



Police Shooting of Ruka Hemopo

INDEPENDENT POLICE CONDUCT AUTHORITY

INTRODUCTION

1. On 2 May 2013, while responding to a domestic assault in Waitangirua, Wellington, Police shot and wounded Ruka Hemopo¹. The gunshot wound to Mr Hemopo was not life-threatening.
2. The Police notified the Independent Police Conduct Authority of the incident, and the Authority conducted an independent investigation. This report sets out the results of that investigation and the Authority's findings.

BACKGROUND

Summary of events

3. At 5.32am on Thursday 2 May 2013, the Police Central Communications Centre (CentComms) received a phone call about a domestic assault. The female caller (Ms X) said that Ruka Hemopo had assaulted her and her pregnant sister (Ms Y) with a hammer at their home in Waitangirua, Wellington, and was continuing to attack Ms Y inside the house from which Ms X had fled.
4. CentComms immediately dispatched Officers A and B to attend the incident. They left in separate patrol cars from Porirua Police station. A short time later, further Police and ambulance units were dispatched.
5. Because of the nature of the reported assault, Officer A decided to carry a Glock semi-automatic pistol and a Taser. These were withdrawn from the gun safe in Officer A's patrol car. In compliance with relevant Police policy, when withdrawing the weapons

¹ Mr Hemopo is also known as Duane Thomas Makatea

Officer A also read Police General Instruction F061 – a reminder to officers of their personal responsibilities relating to the use of firearms – from a prompt card(see paragraphs 27-29 for detail).

6. Officer B was already carrying a Taser. En route to the address, both officers advised CentComms that they were armed. When Officer B asked over the radio whether Officer C was carrying a Taser, Officer C, who was travelling to the address in a third patrol car, replied, *“Yeah affirm, I’ve got everything in the car.”*
7. As the officers travelled to the scene the CentComms dispatcher relayed information over the radio from Ms X about the incident, advising that Ms X was waiting for the officers on the footpath and that the assault was still occurring inside the house.
8. Based on this information both Officers A and B decided that Ms Y was at risk of serious injury. Officer B also decided that the situation required Police to quickly enter the house on arrival and communicated this decision over the radio to the other officers. Officer A affirmed this view and communicated the decision to CentComms.
9. Officer B arrived at the address first and found Ms X on the footpath still speaking to the CentComms communicator. The severity of Ms X’s arm injury, caused by Mr Hemopo with the hammer, confirmed to Officer B that it was necessary for the officers to immediately enter the property to assist Ms Y.
10. A short time later Officers A and C arrived at the scene in separate patrol cars. In Police interview, Officer A stated that Ms X’s arm injury looked like it had been caused by a knife. Officer A also believed that Mr Hemopo posed a threat of serious injury to Ms Y and that the situation required urgent action.
11. At 5.36am, Officers A and B decided to enter the house, Officer A notified CentComms of this decision. Officer C remained with Ms X. As they walked up the driveway Officer A said to Officer B *“I’ve got my Glock out”*, to which Officer B replied *“I’ve got my Taser out and I’m recording.”*
12. The officers entered the house through the open front door. As they entered Officer A called out to Mr Hemopo to show himself and advised that they were Police. The officers searched the house and as they moved through it were drawn to noise coming from the far bedroom. Officer A then called out a second command to Mr Hemopo to show himself to which Mr Hemopo replied, *“Get fucked”*.
13. When the officers reached the far bedroom, Officer A attempted to kick the door open but the door struck something and swung closed. Officer A then forced the door open, revealing Mr Hemopo clutching a knife in his raised right hand and Ms Y crouching beneath him.

14. Officer A yelled “*Move, both of you move away*”. Then, fearing Mr Hemopo was about to stab Ms Y, Officer A fired one shot from the pistol at Mr Hemopo’s upper body.
15. Despite not seeing the knife, Officer B believed that Mr Hemopo was attacking Ms Y with a weapon and almost simultaneously deployed the Taser at Mr Hemopo, hitting him in the lower back.
16. Mr Hemopo fell to the ground, dropping the knife as he did so.
17. Officer A handcuffed Mr Hemopo in order to prevent him from posing any further threat. With another officer’s assistance Officer A then snapped the Taser wires, assessed Mr Hemopo for injuries and proceeded to administer first aid.
18. Officer B took Ms Y outside and remained with her and Ms X until the ambulance arrived.
19. The entire incident, from the officers notifying CentComms that they were entering the property until advising that shots had been fired, took about 1 minute.

Ruka Hemopo

20. Mr Hemopo suffered a non-life threatening gunshot wound to the back. He has been charged with multiple offences in relation to the incident and remains in custody.

Female victims

21. As a result of Mr Hemopo’s attack, Ms X suffered a severe laceration to her right elbow, bruising and multiple fractures. Her sister, Ms Y, suffered a deep laceration to her neck, cuts to her hands and bruising.

Police involved

22. At the time of the incident Officers A, B and C were certified to carry and use firearms and Tasers.

Police investigation

23. At the time of writing the Police investigation into this incident is ongoing.

APPLICABLE LAWS AND POLICIES

Police power of entry

24. Section 14 of the Search and Surveillance Act 2012 authorises Police to enter a property where they have reasonable grounds to suspect an offence is being committed that would likely cause injury to any person.

Use of force by Police

25. Section 39 of the Crimes Act 1961 provides for law enforcement officers to use reasonable force in the execution of their duties such as arrests and enforcement of warrants. Specifically, it provides that officers may use *“such force as may be necessary”* to overcome any force used in resisting the law enforcement process unless the process *“can be carried out by reasonable means in a less violent manner”*.

Use of force for self defence or defence of others

26. Section 48 of the Crimes Act states: *“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.”*

Police Policies

27. The Crimes Act provisions are mirrored in Police General Instruction F061 (Fire Orders) in the ‘Police Firearms’ chapter of the Police Manual. F061 instructs members of the Police to always be aware of their personal responsibilities in the use of firearms, reminds them of the relevant sections of the Crimes Act and also sets out the circumstances in which the use of lethal force is justified.
28. General Instruction F061 provides for the use of firearms by Police officers to defend themselves or others if they fear death or grievous bodily harm and cannot reasonably protect themselves in a less violent manner.
29. In operational situations where firearms are issued, General Instruction F061 also requires that an officer’s attention is drawn to the fire orders printed in their Police issue notebook *“if time and circumstances permit”*.
30. Police policy also requires officers to notify their immediate supervisor and the Police Communications Centre of their decision to deploy with firearms.
31. Police policy states that officers may only use a Taser to arrest an offender if they believe on reasonable grounds that (i) the offender poses a threat of physical injury and (ii) the arrest cannot be effected less forcefully. Officers must have an honest belief that the offender is capable of carrying out the threat posed. Tasers should only be used against someone who is assaultive, and must not be used against a person offering passive resistance.

THE AUTHORITY'S FINDINGS

Were Officers A and B justified in arming themselves?

32. Ms X's comments to CentComms gave clear and specific evidence of the risk that officers would encounter at the property. They knew Mr Hemopo was armed with a hammer and had caused serious injury to both women. Based on their perception of the threat Mr Hemopo would present, Officers A and B were justified and authorised to arm themselves in accordance with relevant Police policies.
33. In this instance Officer A complied with policy by reading F061 (Fire Orders) when withdrawing the pistol and Taser prior to leaving Porirua Police station.
34. The officers attending the incident complied with policy by providing notification that they were armed.

FINDINGS

All officers attending the incident were justified and authorised to arm themselves in accordance with relevant Police policies.

Officer A self-issued fire orders in compliance with General Instruction F061.

Were the officers justified in shooting and using a Taser on Mr Hemopo?

35. Sections 39 and 48 of the Crimes Act 1961 provide legal justification for Police to use reasonable force to arrest an offender and in defence of themselves or another. The Police Tactical Options Framework guides Police in determining the appropriate level of force to use in certain situations.
36. Police policy provides that potentially lethal force may be employed where an offender presents a threat of death or grievous bodily harm. A Taser may be used to arrest an offender where the officer believes that the offender poses a risk of physical injury and the arrest cannot be effected less forcefully. See paragraphs 25-31 for further detail on relevant law and Police policy.
37. The Authority accepts that both Officers A and B believed that Mr Hemopo posed an immediate threat of grievous bodily harm to Ms Y. The officers were therefore lawfully justified in using a firearm and a Taser to prevent this and defend Ms Y.
38. In this situation Officer A shot Mr Hemopo at almost the same time as Officer B deployed the Taser. The Authority recognises that both officers used force, when arguably force used by just one of them would have been sufficient to stop Mr Hemopo and prevent further harm occurring to Ms Y.

39. As described in paragraph 13, the situation that confronted the officers when they opened the bedroom door, did not allow time for discussion or planning. Both officers independently believed force was required to immediately stop Mr Hemopo and defend Ms Y.

FINDINGS

Officers A and B were justified under law and Police policy in shooting and using a Taser on Mr Hemopo.

In the circumstances, the officers were justified in independently deciding to use force to stop Mr Hemopo and defend Ms Y.

Actions following use of force

40. Due to the nature of the reports from Ms X, CentComms had called ambulances to the incident prior to the arrival of Police at the address. Further ambulances arrived following Officer A's report that shots had been fired.
41. Once Mr Hemopo had been handcuffed and posed no further threat to the officers, first aid was administered by the Police officers present. Police also provided first aid to Ms X and Ms Y following the incident.
42. Both Officers A and B submitted Tactical Options Reports following the incident.

FINDINGS

Police ensured that appropriate medical assistance was provided to those involved in the incident in a timely manner.

After the incident Officers A and B completed Tactical Options Reports as required by Policy.

CONCLUSIONS

43. The Authority considers that the quick response and action of Police at the house prevented further harm occurring to Ms Y.
44. Section 27(1) of the Independent Police Conduct Authority Act 1988 requires the Authority to form an opinion as to whether or not any act, omission, conduct, policy, practice or procedure that was the subject matter of an investigation was contrary to law, unreasonable, unjustified, unfair or undesirable. Section 27(2) enables the Authority to make recommendations.

45. Pursuant to section 27(1) the Authority has formed the opinion that the shooting and use of the Taser on Mr Hemopo were justified and no Police actions were contrary to law.
46. The Authority makes no recommendations.

A handwritten signature in black ink, appearing to read 'David Carruthers', written in a cursive style.

JUDGE SIR DAVID CARRUTHERS

CHAIR

INDEPENDENT POLICE CONDUCT AUTHORITY

10 October 2013

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.

It is not part of the Police – the law requires it to be fully independent. The Authority is overseen by a Board, which is chaired by Judge Sir David J. Carruthers.

Being independent means that the Authority makes its own findings based on the facts and the law. It does not answer to the Police, the Government or anyone else over those findings. In this way, its independence is similar to that of a Court.

The Authority has highly experienced investigators who have worked in a range of law enforcement roles in New Zealand and overseas.

WHAT ARE THE AUTHORITY'S FUNCTIONS?

Under the Independent Police Conduct Authority Act 1988, the Authority:

- receives complaints alleging misconduct or neglect of duty by Police, or complaints about Police practices, policies and procedures affecting the complainant;
- investigates, where there are reasonable grounds in the public interest, incidents in which Police actions have caused or appear to have caused death or serious bodily harm.

On completion of an investigation, the Authority must determine whether any Police actions were contrary to law, unreasonable, unjustified, unfair, or undesirable. The Authority can make recommendations to the Commissioner.



IPCA

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