



# Police response to complaints made by Ashlee Edwards

INDEPENDENT POLICE CONDUCT AUTHORITY

## INTRODUCTION

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1. On 22 May 2012 and 26 May 2012, Ashlee Edwards made two complaints to Whangarei Police in which she alleged that her former partner Jimmy Akuhata had breached a Protection Order in place against him by threatening Ms Edwards via text message and telephone.
2. On 27 July 2012, Ms Edwards was killed in Whangarei. Mr Akuhata has been charged with her murder.
3. The Police notified the Independent Police Conduct Authority of the incident, and the Authority conducted an independent investigation into the Police response to Ms Edwards' complaints. This report sets out the results of that investigation and the Authority's findings.

## BACKGROUND

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### Summary of events

1. On 5 February 2010 Ms Edwards was granted a temporary Protection Order against Mr Akuhata in respect of herself and her eldest daughter. A final order was served on Mr Akuhata on 28 September 2010.
2. The conditions of this Protection Order stated that Mr Akuhata must not:
  - Threaten to physically or sexually abuse any protected person.
  - Engage, or threaten to engage, in other behaviour, including intimidation or harassment, which amounts to psychological abuse of any protected person.
  - Make any other contact with any protected person by telephone, electronic message, correspondence, or otherwise.

3. The relationship between Ms Edwards and Mr Akuhata had been intermittent over a period of about six years, and included eight recorded family violence incidents.
4. On 22 May and 26 May 2012 Ms Edwards reported two separate breaches of the Protection Order by Mr Akuhata. The first breach was reported to Whangarei Police, and the second to Police Northern Communications Centre (NorthComms). The breaches were dealt with independently of one another. Officers dealing with the second complaint were not aware of the first.
5. Police action in relation to each breach is considered below.

#### **First breach of Protection Order – 22 May 2012**

6. On 22 May 2012 Ms Edwards complained to Whangarei Police that Mr Akuhata had breached the Protection Order the previous day ('the first complaint').
7. Ms Edwards had received 43 text messages and 159 voice mail messages from Mr Akuhata in which he made serious threats, including threatening to kill her, rape her, cut her head off, and throw battery acid in her face. Some of these phone calls were overheard by Ms Edwards' sister. A Family Violence Report file ('the file') was created and forwarded to Kerikeri Police for further action. At the time of this breach Mr Akuhata was on home detention in Kerikeri.
8. On 24 May 2012 Ms Edwards secured a variation to the Protection Order to include her youngest daughter.
9. On 25 May 2012 Officer A, the Whangarei Family Violence Co-ordinator, advised Mr Akuhata's Probation Officer of Ms Edwards' complaint. She instructed the Probation Officer not to discuss the matter with Mr Akuhata because doing so could increase the risk to Ms Edwards. That same day she also verbally advised Officer B, Family Violence Co-ordinator at Kerikeri, of the breach and stressed the need for urgency.
10. On 1 June 2012, Officer A checked the progress that had been made with the file and found that Officer B had filed it at Northland District Headquarters. She reactivated the file and sent it back to Officer B.
11. On the same day job sheets recording the threatening text messages sent by Mr Akuhata to Ms Edwards were received by Kerikeri Police for attaching to the file. Because the file had not yet arrived Officer C, a supervising sergeant based at Kerikeri, returned these to Officer A stating that he did not know why they had arrived in Kerikeri. Officer A was on leave and so did not receive the job sheets.
12. On 8 June 2012 Kerikeri Police located the file. Officer B left the file with another officer to assign an investigator. The same day Officer D, a frontline officer based in Kerikeri, was instructed to interview and arrest Mr Akuhata for the first breach of the Protection Order. Officer D was aware of the existence and outcome of the second complaint.

13. On 12 June 2012 Officer D arrested and interviewed Mr Akuhata. Mr Akuhata's Probation Officer had advised Officer D that Mr Akuhata had claimed not to be responsible for sending the threatening text messages, which he said were sent by his cousins from his father's phone.
14. Officer D concluded that there was insufficient evidence to proceed with a prosecution on the basis that there was doubt as to whether Mr Akuhata had actually sent the threatening text messages. Mr Akuhata was released without charge.
15. Officer D had sought the advice of Officer C before releasing Mr Akuhata without charge. Officer C agreed that there was insufficient evidence to proceed with a prosecution. At no stage did Officer C read the full file, instead relying upon Officer D's verbal recommendation.
16. On 14 June 2012 Officer C forwarded the file to Officer B, indicating that it would be impossible to proceed with a prosecution. On the basis of the recommendations made by Officer D and Officer C, Officer B returned the file to Officer A on 21 June for further enquiries. Because she was on leave, Officer A did not receive the file until at least 26 July.
17. Ms Edwards was not informed of the outcome of the investigation into her first complaint and no further enquiries were made before her death on 27 July 2012.

#### **Second breach of Protection Order – 26 May 2012**

18. On 26 May 2012 Ms Edwards reported a second breach of the Protection Order to NorthComms. Mr Akuhata had again sent threatening text messages to Ms Edwards (the second complaint).
19. Officer E, a frontline officer based at Kawakawa, was tasked with responding to Ms Edwards' second complaint that same day. He visited Mr Akuhata and issued him with a warning for breaching the Protection Order.
20. Officer E indicated that there were a number of reasons for issuing Mr Akuhata with a warning rather than arresting him. These included the fact that Mr Akuhata was on home detention in Kerikeri and therefore no immediate threat to Ms Edwards who was in Whangarei, that he had only contacted her via text message, and that this offending was believed to be an isolated incident.
21. Officer E was not aware of the complaint Ms Edwards had made in relation to the first breach.
22. Officer E failed to submit a Family Violence report in relation to Ms Edwards' complaint despite being aware that he should have done so.
23. Ms Edwards was informed that Mr Akuhata had been spoken to and warned.

### **Northland District Police Practice**

24. The Authority's investigation also sought information on how family violence files were managed within the Northland District at the time of Ms Edwards' complaint.
25. Officer A told the Authority that there were about 40-50 family violence incidents a week in the Whangarei/Kaipara area. As the Whangarei Family Violence Co-ordinator, she single-handedly co-ordinated the Police response to these. This created a significant workload which she was expected to manage without assistance from other staff or specialist training. Officer B experienced an equally burdensome workload in his capacity as Mid-North Family Violence Co-ordinator.
26. Officer B also indicated that an important responsibility of the Family Violence Co-ordinator was the training of frontline staff in family violence policy and practice. However, high workloads meant that training opportunities were limited and as a result staff attending family violence incidents often made errors.
27. Officer B, in his position as Family Violence Co-ordinator, noted several shortcomings in the general Police response to family violence incidents in Northland. He said that many were incorrectly coded as domestic disputes as opposed to a criminal offence, so that offenders were not always held properly to account for their behaviour. He also saw room for improvement in the timely completion and submission of Family Violence Reports and suggested that the Family Violence Co-ordinator should review all these files.
28. Following Ms Edwards' death a quality assurance assessment of family violence files in the Northland District was undertaken. This found that incidents were often being incorrectly coded as domestic disputes, and that there was a lack of supervisor input and oversight.

### **Police investigation**

29. A Police Code of Conduct investigation was undertaken into the actions of each of the subject officers.

## **LAWS AND POLICIES**

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### **The Domestic Violence Act 1995**

30. Section 49 of Act states that every person who does any act in contravention of a Protection Order, or fails to comply with any condition of the Protection Order, commits an offence.
31. Section 50 of the Act states that where there is a Protection Order in force against a person, a Constable may arrest that person without a warrant if the Constable suspects the person has contravened, or failed to comply with, any condition of the Protection Order.

### **Police Family Violence Policy and Procedures**

32. The Policy states that psychological abuse, threats of physical or sexual abuse and unwanted contact via phone and text message may each constitute a breach of a Protection Order, for which a person may be arrested.
33. The Policy stresses that every breach of a Protection Order should be taken seriously.
34. The Policy also states that when considering whether to arrest a person for a breach of a Protection Order, the officer must take into account:
  - The risk to the safety of any protected person if the arrest is not made.
  - The seriousness of the alleged breach.
  - The length of time since the alleged breach occurred.

### **Northland Police Family Violence Best Practice Guidelines 2007-2008**

35. These guidelines were in force at the time Ms Edwards made both complaints. They state that:
  - If a breach of Protection Order has been committed then arrest action is to be taken.
  - Victim and child safety is paramount.
  - A Family Violence Report must be completed. Where an offender is not present then the Family Violence report is to be submitted to the next shift for urgent attention.
36. No warnings for breach of a Protection Order are to be given at the scene. They must only be given after consultation with a supervisor and Family Violence Co-ordinator.

### **THE AUTHORITY'S FINDINGS**

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37. The Authority's investigation has considered the actions of the officers involved with each of Ms Edwards' complaints and whether those actions complied with law, Police policy and best practice.
38. The Authority has also considered Northland District Police practice in place at the time for dealing with complaints of this nature.

### **Police actions relating to the breach of Protection Order on 22 May 2012**

39. Officer D was instructed to interview and arrest Mr Akuhata for breach of a Protection Order. In doing so he overlooked the fact that Mr Akuhata had made threatening phone

calls to Ms Edwards that had been overheard by a third party. He released Mr Akuhata without charge on the basis that there was doubt as to whether Mr Akuhata had actually sent threatening text messages to Ms Edwards.

40. The threatening phone calls that Mr Akuhata had made to Ms Edwards would have been sufficient evidence for Officer D to charge Mr Akuhata with breach of a Protection Order.
41. Officer C, on the basis of Officer D's verbal recommendation, agreed that there was insufficient evidence to proceed with a prosecution of Mr Akuhata. Officer C did not read the file which meant he was unaware of the threatening telephone calls made by Mr Akuhata.
42. Officer B was first informed of Ms Edwards' complaint on 25 May 2012 by Officer A, but the physical file was not received at the Kerikeri station until 8 June. Because his role had no investigative capacity, Officer B referred the file for urgent investigation by another officer. He had no further involvement with the file until 14 June, when he received it back from Officer C.
43. Officer B took note of the reports of Officer D and Officer C, but failed to read the file. As such, he was also unaware of the threatening phone calls made by Mr Akuhata. On this basis he too concluded that there was insufficient evidence to proceed with a prosecution and returned the file to Officer A.
44. The actions of the officers in regards to Ms Edwards' first complaint were unreasonable. They failed to recognise the urgency and significance of the situation, which resulted in undue delay in responding to the complaint. Undue emphasis was placed on the fact that there was doubt over who was responsible for sending the threatening text messages, meaning that the existence of threatening phone calls was overlooked. In addition, no one took proper ownership of the complaint and this was compounded by a breakdown in communication and file management.

#### FINDINGS

The response of the Police to Ms Edwards' first complaint was poorly managed and grossly inadequate.

There was sufficient evidence to prosecute Mr Akuhata under the Domestic Violence Act 1995.

The failure to prosecute Mr Akuhata was a breach of Police Family Violence Policy and Procedures.

The Police failed to undertake any significant action with regards to Ms Edwards' complaint between 25 May and 8 June 2012.

### Police actions relating to the breach of Protection Order on 26 May 2012

45. Officer E responded to Ms Edwards' second complaint on 26 May 2012. He issued Mr Akuhata with a warning for breach of a Protection Order.
46. The content of the text messages from Mr Akuhata to Ms Edwards provided sufficient evidence to arrest and prosecute Mr Akuhata under the Domestic Violence Act 1995. Officer E was aware of this but still failed to charge Mr Akuhata.
47. Officer E also breached Northland Family Violence Best Practice Guidelines 2007-2008, which stated that no warnings for breach of a Protection Order were to be given at the scene and that a Family Violence report must be submitted. The justifications that Officer E offered for his decision to warn Mr Akuhata were not sufficient.

#### FINDINGS

The response of the Police to Ms Edwards' second complaint was inadequate.

There was sufficient evidence to prosecute Mr Akuhata under the Domestic Violence Act 1995.

Issuing Mr Akuhata with a warning was a breach of Northland Family Violence Best Practice Guidelines 2007-2008.

### Northland District Police Practice

48. In addition to identifying shortcomings in the specific actions of certain officers, the Authority's investigation found that there was a failure amongst all of the Police involved in this case to take proper ownership of Ms Edwards' first complaint and to appreciate the urgency and significance of the situation. This is especially stark given Mr Akuhata's history of violent offending and Ms Edwards' well-founded fear of further victimisation.
49. The investigation of Ms Edwards' first complaint was delayed, in part, by the poor management of the physical file and associated documents. There appears to be no explanation for this other than error and general confusion as to who was supposed to be dealing with the file.
50. There was also an obvious breakdown in file management that meant the details of the first complaint were not available to the officer investigating the second complaint.
51. The lack of support for the Family Violence Co-ordinators, the dearth of family violence training opportunities for frontline staff, the incorrect coding of family violence incidents and a lack of supervisor oversight all indicate that, within the Northland District, family violence incidents were not treated with the sense of urgency that they properly required. Ultimately this undermined people's safety.

52. Law and Police policy require Police to ensure the safety of all parties in a family violence incident, especially victims and children. The need for urgency in this case was emphasised by Ms Edwards and support agencies, but various shortcomings within Northland district meant that this was not recognised.

**FINDING**

The failure of Police to react in a timely and appropriate manner amounted to a failure to ensure Ms Edwards' safety.

**SUBSEQUENT ACTION**

53. The Authority notes and endorses the actions taken following this incident to improve the Police response to family violence incidents in the Northland District. These include:
- Undertaking a District-wide quality assurance review of family violence policy and practice.
  - Appointing a District Victim Manager, whose role is to focus on ensuring a coordinated approach to vulnerable victims throughout the district.
  - Reducing the amount of hands-on work required of the Family Violence Co-ordinators. Their role is now to oversee and remotely monitor family violence files within their Districts.
  - Introducing a tasking system for files where an offender is still outstanding. The system ensures that there will always be an officer responsible for any given file and enables timely intervention in family violence cases.
  - Ensuring that where a family violence offence has taken place, and a Police officer is considering not charging the alleged offender, that the consent of a Senior Sergeant is sought.
  - Introducing new initiatives that focus on repeat victims, including victims of family violence.
  - Establishing a file management system so that frontline staff are not responsible for administration of files.
  - Ensuring that the transfer of files from one area to another is tasked effectively.
  - Establishment of a District Command Centre which will further enable a timely response to family violence incidents.



- Establishment of the Whangarei Area Prevention Team, whose duties include reducing victimisation and actively preventing family violence. A similar Area Prevention Team is planned for the far North Area.
- Continued provision of family violence training to supervisors and frontline staff.
- Reviewing and updating the national policy in regard to the service of Protection Orders.

## CONCLUSIONS

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54. 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 was contrary to law, unreasonable, unjustified, unfair, or undesirable. Section 27(2) enables the Authority to make recommendations.
55. In terms of s.27(1) of the Independent Police Conduct Authority Act 1988, the Authority has formed the opinion that:
- The Police decisions not to prosecute Mr Akuhata for either breach of the Protection Order were unjustified.
  - The failure of Police to properly investigate both complaints and take into account Mr Akuhata's escalating history of violence towards Ms Edwards amounted to a failure to ensure her safety. This was unjustified.
  - The overall response of the Northland Police to both of Ms Edwards' complaints was inadequate and unreasonable.
56. The Authority notes the significant changes currently being implemented by Northland District in relation to Family Violence cases since the death of Ms Edwards. Due to the steps taken by Police, the Authority does not make any recommendations.



JUDGE SIR DAVID CARRUTHERS

CHAIR

INDEPENDENT POLICE CONDUCT AUTHORITY

19 December 2013

# About the Authority

## WHO IS THE INDEPENDENT POLICE CONDUCT AUTHORITY?

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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 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?

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

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

On completion of an investigation, the Authority must form an opinion on whether any Police conduct, policy, practice or procedure (which was the subject of the complaint) was contrary to law, unreasonable, unjustified, unfair, or undesirable. The Authority may make recommendations to the Commissioner.



**IPCA**

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