the kitchen doorway, reported that he saw Officer 1 move backwards suddenly and tense his pistol grip. He said that Mr Drewett was then in his field of vision and that he was holding the knife in his right hand in a threatening manner, prompting him to warn Mr Drewett to put it down. He said that Mr Drewett advanced down the stairs in their direction and walked straight at Officer 1, who was continuing backwards so as to keep distance between them. Officer 5 said that he, too, started to back away and stepped backwards into an object. He said that he quickly glanced around to see what he had hit and as he turned back he heard a shot and saw Mr Drewett fall to the floor in the family/dining room. He said that Mr Drewett and Officer 1 were only about 2 metres apart when he heard the shot and saw Mr Drewett fall.

Mr Drewett was shot once in the lower right chest. It was then 10:25 am. He was temporarily handcuffed and given immediate first aid by the attending officers until ambulance staff, who were waiting outside, entered the house.

Although in due course he pleaded guilty to a number of charges arising from the incident, Mr Drewett disputes the Police account of the incident in several respects, the most important of which relate to his actions towards his daughter, towards his former partner, and towards Officer 1. In particular, Mr Drewett contends that he did not tell Officer 1 to shoot him while he was holding his daughter and he says that he agreed to put her down when asked, giving her "*a kiss and a cuddle*" before doing so. He denies being asked by Officer 1 to back away from his daughter and says that he placed her on the floor indicating that she should go to the officer, but she would not do so. He says "*my baby kept looking back at me. I kept going 'go baby, go baby' and she would not go, and so I picked her up and moved her closer to the policeman*". He also denies that he held the knife in a threatening position towards his daughter, saying that while he was holding her, he pointed the knife towards the ground and held it by his right leg.

As to his actions towards his former partner, Mr Drewett contends that they walked down the hallway together and that he gave her a push which caused her to fall over and hit her head. He says that they then walked into the kitchen before he forced her down the stairs to the garage. He says that he started to tie her up with some clothing and that it was his intention to make her watch him hang himself in the garage. However he denies threatening to kill her or that it was his intention to kill her, and he says that he later let her go because she was

begging him not to hurt her and because he was concerned about their baby, who had been left alone upstairs.

Mr Drewett also denies that, immediately before being shot, he advanced towards Officer 1 with the knife extended in front of him. He says that the knife was again by his right leg. He did however acknowledge at interview that he moved towards the stairs, with the knife, because "*I thought that it was time to either try and get out of the house and get on with what I want (sic) to do, kill myself, and/or force the issue*". When questioned about what he meant by 'forcing the issue', Mr Drewett said "*well get the policeman to shoot me or whatever*".

It is appropriate to record that Mr Drewett is reported to have acknowledged, during the course of the investigation on behalf of the Authority, that his recollection of the occasion was clouded by his prior drug use and by the circumstances of the incident itself.

Psychological Assessment

The incident was subsequently reviewed by the then Manager: Psychological Services of the Police, who was of the view that the most likely explanation for Mr Drewett's actions at the time he was shot was that "*he sought his own death through direct and conscious actions, and that he acted in provocation to induce Officer 1 to shoot him*".

The First Aid Measures

The officers inside the address gave Mr Drewett immediate medical attention until ambulance staff, who were waiting outside the property, could attend to him.

Result of the Gunshot

Mr Drewett was shot once. The bullet entered the lower right chest and travelled downwards, through his diaphragm and into his liver, necessitating the removal at surgery of the right lobe of the liver.

The Involvement of the Authority

The incident was reported to the Authority by the Police later that morning. The officer designated by the Commissioner of Police to conduct the investigation on behalf of the Authority was Senior Sergeant N L Adams. The purpose of this investigation was to consider whether the circumstances of the matter disclosed misconduct or neglect of duty on the part of any member of the Police and to examine the procedures, practices and, if necessary, the policies of the Police in the handling of an incident of this type. The investigation was separate from the criminal investigation, that is into the potential criminal liability of

Mr Drewett and of Officer 1, or of any other person, an investigation which was headed by Detective Inspector R F Cooper.

The progress of the investigation on behalf of the Authority was, as it proceeded, reported to the Authority and was the subject of discussion with the Authority from time to time.

Following completion of the investigation the matter was fully reviewed by the Internal Affairs Section at the Office of the Commissioner of Police before being forwarded to the Authority for independent review. Additional information has been sought from the Police, and provided by them, during the preparation of this report.

No complaint over the actions of the Police on that day has been made to the Authority by or on behalf of Mr Drewett or by any other person nor, during the prosecution proceedings against Mr Drewett, was any criticism made of the Police by the Court or by Mr Drewett's legal counsel.

Criminal Prosecution of Mr Drewett

On 28 March 2000 Mr Drewett was sentenced to a total period of 5 years' imprisonment in respect of a number of charges arising from the incident and from the incidents involving his former partner on 3 and 5 August 1999, to all of which charges he had earlier pleaded guilty. The principal charges arising out of the incident on 6 August were threatening to kill (his former partner), kidnapping (his former partner), assault with a weapon (Officer 1) and aggravated burglary.

Opinion of Crown Solicitor

During the course of the separate investigation into the potential criminal liability of Officer 1 the Police sought an opinion from the Crown Solicitor at Auckland.

He considered the justification of Officer 1 for shooting Mr Drewett pursuant to section 48 of the Crimes Act which provides that:

“Everyone is justified in using, in the defence of himself or another, such force as, in the circumstances as he believes them to be, it is reasonable to use.”

He expressed the following view:

“It is the obligation of the prosecution, once the defence of self-defence is raised, to negative that defence beyond reasonable doubt. There is no onus whatsoever on an accused person to prove this defence. Therefore, for present purposes, if there is insufficient evidence upon which the prosecution could disprove such a defence then it would be idle and misconceived to prosecute in the first instance.

Having reviewed the facts... and having applied them to the requisite elements of section 48, I conclude that there is a wholly credible narrative in support of such a defence, and insufficient evidence to negative the account.

The credible narrative to support the defence comes from Officer 1, Officer 5, and to a lesser extent, Officers 2 and 7 and [Mr Drewett’s former partner].

The evidence to negative the account comes in the form of Drewett’s statement, particularly his belief that he was not holding the knife out in front of him when he approached Officer 1. This aspect is not supported by any other account, and is in contrast to Officer 1’s and Officer 5’s account. It is further not supported by Drewett’s surrounding action of walking towards the Officer with the intention (on his own account) of wanting to die.

As a consequence it is my view that Drewett’s account would be insufficient to negative the account given by Officers 1 and 5.

It therefore follows that the defence must succeed and I cannot recommend a prosecution”.

The Crown Solicitor was clear in his view that Officer 1 honestly believed that Mr Drewett was bearing down on him with the knife in order to attack him. He was also clear in his view that Officer 1 was not only acting in the protection of himself, but also in the protection of other Police officers. In his view *“Officer 1 had but one course to adopt and that was to incapacitate Drewett immediately, if necessary by seriously, or indeed mortally, wounding him”*. He therefore concluded that Officer 1 was justified in the circumstances in shooting, and thereby seriously wounding, Mr Drewett.

The Police accepted this advice and no criminal proceedings were brought against Officer 1.

Liability of Officer 1

The Authority has reached the conclusion, consistent with that of the Crown Solicitor, that criminal liability cannot be attributed to Officer 1.

The reasons for this conclusion are:

1. Throughout the period which the Crown Solicitor described as the “*negotiation and stand-off period*”, Mr Drewett had possession of a knife and was holding it, except for one period when placing his daughter on the floor, and he consistently refused to put it down.
2. During that period, Mr Drewett had repeatedly told the officer to shoot him as he was not going back to prison.
3. The honest belief of Officer 1 as found by the Crown Solicitor, with whose view the Authority agrees, was that Mr Drewett was bearing down on him with the knife in order to attack him.
4. As Mr Drewett moved forward, he was (according to all accounts other than his) holding the knife extended in front of him and he failed to stop despite being warned not to advance further.
5. Officer 1 considered that Mr Drewett was moving towards him at a faster rate than he could safely back away.
6. The confines of the house and the proximity of Mr Drewett to Officer 1 are relevant factors.

Issues Arising

There are several issues which arise from the incident and which require comment. They are these:

1. Tactics

The Authority has considered why the attending Police attempted to defuse the situation themselves, Officers 1 and 2 having requested the services of a Police dog-handler and a specialist Police negotiator.

When questioned at interview about whether he could have handled the incident in any other manner, Officer 1 said:

“No. [Mr Drewett] had clearly committed, in my presence, a number of violent offences and serious crimes. I did not know what other offences he had committed prior to arrival at the house or within the house. I did

not know if any other persons had been injured within the house. He needed to be disarmed. I was conscious of the fact that he needed to be apprehended in the least violent manner. I felt that he was more of a danger, if he was out of sight of us...

The area where this occurred should be taken into account in that much of Greenhithe is bush which is thick scrub, ti-tree type bush. The house, in fact, had bush on two sides and it would have been easy for him to evade the Police in this area and pose a further danger either for the Police, or the public in the adjacent properties that were in that area.

My impression of Gordon at the time was that he was affected by drugs. He was suffering severe mood swings. At times he appeared angry and there were also definite times where I was making good progress with him in that he went through a period, for instance, from holding the child and carrying the knife to sitting down in the lounge.

The situation just continued to develop whilst I was in the house. It was unfortunate that we did not even have any communications through our portable radios and had he escaped from the house, that would have posed further ongoing problems for the staff and no doubt would have compromised Police safety even further.

Whilst I was observing him at a safe distance downstairs, and later upstairs in the lounge, I knew exactly what he was doing. I did not know, if he had left the house, whether he would have had other weapons available nearby. There clearly were knives in the house and it was unknown to me whether he had access to firearms or other weapons in vehicles that were in the driveway or a vehicle outside on the roadway.

As I say, he went through periods of complete calm and that will no doubt be evident by the amount of time that we were actually in the house. I was aware that a negotiator and that Police dogs were coming.

I was in a position where I could continually assess what Gordon was up to and what he was doing. It was up to me to make those judgment calls based on all those facts which I have outlined... I therefore feel that the tactics that we adopted in accord with my training were appropriate.'

When Officer 2 was interviewed about the tactics which had been adopted, he said:

"I realised once Officer 1 had Drewett confined to the lounge area of the house that it was a bit of a stand off situation and I was concerned that that could be seen as provoking. I considered pulling the staff out of the house and placing them on an outside cordon of the house to allow Drewett access to the rest of the house allowing him freedom to roam within the house. But I saw numerous problems with that, namely that we hadn't searched the house and if we had evacuated the house we would have allowed him access to any other weapons, ie. firearms or whatever may have been elsewhere in the house not known to us, and...allowing him free range of the house would have made it more difficult for any other tactical unit, ie. the AOS to come and deal with the matter when we didn't know exactly what room he was in.

I was well aware that Drewett was under the influence of drugs or alcohol at the time and clearly very upset and agitated. Clearly he was a risk not only to other officers but to himself and by allowing him free range of the house...he may have been able to take up the option of...suicide. So containing him in the room seemed to be the best way to contain him because we could actually see what he was doing and monitor him”.

From the time of first contact with Mr Drewett, Officer 1 was talking with him for a period of 37 minutes before he was shot at 10:25 am. However the reasons for Officer 1 remaining in the house for an extended period of time were, in the opinion of the Authority, well founded.

2. Response by the Northern Communications Centre

One of the functions of NorthComms is to operate as a centralised communications centre for all Police Districts in the northern half of the North Island.

Any incoming call to NorthComms is processed by an automatic call distribution system and then presented to one of a number of call takers, who answers the call and obtains details of the incident, including where it is happening, what is happening and who is calling.

The call taker then enters this information into a Computer Aided Dispatch System.

Once the information has been entered into that system, it is transmitted through the system to the terminal of the dispatcher responsible for the area in which the incident is occurring.

The dispatcher then contacts by radio the Police patrols within that area and relays the incident details to those which are able to attend.

During the investigation concern was expressed by the attending officers about the response of NorthComms to the incident.

The issues identified by the officers were such that an enquiry was commenced by the Police into NorthComms' response, and into the management and operation of NorthComms generally.

Specific problems emerged during the course of this enquiry. These are summarised below.

(a) Call Takers

It was found that Call Taker 1, who had answered the 111 call from Witness X, had obtained information from Witness X about the incident in a piecemeal fashion and had lost significant time as a result of this.

It was also found that Call Taker 1 had not entered into the computer system important information given to him by Witness X about the circumstances of the incident. This meant that the dispatcher did not become aware of that information and thus could not relay it to the attending patrols.

This was also the situation with Call Taker 2, who had answered the 111 call from Witness Y, and who had not entered information relayed to him by Witness Y which conveyed the urgency of the situation.

It was also found that Call Taker 2 had incorrectly coded the incident reported by Witness Y as a 'Priority 2' event when the information supplied by Witness Y clearly showed that it was an urgent call for service and that it should have been given a 'Priority 1' classification.

Call Taker 3, who received the call from Witness Z, handled that call correctly.

It is appropriate, and also fair to the call takers, to record that all three of them were at the time very inexperienced in that role.

(b) Dispatcher

It was found that the dispatcher, after being notified of the incident reported by Witness X and then, a short time later, of that reported by Witness Y, had failed to analyse the two events to determine any common ground. It is acknowledged by the Police that had this occurred, it may have been apparent that the two reports were of the same event, thus eliminating the need for the attending officers to split up on their arrival at the scene to respond to what they believed may have been two events. It is however also acknowledged that this task was made more difficult for the dispatcher because some of the pertinent information given by Witness X and Witness Y had not been entered into the computer system by the call takers and was therefore not known to her. It was however considered that she should have sought assistance from a supervisor in analysing the two reports.

(c) Supervision

The incident was a serious one and it should have been overseen by a supervisor. After listening to the recordings of the radio transmissions between NorthComms and the officers at the scene, no evidence was found of any intervention by a supervisor at NorthComms as the incident developed.

As well as the failures by two of the call takers and by the dispatcher, it was concluded that there had also been a failure at supervisory level in the handling of this incident by NorthComms.

(d) Armed Offenders Squad Notification

Following the investigation it was concluded that the Armed Offenders Squad should have been notified of the incident by NorthComms at the time of Witness X's 111 call. It was found that sufficient information existed at that time to determine that the Squad might be required.

I am advised that this aspect of the matter is to be addressed in a review of the procedures governing the activation of the Armed Offenders Squad.

(e) Police Negotiation Team

During the enquiry it was found that at 0957 hrs, Officer 2 had asked for a Police negotiator to be sent to the scene, and that this was still being organised at 1017 hrs, twenty minutes later.

It is acknowledged by the Police that the procedure to contact a Police negotiator is cumbersome and was, at that time, apparently unknown to some staff at NorthComms. I am advised that these problems are to be addressed in the review of procedures relating to Armed Offenders Squad activation.

(f) Ambulance Notification

During the enquiry it was found that attendance by an ambulance had not been initiated by NorthComms but by Officer 5, who asked the dispatcher to have a unit sent to the scene to await the outcome.

Given the severity of the injury sustained by Mr Drewett, he may have died at the scene had ambulance staff not been on hand to attend to him immediately.

Discussion

Since the establishment throughout the country of the three Communications Centres over four years ago, a fundamental question has existed as to their role. That question is whether

they have a command and control function (particularly at the outset of an incident) or purely a communications function. This issue has been the subject of discussion and consideration but it remains unresolved. This uncertain situation presents clear dangers in any significant incident. In the opinion of the Authority the matter requires urgent resolution. The Authority is aware that the issue has recently received consideration at a senior level and recommends that advantage should be taken of the momentum thus gained to define the role of the Centres and to implement all appropriate changes to procedures, to staff numbers, and to staff training and supervision. It is reported that significant improvements have already been made in some of these respects.

In the opinion of the Authority the errors made by individual members of the staff of NorthComms are to be seen against the background of this fundamental issue and against the background, in respect of several of them, of their own inexperience.

3. Shooting to wound

The question may be asked whether it was necessary for Officer 1 to fire a shot which was likely to be fatal as opposed to a shot which would only injure. Indeed at interview Mr Drewett said *“Well, I feel that in a way I did ask to be shot because I had been telling the policeman to shoot me and I was fairly suicidal. But I feel that he shot to kill. He didn’t shoot to wound me, he actually shot to kill me...”*

Officers are trained, in situations such as those faced by Officer 1, to shoot to incapacitate, which in law enforcement terms means to immediately render the person incapable of carrying out an unlawful act which threatens the life or wellbeing of another person. The firing of warning shots or of shots aimed at less vulnerable parts of the body may not incapacitate and may therefore heighten or prolong the danger of the situation.

The topic of shooting to wound received consideration by the Authority in its recent report on an incident which occurred in Invercargill in February 2000 and, for a fuller discussion of the issue, reference is made to that report (at pages 15-17).

4. Fire Orders

Police General Instructions require Police officers to have a detailed knowledge of the rules governing the use of firearms in accordance with the relevant law and in accordance with the General Instructions. Notebooks issued by the Police include an *aide memoire* which summarises the circumstances in which Police officers may use firearms in the course of duty.

At the time of this incident, it was required that whenever a firearm was issued, the supervising officer was to draw the contents of the *aide memoire* to the attention of the officer receiving the firearm.

On this occasion the decision to arm staff was made after Officer 2, who was driving the Sergeant's vehicle containing firearms, arrived at the safe arrival point.

While there is some confusion as to exactly who issued the firearms to the attending staff, it is apparent that Officers 1 and 2, both of whom were acting in the role of Sergeant, were the supervising officers at the scene.

At interview, Officer 1 stated:

"I turned to the I car staff and asked them if they were aware of their fire orders and their reply was 'yes'. I am not aware if Officer 2 issued fire orders".

Officer 2 stated:

"I turned to speak to Officer 1 and said words to the effect 'Once they're armed we will give them a briefing and fire orders'. He agreed.

No sooner had I finished speaking than Officer 5 said 'Fuck, the offender's coming up to us'.

I looked down [C Street]... and a male Caucasian with a short style haircut wearing a blue jacket, dark denim jeans and bare feet was staggering towards our assembly point.

He was about 100 to 150 metres away from us, he was walking towards us along the road on the left side as we were looking down.

He was approaching us at a fast walk, he appeared intent on getting to us. I instructed Officer 5, who had armed himself with a Glock, to come with me to intercept the male before he approached the safe arrival point.

Officer 5 and I were approximately 60 metres from the safe arrival point when we stopped him. We had run towards him. I said to Officer 5 'Draw your weapon and cover me at a safe distance while I approach and speak to this guy'".

Officer 2 then shouted at the male to stop and to put his hands on his head, which he did. The officer then approached the male and searched him for weapons. The male was co-operative and advised Officer 2 that he was not the person they were looking for.

It is therefore apparent that Officer 2's briefing was interrupted by events which necessitated himself and Officer 5 intercepting the male, who was thought to be the offender but who was in fact Witness X, before he arrived at the safe arrival point.

At interview, Officer 2 stated:

"I arrived back at the safe arrival point. I noted that Officers 3, 4 and 6 had arrived and were armed.

I mistakenly assumed that Officer 1 had given fire orders to the remaining staff. This was an oversight on my part but in the back of my mind I was aware that only five days prior we had been at a firearms related job where the same staff were present and were issued firearm orders on that occasion so they would have been fresh in my staff's minds."

On this occasion it is apparent that some of the officers who were issued with firearms did not have the information in the *aide memoire* drawn to their attention.

I am however satisfied that all officers who were issued with firearms had knowledge of the circumstances in which firearms may be used as summarised in the *aide memoire* and, in the urgent circumstances of the incident, I do not consider that this degree of non-compliance should be the subject of criticism.

The General Instructions relating to Fire Orders have since been amended to provide that a summary of the circumstances in which officers may use firearms must be available in card form at the point of issue of firearms, so as to cover those occasions on which an officer is issued with a firearm in an emergency, is not able to receive the Fire Orders from a superior, and does not have immediate access to a notebook and thus to the *aide memoire*. The Authority endorses this procedure.

5. Firearms Register

Whenever a firearm or ammunition are issued to an officer, Police General Instructions require that certain details must be recorded in the Firearms Register. A strict interpretation of the relevant Instruction suggests that the Register is to be completed at the time of issue of the firearm or ammunition.

On this occasion the Register was not completed until the firearms were returned to the Sergeant's vehicle after the incident had concluded.

In the urgent circumstances of this incident, it would have been inappropriate and impractical to require staff, at the time firearms were issued, to record the prescribed details in the Register.

In the opinion of the Authority consideration should be given to clarifying the requirements which are to be met when firearms are issued in urgent circumstances and the Instruction should be amended if need be.

6. Use of OC Spray

It is not in dispute that Officer 1 sprayed Mr Drewett with OC spray during the early stages of the Police interaction with him.

The use of the spray on Mr Drewett was however ineffective and the issue of why it was not effective has been examined, with the canister used by Officer 1 having been examined by an ESR analyst.

The analyst found, from the volume of spray discharged, that the spray time was between 1 and 1.5 seconds.

Experience in New Zealand and overseas has shown that OC spray can be a most effective non-lethal weapon for Police officers and both in New Zealand and overseas it has proved effective in approximately 90% of occasions on which it is deployed. However, as has previously been reported by the Authority, a major drawback is that its effectiveness can be reduced or nullified when used on intoxicated, drugged or goal-oriented persons or on persons suffering from a mental disability. Furthermore, up to 6% of the population will not be affected by the spray.

The Police training manual makes it clear that officers *“need to be aware that in some circumstances exposure to OC spray may result in minimal, or at times no, effect whatsoever. At all times members must be prepared to resort to other tactical options”*.

The OC spray canister used in the present incident was shown to have a capsaicinoid concentration that was below the manufacturer’s specifications (an issue which Police have since addressed with the manufacturer) but still of a level to be effective under normal circumstances.

The fact that the spray was ineffective on Mr Drewett may be explained by his being within one or more of the categories of persons outlined above or by factors relating to the parts of the face reached by the spray or the distance at which it was deployed.

With regard to Officer 1's action in spraying Mr Drewett while he was holding his baby daughter, it is unfortunate that some spray came into contact with the child, causing her discomfort. She was treated and by early that afternoon was reported by her mother as having already recovered. However I make no criticism of the officer for having used spray as in the circumstances the need for him to take action far outweighed the risk to other persons of their coming into contact with the spray and the discomfort to the child was far outweighed by the major and obvious risks to her.

7. Radio Communications at Scene

During the course of the investigation it emerged that because of poor radio reception in the Greenhithe area, Police portable radios worked only intermittently and could not reliably be used by the officers at the scene to communicate either amongst themselves or with NorthComms.

As a consequence of this, the majority of communications between the officers inside the address and those on the roadway were through Officer 2, who came and went from the house several times as the incident unfolded in order to provide situation reports and to check on the welfare of the officers directly involved.

Another concern expressed over the portable radios which were available at the scene was that, had they provided effective communications, they would have been insufficient in number.

I am advised that the Police are currently preparing a 'Land Mobile Radio Strategy' for consideration by the Police Executive later this year.

The Authority recommends that this strategy should include a solution to the difficulties presented by areas of poor radio reception throughout the country.

8. Body Armour

Police General Instructions require that when a firearm is issued, authorised body armour must also be issued when available and must be worn by the staff member carrying the firearm when attending, or expecting to attend, an armed incident.

Following this incident questions were raised as to the availability of sufficient body armour and of body armour which will fit individual officers. Questions were also raised about the suitability of the body armour currently on issue as Officer 1 and Officer 2 both stated at interview that they elected not to wear that armour because its weight and size restricts their manoeuvrability, particularly at close quarters.

I am advised that, as part of a staff safety programme, the carriage, distribution and design of body armour will be reviewed.

9. Failure to arrest following incident on 3 August 1999

As previously noted, Mr Drewett breached the conditions of his bail by telephoning his former partner on 3 August.

The matter was reported to the Takapuna Police, who in turn notified the Police in Katikati, where Mr Drewett was living at the time.

This breach by Mr Drewett brought him within the requirements of the Family Violence Policy of the Police, which provides that breaches of bail are to be regarded as serious and that offenders must be arrested and kept in custody until the next available Court sitting.

During the criminal investigation headed by Detective Inspector Cooper concern was expressed about the failure to arrest Mr Drewett for the breach.

The officer who on 4 August interviewed Mr Drewett about the incident reported later that Mr Drewett admitted calling his former partner on 3 August but denied threatening her. The officer said that at the conclusion of his interview with Mr Drewett he considered it appropriate to warn him for his actions, which he did. He also warned Mr Drewett that any further breach by him would result in his arrest.

The officer stated that he then telephoned Mr Drewett's former partner, who was happy with the course of action he had taken. This was later confirmed by Mr Drewett's former partner in a statement made by her after the shooting.

Notwithstanding the provisions of the Family Violence Policy, the Police have a discretion to arrest, or not to arrest, for breaches of bail and in December 1999 the High Court held that "*blind adherence*" to an arrest policy without due regard to that discretion is both unlawful and

a breach of the New Zealand Bill of Rights Act (Attorney-General v Hewitt, Wellington AP 187/98).

The Authority is advised by the Police that they have under consideration the implications which that decision may have for the Family Violence Policy.

10. Training

During the investigation concern was expressed about the lack of training given to officers to assist them in dealing with offenders who are armed with bladed weapons or blunt instruments. The view was expressed that the Police must develop tactics, introduce training programmes, and have specialist equipment available for frontline staff to assist them when dealing with offenders who are armed with, for example, a knife.

The Authority is aware that the Police have in hand a review of incident management in the light of international best practice. This review includes the use of force, both lethal and non-lethal, the equipment options which are available, and the relevant policies and procedures.

11. Command

As recorded earlier in this report, there were no substantive NCOs at the scene during the incident.

It is reported that the Police District in which the incident occurred has increased the number of supervisory staff in the field.

Conclusion

1. The Authority has concluded, following a thorough investigation of this incident, that no misconduct or neglect of duty on the part of any Police officer has been disclosed. There were failings within the Northern Communications Centre but in the opinion of the Authority these are correctly to be seen as having been failings of that agency as a whole and not failings of individual members of its staff.
2. In the course of this report a number of matters have been identified in which the Police have under review their procedures or their equipment. It is strongly recommended that these processes of review should be advanced as rapidly as possible.

3. Finally, it is appropriate to close this report by saying that in the opinion of the Authority the officers who attended this incident, who were all junior in rank, conducted themselves sensibly and with restraint, and Officer 1 in particular is to be commended for his courage.

Judge I A Borrin
Acting Police Complaints Authority

1 October 2001