

Independence

trustworthiness

accountability

vigilance

integrity

Fatal Police shooting of Antony Ratahi

AUGUST 2014



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Introduction

INDEPENDENT POLICE CONDUCT AUTHORITY

1. At around 10.20am on Saturday 16 July 2011, a Police officer shot and killed Antony Roydon Roa Ratahi at the Headlands Hotel in Opunake, Taranaki.
2. Mr Ratahi had taken his ex-partner, Ms Z, hostage at the hotel at about 9.45pm on Friday 15 July 2011. The shooting occurred the next morning when Police took action to rescue the hostage and arrest Mr Ratahi.
3. The Police notified the Independent Police Conduct Authority of the shooting, and the Authority conducted an independent investigation.
4. The Police carried out a separate investigation, which determined that no criminal charges should be laid against the officer who fired the shot.
5. The Authority's investigation considered matters of Police conduct, and compliance with relevant laws and Police policies, practices and procedures. This report sets out the results of that investigation, and makes findings.
6. The Authority has examined issues relating to the steps taken by Police to protect Ms Z before this incident occurred; the arming of officers; the deployment of the Armed Offenders Squad, Police Negotiation Team and Special Tactics Group; command and control of the Police response; whether tactical options other than the use of firearms were available and considered; whether the shooting of Mr Ratahi was justified; whether Police actions immediately after the shooting were appropriate; and whether Police should have used family members to negotiate with Mr Ratahi.

Glossary of terms

Abbreviation/term	Explanation
AOS	Armed Offenders Squad
AOS/STG Team	A group of STG and AOS officers tasked with rescuing the hostage and apprehending Mr Ratahi.
CentComms	Police Central Communications Centre
ESR	Institute of Environmental Science and Research
Fire orders	An explanation of the circumstances under which Police may use firearms – see paragraphs 226-228 for policy.
Forward commander	The AOS or STG officer in charge of the cordon around the hotel.
Incident controller	The officer responsible for managing the Police response to an incident. Under Police radio protocols, the communications centre shift commander is the incident controller until that role is formally handed to a field commander.
PNT	Police Negotiation Team
Safe Forward Point	A gathering point for briefings, and the allocation of roles and equipment.
Shift commander	The senior officer at a Police communications centre, usually ranked Inspector.
STG	Special Tactics Group
Tactical commander	The AOS or STG Commander – responsible for overseeing the Police's tactical response.

Index of officers

Field Staff	Roles/Comment
Officer A	Family Violence Co-ordinator for the Taranaki Rural Area PNT member
Officer B	First officer to attend the incident
Officer C	Sergeant Appointed as incident controller
AOS Officer D	Detective sergeant Second-in-command of New Plymouth AOS Forward commander until the arrival of the STG
STG Officer E	Sergeant Second-in-command of STG Team Leader of STG Team 1 Forward commander
STG Officer F	Deputy Team Leader of STG Team 1 Shot Mr Ratahi STG Medic
STG Officer G	STG Team 1
STG Officer H	STG Team 1 STG Medic
STG Officer I	STG Team 1 Taser

STG Officer J	Team Leader of STG Team 2 Taser
STG Officer K	Deputy Team Leader of STG Team 2
STG Officer L	STG Team 2
STG Officer M	STG Team 2
AOS Officer N	Wanganui AOS
AOS Officer O	Wanganui AOS
AOS Officer P	Acting officer in charge of the Wanganui AOS
AOS Officer Q	Wanganui AOS STG-trained – joined STG Team 2 Taser
STG Intelligence Officer	Obtained and managed information of tactical relevance for the STG Commander
AOS dog handler	Wanganui AOS Deployed Police dog
CentComms shift commander	Inspector Initial incident controller until Officer C took over at 10.58pm Remained in a support role as the incident progressed
AOS Commander	Sergeant Officer in charge of New Plymouth AOS Tactical commander until the arrival of the STG
PNT Commander	Detective senior sergeant Officer in charge of New Plymouth PNT
STG Commander	Inspector Officer in charge of the STG Tactical commander
National Commander: Tactical Groups	Superintendent Sought authorisation for deployment of the STG Contacted National PNT Commander
National PNT Commander	Detective inspector Provided advice to National Commander: Tactical Groups and PNT at the scene
Area Commander	Senior sergeant, but acting inspector at the time Acting Area Commander for the Taranaki Rural Area Took over as incident controller upon his arrival at the scene
District Commander	Acting superintendent Acting District Commander: Central
Acting Assistant Commissioner: Operations	Superintendent Gave authorisation for deployment of the STG
Police investigator	Detective senior sergeant based in Central District Officer in charge of initial Police investigation

Timeline of events on 15 and 16 July 2011

Time (approx)	Event/Comment
15 July 2011	
9.45pm	Mr Ratahi takes Ms Z hostage at the Headlands Hotel at Opunake. He presents a gun and demands that everyone else leave the building. Officer B notifies CentComms of the hostage incident and officers are dispatched to attend.
9.50pm	The New Plymouth AOS and PNT are called out to attend the incident. CentComms contacts the STG Commander.
11.00pm	Officer C is appointed incident controller. The New Plymouth AOS and PNT arrive at Opunake. The AOS take control of the inner cordon, with the AOS Commander as the tactical commander. The PNT sets up the AOS command vehicle.
16 July 2011	
12.22am	The PNT begins calling Mr Ratahi but he does not answer his cellphone.
12.33am	Mr Ratahi answers a call from the PNT. He says he has hostages and is not giving himself up.
12.39am	Mr Ratahi demands \$100,000 and threatens to shoot a hostage.
1.15am	The Wanganui AOS are called out to attend the incident.
2.00am	The AOS Commander calls the STG Commander, and the STG are called out to attend the incident.
2.30am	The National Commander: Tactical Groups obtains authorisation from the Acting Assistant Commissioner: Operations to deploy the STG to Opunake.
2.41am	Mr Ratahi and Ms Z are seen in the restaurant area of the hotel by AOS officers in the cordon.
3.51am	The National Commander: Tactical Groups contacts the National PNT Commander for advice.
4.10am	The National PNT Commander and the PNT Commander at the scene discuss the incident. They decide to reduce the number of calls being made to Mr Ratahi.
4.15am	A loud bang from inside the hotel is heard by AOS officers in the cordon. Mr Ratahi denies that it was a gunshot.
4.30am	The National Commander: Tactical Groups contacts the CentComms shift commander to discuss the command structure at the scene.
4.40am	The CentComms shift commander advises the Area Commander and District Commander of the incident. The PNT Commander calls out two more PNT officers, including Officer A, to assist.
5.35am	The Area Commander arrives in Opunake and takes over from Officer C as incident controller.
5.55am	The STG arrives at Opunake and the STG Commander is briefed on the progress of the incident.
6.26am	The STG is briefed. The STG Commander becomes the tactical commander (taking over the role from the AOS Commander).
7.40am	The STG positions itself near the reception entrance to the hotel's main building.
8.00am	Officer A takes over as the primary negotiator. Subsequently Police formulate a plan to arrest Mr Ratahi and rescue the hostage if given the opportunity.
9.50am	The Area Commander briefs the District Commander and an Assistant Commissioner.

10.05am	The Area Commander attends a briefing with the STG Commander, the PNT Commander and the AOS Commander. They decide to go ahead with the plan to apprehend Mr Ratahi.
10.19am	Mr Ratahi comes out of the hotel. A Police dog is deployed but Mr Ratahi is able to re-enter the hotel. STG officers follow him inside.
10.20am	STG Officer F fires a shot which kills Mr Ratahi. The STG officers clear the hotel building and paramedics are brought in to confirm that Mr Ratahi has died.
10.55am	The STG Commander begins his walkthrough of the scene and speaks to each STG officer.
11.30am	One of Mr Ratahi's daughters calls Police from Auckland and asks to speak to the officer in charge of the hostage incident. The Area Commander calls her and says he will get another officer to contact her.
11.45am	The STG Commander hands the scene over to the Police investigation team.
2.00pm	Officer A notifies Mr Ratahi's family of the death.



Background

INDEPENDENT POLICE CONDUCT AUTHORITY

ANTONY ROYDON ROA RATAHI

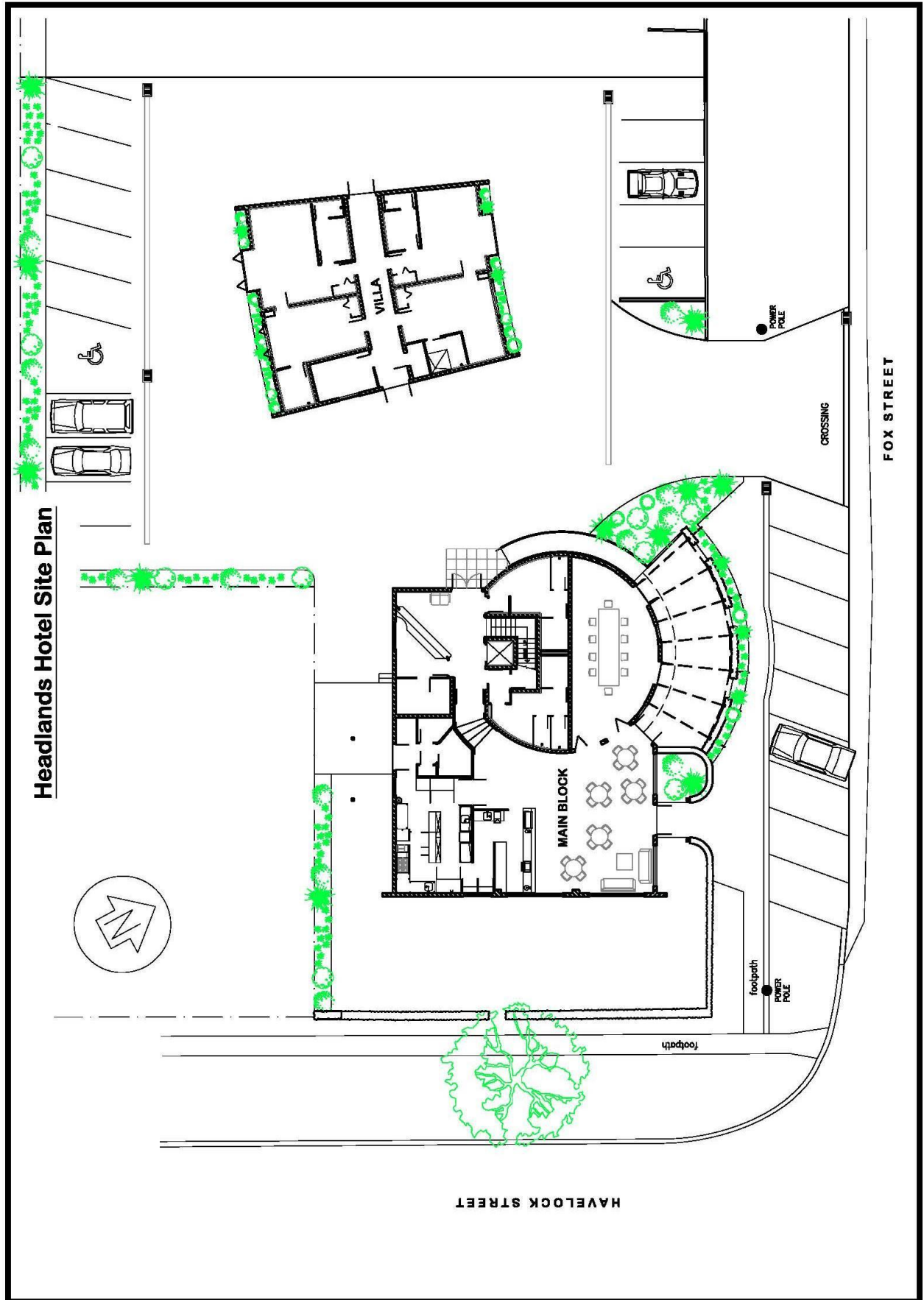
7. In July 2011 Antony Ratahi was released from prison after serving a three-month sentence for assaulting his former partner, Ms Z.
8. Mr Ratahi had a history of family violence, drug addiction and mental health issues. His Police database profile contained 10 of the 12 possible types of alerts, including warnings related to firearms, mental health, drugs, and suicidal tendency.
9. Mr Ratahi and Ms Z had been together for about two years prior to her ending the relationship around March 2011. Mr Ratahi showed obsessive, stalking behaviour towards Ms Z and trespass orders were taken out against him for Ms Z's home and for her workplace, the Headlands Hotel in Opunake. A number of violent incidents occurred during and after the relationship, some of which were reported to Police. The Family Violence Co-ordinator for the Taranaki Rural Area, Officer A, was aware of the ongoing problems and attempted to provide assistance and support to Ms Z.
10. Ms Z obtained a protection order against Mr Ratahi following an incident on 5 May 2011 when he attempted to strangle her and held a knife to her throat. Mr Ratahi subsequently pleaded guilty to charges of injuring with intent to cause grievous bodily harm and assault with a weapon. While in prison, Mr Ratahi breached the protection order numerous times by writing letters and making phone calls to Ms Z.
11. Police prepared a 'Safety Plan' for Ms Z in preparation for Mr Ratahi's release on 6 July 2011. The plan included setting up alarms at her house; liaising with her employer, the Headlands Hotel; circulating intelligence about Mr Ratahi to South Taranaki Police stations; and arranging for an urgent response from local Police if called out to an incident involving Ms Z.
12. Shortly after his release from prison Mr Ratahi was charged with breaching the protection order because of his attempts to contact Ms Z. He was bailed with conditions, including that he was not to go to Opunake and was to reside in Stratford.

13. Over the next week Mr Ratahi contacted some of his friends and attempted to obtain a firearm. He only managed to acquire a Crosman CO₂ gas-operated pistol (referred to in this report as an 'air pistol'), which looked like a revolver.
14. Mr Ratahi's behaviour after his release from prison indicated to his family and friends that he was not coping well. On the evening of Friday 15 July 2011, Mr Ratahi spoke to some friends and family members, saying that he could not live without Ms Z. He made other comments that were later interpreted to be goodbyes (such as asking people to look after his daughters), and stated that he was not going back to prison.

SUMMARY OF EVENTS

Commencement of the hostage situation

15. At around 9.45pm on Friday 15 July 2011, Mr Ratahi arrived at the Headlands Hotel on the corner of Fox Street and Havelock Street in Opunake, in breach of the protection order and his bail conditions.
16. The Headlands Hotel is a three-level building. The ground floor includes the kitchen and the restaurant/café area, which is linked by some steps down to the reception area for the hotel. The circular accommodation building of the hotel has three suites on the first floor and two on the top floor. Four more accommodation suites are located in a separate single-level building (referred to in this report as 'the villa') across from the reception entrance to the hotel. The following diagram shows the ground floor of the hotel and the location of the villa.



Headlands Hotel Site Plan

17. The main building can be entered on the ground floor through: (i) the restaurant doors at the front of the building; (ii) the side entrance into the hotel reception area; or (iii) the rear kitchen entrance.
18. Ms Z was working as a waitress in the restaurant. Mr Ratahi entered the building through the rear kitchen entrance and approached Ms Z who was cleaning up an area of the restaurant that had been vacated. Eleven customers and two other restaurant staff were in the hotel at the time.
19. One of the restaurant staff recognised Mr Ratahi and called the Police. Officer B was on duty in Opunake and was dispatched to attend the incident, which was initially identified as a trespass event. Officer B was aware of the Police's safety plan for Ms Z and knew that the offender was very likely to be Mr Ratahi. He immediately drove to the Headlands Hotel.
20. Mr Ratahi began talking to Ms Z and after a short time he brought out the air pistol and demanded that all the other people in the restaurant leave, or they would be shot.
21. Officer B arrived soon afterwards and saw some people who had fled the hotel. They told him that the man inside had a gun. Officer B could see into the restaurant area of the hotel from the street and he identified the offender as Mr Ratahi. At this stage the gun was thought to be a real firearm rather than an air pistol.
22. Once everybody else had left the hotel, Mr Ratahi took Ms Z around the ground floor of the building and had her lock all the doors and windows and turn off the lights. At one point he hit her with a metal bar because he believed she was being too slow.
23. Mr Ratahi then took Ms Z to the top floor of the hotel and forced open the locked doors to the two accommodation suites. They entered one of the suites and Mr Ratahi set up a barricade at the top of the stairs.

Initial Police response

24. Meanwhile Officer B called for assistance over the Police radio at around 9.50pm, advising the Police Central Communications Centre (CentComms) that there was a hostage situation. CentComms also received a number of calls about the incident from people who had been in the restaurant when Mr Ratahi arrived.
25. Two Highway Patrol officers were near Opunake and drove to the scene. Two off-duty officers who lived in Opunake were recalled to duty and also attended the scene, as did officers from Hawera, Stratford and New Plymouth. The attending officers armed themselves and were issued with fire orders (which are a reminder of the circumstances under which Police may use firearms – see paragraphs 226-228 for policy).

26. Officer C, a sergeant at the Hawera Police Station, heard about the incident and decided to drive to the scene. On the way to Opunake he gave directions over the radio to other officers about setting up cordons and observation points. Shortly after Officer C's arrival at the scene, at around 10.58pm, the CentComms shift commander appointed him to be the incident controller.
27. Police policy and practice requires that the first officers responding to an armed incident move, within the available resources, to cordon the area. Cordons are set up to contain the offender, to keep people and vehicles out, and to clear streets and buildings. When AOS members arrive they take responsibility for containing the offender. Until they arrive, that responsibility rests with general duties staff, who maintain positions from which to provide information to the Communications Centre and the Incident Controller.
28. Armed general duties officers arrived at the hotel and cordoned the area, with the aim of containing Mr Ratahi inside the building. After some uncertainty regarding whether Mr Ratahi was trying to leave the area, Mr Ratahi and Ms Z were seen inside the hotel. A stand-off ensued.

Deployment of the AOS and PNT

29. At about 9.50pm, a sergeant from New Plymouth had contacted the Armed Offenders Squad (AOS) Commander and advised him about the hostage incident at the Headlands Hotel in Opunake. The AOS Commander paged the New Plymouth AOS and Police Negotiation Team (PNT) to attend the incident and CentComms were informed that this had been done.
30. The CentComms shift commander did not at this stage notify the Acting Area Commander for the Taranaki Rural Area or the Acting Central District Commander (referred to in this report as the Area Commander and the District Commander) about the hostage incident. This is discussed further in the Authority's findings at paragraphs 159-163.
31. At the New Plymouth Police Station, the AOS Commander read information about Mr Ratahi from the Police database, including notings that Mr Ratahi was believed to be in possession of a .223 calibre assault rifle and was subject to a protection order in respect of Ms Z. The AOS Commander issued fire orders in the AOS squad room and briefed the officers who had responded to the AOS 'call-out' page. He advised that their mission was firstly to secure the release of Ms Z, and secondly to arrest Mr Ratahi.
32. The New Plymouth AOS arrived at Opunake by 11.00pm and, after a briefing, took control of the cordon around the Headlands Hotel.
33. Officer C remained the incident controller and was responsible for the overall management of the incident. The AOS Commander was the tactical commander,

responsible for overseeing the AOS operations and providing advice about potential tactical resolutions to the hostage situation. Officer C and the AOS Commander were based at the Safe Forward Point,¹ which was the Opunake Police Station. The New Plymouth PNT set up the AOS command vehicle at the Safe Forward Point; equipment in the AOS command vehicle enabled Police to record AOS radio transmissions as well as any contact they had with Mr Ratahi during negotiations.

34. The AOS's strategy, in accordance with Police standard operating procedures, was to cordon and contain Mr Ratahi inside the hotel and communicate with him in an attempt to resolve the situation. AOS Officer D also prepared and obtained approval from the AOS Commander for a response plan, which set out tactics for the AOS officers in the cordon if it became necessary to take immediate action to protect the hostage and arrest Mr Ratahi.
35. At around 12.20am on Saturday 16 July 2011, the PNT (with one officer as primary negotiator and another as secondary negotiator) began attempting to make contact with Mr Ratahi. The initial calls and text messages sent to Mr Ratahi's and Ms Z's cellphones were not answered.
36. AOS Officer D then attempted to communicate with Mr Ratahi from the cordon through his Police vehicle's loud hailer, and at 12.33am Mr Ratahi answered a call on his cellphone from the PNT. He sounded agitated and told the PNT negotiator that he was not going to give himself up. He also referred to his "hostages", implying that he had more than one, but did not mention any names. The call ended quickly. Although Mr Ratahi said he had multiple hostages, Police were quite sure from speaking to the witnesses that everyone else had left the hotel and Ms Z was the only hostage.
37. The PNT made contact with Mr Ratahi again at 12.39am. Mr Ratahi said he wanted \$100,000 in cash by 10.00am, or he would shoot one of his hostages. Once again he ended the call quickly.
38. As the night went on Police continued to attempt to communicate with Mr Ratahi through calls to his cellphone and use of the loud hailer, and he made more threats to harm his "hostages" and Police officers. At times Mr Ratahi yelled abuse and threats from inside the hotel towards Police in the cordon, including threats to shoot officers if they came closer.
39. Ms Z later informed Police that Mr Ratahi told her he had planned to take hostages so that he could get money for his family and leave them "something good". She believed that Mr Ratahi wanted everyone to know he had a gun so that Police would shoot him.

¹ A Safe Forward Point is a gathering point for briefings, and the allocation of roles and equipment.

40. At 1.15am the Wanganui AOS were called out to provide support to the New Plymouth AOS. They arrived at Opunake about two hours later. Once the AOS Commander had briefed them about the circumstances of the hostage incident and issued fire orders, they joined the New Plymouth AOS officers in the cordon around the hotel.

Deployment of the STG

41. The Special Tactics Group (STG) is a specialist Police unit. STG members have expertise in and access to a wide range of tactics, weapons and equipment. They are trained to handle high-risk operations, including incidents involving hostage rescues and armed offender incidents beyond the capability or sustainability of the AOS.
42. CentComms first contacted the officer in charge of the STG (the STG Commander) at around 9.55pm on 15 July 2011, when the hostage situation at Opunake was still in its very early stages. The STG Commander realised that CentComms did not yet have much information about what was happening at the scene, and directed that the AOS Commander should contact him once it was established whether or not the STG was required.
43. At around 2.00am on 16 July 2011, the STG Commander received a call from the AOS Commander who updated him on the progress of the hostage incident. The STG Commander decided to send STG officers to Opunake to assist the AOS. He contacted his second-in-command, STG Officer E, and directed him to call out the STG.
44. STG Officer E phoned the STG officers and advised them that there was a hostage situation in rural Taranaki involving one male offender and one female hostage. He directed them to go to the STG base immediately.
45. Meanwhile the STG Commander called the National Commander: Tactical Groups, briefed him on the situation at Opunake and sought approval to deploy the STG. The National Commander: Tactical Groups then contacted the Acting Assistant Commissioner: Operations and obtained authorisation to deploy the STG to Opunake.
46. At the time, Police policy stated that the partial deployment of the STG in an “*emergency situation*” had to be authorised by the Commissioner of Police (or the Deputy Commissioner if the Commissioner is not available) rather than the Assistant Commissioner: Operations.² This issue is discussed further in paragraphs 155-157.

² This was a “*partial deployment*” because only one STG group was being deployed, rather than all of them. The policy’s definition of “*emergency situation*” included hostage rescues involving armed offenders.

47. The STG officers arrived at the STG base and prepared to deploy to Opunake. STG Officer E briefed them about the incident. Amongst other things, he advised that:
- i) Mr Ratahi was believed to have a long barrelled pistol, or something similar;
 - ii) he and his hostage were inside a multi-level hotel;
 - iii) he had made threats to harm his hostage and Police; and
 - iv) the AOS were at the scene and negotiation was underway, however the negotiation process was not going well and it was believed that the involvement of the STG might be necessary.
48. The STG officers divided into two teams, consisting of:
- i) Team 1: This team had five members and travelled up to Opunake with the STG Commander in a civilian helicopter. STG Officer E was the Team Leader and STG Officer F was the Deputy Team Leader. STG Officers G, H, and I made up the rest of the team.
 - ii) Team 2: This team had four members and travelled up to Opunake in a New Zealand Defence Force helicopter. Team 2 consisted of STG Officer J (the Team Leader), STG Officer K (the Deputy Team Leader), and STG Officers L and M. They were accompanied by an STG Intelligence Officer and left Wellington shortly after Team 1.
49. In addition, four Wellington AOS officers were tasked with driving up to Opunake with equipment that the STG may require for a prolonged hostage incident.

Ongoing contact with Mr Ratahi

50. In the meantime the PNT persisted in attempting to negotiate with Mr Ratahi but did not make much progress. Mr Ratahi continued to be agitated and was not receptive to the Police's communications with him.
51. At 2.41am, AOS officers in the inner cordon sighted Mr Ratahi and Ms Z at the restaurant doors at the front of the hotel. They saw a door open and close, and observed Mr Ratahi dragging Ms Z back inside the hotel. Ms Z later told Police that Mr Ratahi had told her she could go but then changed his mind and threatened to kill her for trying to leave.
52. At around 3.51am the National Commander: Tactical Groups contacted the National PNT Commander and consulted him about the hostage situation. From the information he was given, the National PNT Commander believed there was a high risk of further violence given Mr Ratahi's history, his behaviour during the communications with Police, the fact he had sought Ms Z out at her workplace, and the fact he had said goodbye to family

members (Police were aware of the comments he had made to family members just before the hostage incident began; see paragraph 14).

53. At 4.10am the National PNT Commander discussed the situation over the phone with the New Plymouth PNT Commander, who was at the scene in Opunake.³ They agreed that Mr Ratahi was a significant risk to himself and Ms Z, and the National PNT Commander suggested that the PNT negotiators reduce the number of phone calls they were making to Mr Ratahi. The PNT decided to follow this advice.
54. At around 4.15am AOS officers on the cordon heard a loud bang inside the hotel which they believed to be a gunshot. The PNT called Mr Ratahi and asked about the noise but he denied that it was a gunshot. He was extremely angry at this point and demanded the money he had asked for, saying *"... if I don't get my money there will be bodies on the street."*

Area Commander and District Commander notified

55. At around 4.30am the National Commander: Tactical Groups spoke with the CentComms shift commander and suggested that the level of command at the scene should be upgraded.
56. At 4.40am the CentComms shift commander notified the Area Commander about the hostage incident at Opunake. The District Commander was also notified shortly afterwards. The Area Commander travelled to the scene.
57. Around this time the PNT Commander decided to call in two more PNT members in order to relieve the PNT negotiators who had been working all through the night. One of the two PNT officers who were called in was Officer A, the Family Violence Co-ordinator for the Taranaki Rural Area who was familiar with Mr Ratahi's background (see paragraph 9).

Arrival of the Area Commander and STG

58. The Area Commander arrived at Opunake at around 5.35am and received a briefing from the incident controller, Officer C. The Area Commander then took over from Officer C as the incident controller and advised CentComms.
59. The Area Commander already knew of Mr Ratahi and the family violence concerns regarding his relationship with Ms Z. He believed that Mr Ratahi was a very high risk offender and had major concerns for Ms Z's safety.

³ There was a plan for the National PNT Commander to travel down to Opunake with another group of STG officers, who were going to be deployed to assist the STG teams who were already there. They made preparations to fly to the scene, but the incident ended before they could be deployed.

60. At around 5.55am the STG arrived at Opunake and went to the Safe Forward Point at the Opunake Police Station. The STG Commander received a briefing from the AOS Commander and the PNT Commander, and was advised on the progress of the negotiations, including the threats and demands made by Mr Ratahi. The Area Commander, Officer C and STG Officer E were also present at this briefing.
61. The STG Commander directed STG Officer E to prepare a written plan, which was approved by the incident controller. This plan set out actions to be taken if Mr Ratahi's behaviour suddenly demanded an immediate Police response.
62. At 6.26am the STG officers were briefed on the response plan, and at 6.45am the Area Commander briefed the District Commander about the incident over the phone. Around this time the STG Commander arranged for the tactical command post to be moved from the Opunake Police Station to the Fire Station nearby, which had more space and resources.
63. From this point on the STG Commander took over tactical command from the AOS Commander and assumed responsibility for providing a resolution to the hostage situation.
64. As the incident controller, the Area Commander retained overall command of the incident. He relied on the STG Commander's expert advice regarding the best way to use the AOS and STG in order to safely bring the incident to an end, but had the final say regarding any planned operations.
65. The STG Commander tasked the AOS Commander with obtaining more AOS officers to relieve the New Plymouth and Wanganui AOS officers in the cordon if the incident continued. Subsequently the AOS Commander arranged for support to be provided from the Palmerston North and Hamilton AOS.
66. STG Teams 1 and 2 were given fire orders and deployed to the cordon around the Headlands Hotel so that they would be able to take immediate action to rescue the hostage and/or arrest Mr Ratahi if required. By 7.40am both teams were positioned at the villa opposite the reception entrance to the hotel's main building (see the diagram on page 11). The villa was the only location near the main hotel building where the AOS and STG officers could conceal themselves from Mr Ratahi.
67. The Headlands Hotel building posed tactical problems for the AOS and STG due to its size, its multiple levels, and the fact that Mr Ratahi was able to see the Police's movements around the hotel from the top floor. Police also could not be certain of the locations of Mr Ratahi and Ms Z within the building and were conscious of the time it would take to find them if Police had to enter the hotel.

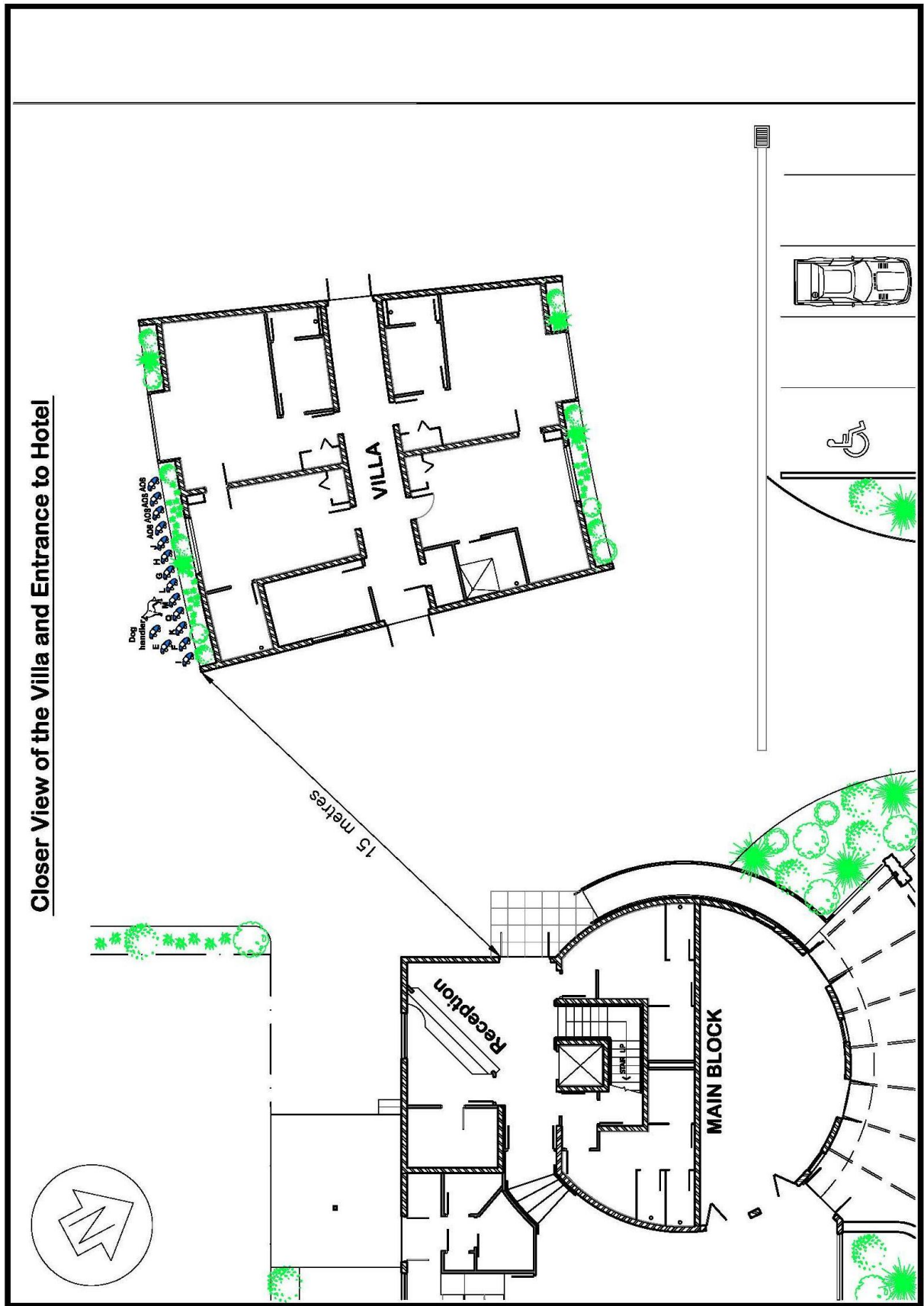
Further negotiations with Mr Ratahi

68. As described above, Police had intermittent contact with Mr Ratahi through the night. At around 8.00am one of the PNT negotiators called Mr Ratahi to introduce Officer A as the new primary negotiator for Police. It was thought that Officer A may be able to establish a rapport with Mr Ratahi due to their previous interactions with each other.
69. The PNT instructed Officer A to try to establish whether there were in fact any other hostages apart from Ms Z, to determine whether Ms Z was safe, and to identify a way to entice Mr Ratahi out of the building.
70. Mr Ratahi continued to mention multiple hostages during his conversations with Officer A, however Officer A believed that if Mr Ratahi did have more hostages he would have given their names to Police to strengthen his bargaining position. At one point Officer A persuaded Mr Ratahi to let him speak to Ms Z over the phone and she advised him that she was fine.
71. Mr Ratahi said he would not release Ms Z until he was given the \$100,000 he had requested. He also asked for cigarettes and a top-up card for his cellphone.
72. Meanwhile, from 8.23am to 8.42am, officers in the cordon saw Mr Ratahi on the ground floor of the hotel yelling and waving a pistol around. He then went upstairs and shouted from a window *"Don't point that thing at me, I will shoot you first"*.

Plan to apprehend Mr Ratahi and rescue the hostage

73. Throughout the hostage incident Police had gathered information about Mr Ratahi and conducted risk assessments. Police came to believe that there was a high risk that Ms Z would be harmed during the incident and that it may end in a murder-suicide. Some of the main risk factors, which were conveyed to the AOS and STG officers during briefings, were that:
 - i) Mr Ratahi was armed with a gun and making demands with a specific deadline;
 - ii) he had just got out of prison and had a history of violence with Ms Z;
 - iii) the hostage-taking appeared to have been planned;
 - iv) Mr Ratahi was angry and aggressive and had not been willing to talk to Police;
 - v) he had made explicit threats to shoot Police and his *"hostages"*; and
 - vi) he was believed to be suicidal.

74. Shortly after Officer A began speaking to Mr Ratahi, the Area Commander and STG Commander were advised that Mr Ratahi wanted cigarettes.
75. Police developed a plan to safely arrest Mr Ratahi and free the hostage unharmed if Mr Ratahi came out of the building for cigarettes. The safety of the hostage was pivotal to the plan, and the Police response would vary depending on whether Mr Ratahi and Ms Z came out of the building together or one of them came out alone.
76. The STG Commander and Area Commander approved the plan, and at 9.50am the Area Commander briefed an Assistant Commissioner and the District Commander by phone.
77. At 10.05am the Area Commander commenced a briefing with the STG Commander, the PNT Commander, and the AOS Commander. They discussed the risks and agreed that the plan should go ahead, because it was the best option to resolve the hostage situation given the circumstances at the time.
78. Nine STG officers and nine AOS officers were directly involved in the plan to arrest Mr Ratahi. Fifteen of the officers (the AOS/STG Team) positioned themselves alongside the west wall of the villa, where they could not be seen from the main hotel (see the diagram on page 21). The other three officers (AOS Officers N, O and P) were involved in dropping off the cigarettes for Mr Ratahi and observing the area in front of the villa.



79. STG Officer E and an AOS dog handler with his AOS-qualified dog were beside the line of officers towards the front of the villa; this enabled them to move forward to the corner of the villa and observe the area in front of the reception entrance doors to the main hotel building when necessary.
80. The AOS/STG Team officers were armed with Glock pistols and M4 rifles, as well as ASP batons and OC spray. Three of the officers (STG Officer I, STG Officer J and AOS Officer Q) were also armed with Tasers. Some officers carried equipment that could be used to force entry into the hotel building if necessary.
81. The final decision as to whether Police would take action to arrest Mr Ratahi and/or rescue the hostage rested with STG Officer E. The decision depended on whether STG Officer E believed Police could successfully isolate Mr Ratahi and prevent him from going back into the hotel, and whether they would be able to secure the hostage safely with minimal risk to the officers involved.
82. As agreed with Mr Ratahi, at 10.12am AOS Officer N drove past the hotel's reception entrance doors in a car and dropped the cigarette materials and the lighter out of the driver's window onto the driveway, about eight metres from the hotel doors. He then drove around to the back of the villa.
83. AOS Officers O and P were inside the villa in a location where they could observe the reception entrance, and AOS Officer O was tasked with advising the AOS/STG Team over the Police radio when Mr Ratahi came out of the building.
84. Mr Ratahi and Ms Z came downstairs and were seen in the restaurant area of the hotel by an AOS officer on the cordon. Ms Z later told Police that Mr Ratahi decided to go out and get the cigarettes himself; she believed that he did not want her to go outside because of the risk she would escape or be rescued.
85. At about 10.19am Mr Ratahi came out of the reception entrance doors alone and began picking up the cigarettes from the driveway. AOS Officer O advised the AOS/STG Team, and STG Officer E signalled the AOS dog handler to release his dog.
86. The Police dog ran towards Mr Ratahi, who quickly began to retreat back towards the reception entrance doors. The AOS/STG Team followed closely behind the Police dog and called on Mr Ratahi to surrender, shouting "*Police, don't move*" and "*Stop, armed Police*". Mr Ratahi did not comply with these instructions and continued to run back towards the hotel.
87. The Police dog took hold of Mr Ratahi's left leg but Mr Ratahi was able to drag the dog inside the hotel with him through the reception entrance doors. Mr Ratahi tried to pull the doors shut but the Police dog was still latched onto his leg and got in the way of the

doors. Officers later described seeing Mr Ratahi trying to force the dog to release him by slamming the doors onto the dog's neck and shoulder area. The Police dog appears to have briefly let go of Mr Ratahi at this point.

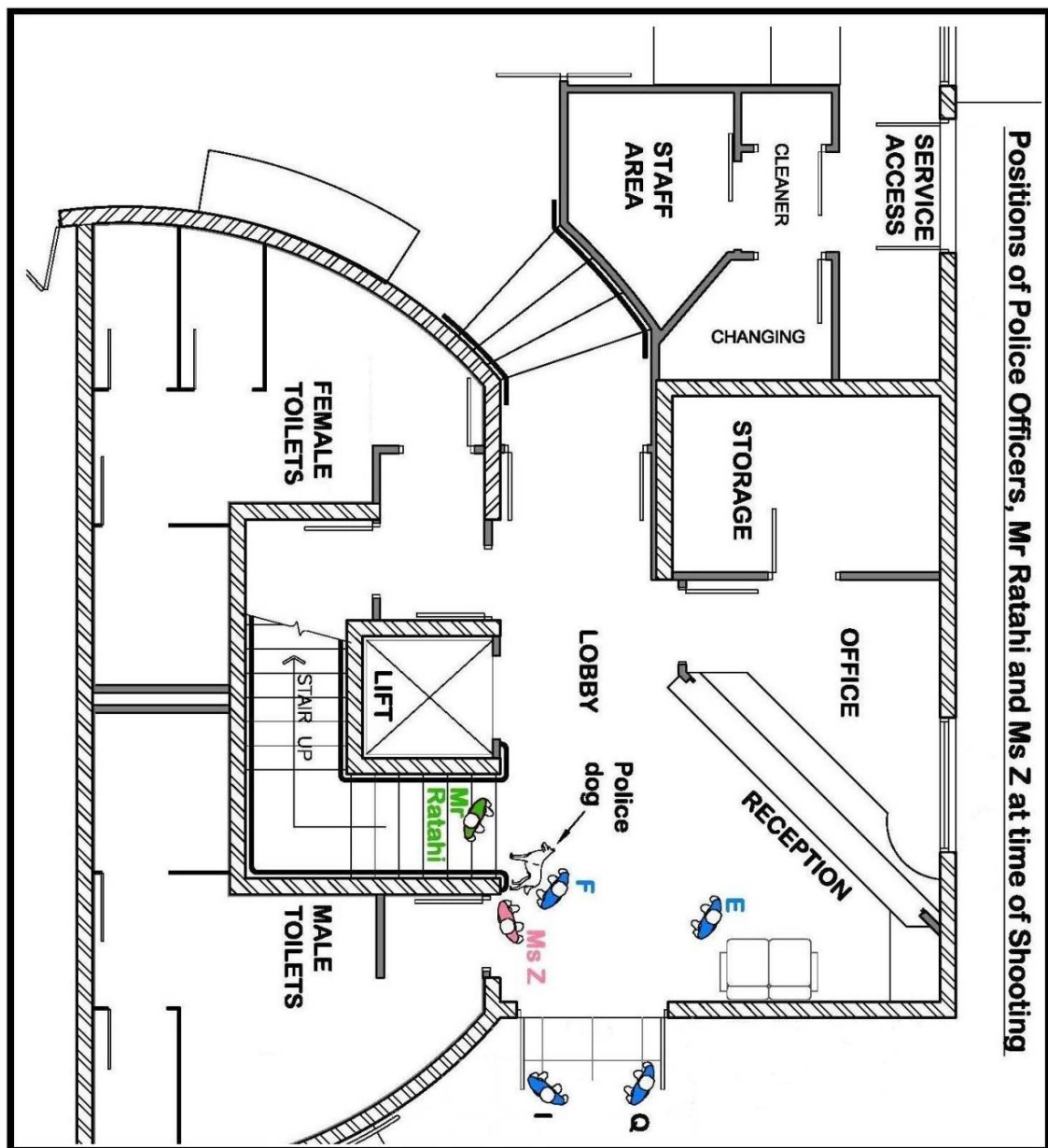
The shooting

88. AOS/STG Team officers arrived at the reception entrance and forced open the doors. STG Officer I held open the left door and AOS Officer Q held open the right door.
89. Ms Z was just inside the doors, to the left and near the stairway leading up to the first floor of the hotel (see the diagram on page 24). Mr Ratahi moved away from the doors and ran towards the stairs.
90. STG Officer E and STG Officer F entered the hotel with their rifles up in the "high ready" position and continued to command Mr Ratahi to surrender.⁴ STG Officer F was near the base of the stairs, and was the closest officer to Mr Ratahi. He saw Mr Ratahi begin to run up the stairs, but then saw him quickly turn around and come back down the steps to the reception area, towards Ms Z and the STG officers. The Police dog was still pursuing Mr Ratahi and grabbed hold of his lower left leg.
91. As Mr Ratahi reached the bottom of the stairs, STG Officer F saw him reach into his jacket. STG Officer E, STG Officer I and Ms Z also saw this. Ms Z later said that she thought Mr Ratahi was trying to get a knife or gun from his pocket. STG Officer F told Police:

"...initially [Mr Ratahi] was running from us and when he turned to face me, he made no attempt to raise his hands and surrender. Instead he was actively trying to retrieve something that I believed to be a gun from his mid section around his pocket or belt area. His left hand went to the centre of his belt area as if to assist in retrieving an item concealed either within his jacket or around his belt mid section."
92. STG Officer F believed that Mr Ratahi was trying to pull out a gun. He also believed that if Mr Ratahi got the gun, then Mr Ratahi would shoot him, his fellow officers, or Ms Z.
93. STG Officer F said that Mr Ratahi made two deliberate attempts to pull something out of his jacket or belt. On the third attempt, STG Officer F aimed his M4 rifle and fired a single shot that struck Mr Ratahi in the head. Mr Ratahi instantly fell face down on the floor.

⁴ The "high ready" position is when the person holds the rifle to his or her shoulder with the sights just below eye level – it enables the person to aim the rifle quickly when a threat arises.

94. STG Officer F later said that Mr Ratahi was about 2.5 metres away from him when he fired the shot. The shot was fired within seconds of STG Officer F entering the reception area of the hotel.
95. The issue of whether STG Officer F was justified in firing this shot is discussed further in paragraphs 178-193.



Events immediately after the shooting

96. At 10.22am the STG Commander and Area Commander were advised that Mr Ratahi had been shot.
97. More officers from the AOS/STG Team entered the reception area of the hotel and began clearing the building, checking each room to ensure that no other hostages were in the hotel. Ms Z was taken away from the building and assessed by paramedics. The AOS dog handler removed his dog from the scene.
98. STG Officer F and STG Officer H, who were both trained STG medics, attended to Mr Ratahi while the other officers finished clearing the building. They quickly searched Mr Ratahi and found a large kitchen knife tucked into the back of his pants. The two officers considered providing initial first aid but soon determined that Mr Ratahi was already dead.
99. A short time later, after the building had been secured, paramedics were brought in to examine Mr Ratahi and they formally confirmed that he had died.

POST-INCIDENT EVENTS

Handover of the scene

100. Once the STG officers had cleared the hotel building, the STG Commander instructed them to wait in their various locations around the hotel. The STG Commander advised the Area Commander that he would go forward to the scene alone and conduct *“the necessary post entry procedures”* before calling forward the *“appropriate personnel”* (such as the Area Commander and Police investigators).
101. The STG Commander and STG Officer E walked through the building and the STG Commander spoke to each officer to get details of what had occurred. This process took about 50 minutes. After the STG Commander’s walkthrough was completed the STG officers left the building together.
102. The STG Commander gave a briefing to the Area Commander, the PNT Commander and a Police investigator, and conducted another walkthrough of the scene based on the information he had gathered from his officers. The scene was then handed over to the control of the Police investigation team. The handover of the scene is discussed further in paragraphs 195-201.

Alcohol and firearm residue testing of officers

103. At 12.40pm the Police investigator who had attended the walkthrough asked the STG Commander about alcohol testing of the STG officers involved and firearm residue testing

of STG Officer F. The STG Commander said that he was not going to ask his officers to undergo the testing. The Police investigator said in his Police statement:

"... I asked the STG Commander if his staff would undertake an alcohol breath screening test using the roadside breath screening device.

He advised me that they were not required to undertake a breath screening test and therefore would not be made available to do so and that he had total confidence in his team and that they would not have consumed alcohol prior to deployment.

I then asked the STG Commander if the squad member who took the shot would undertake a Firearm Residue Test and he stated that the member would not be required to take a Firearm Residue Test. The member who took the shot had stated to the STG Commander that he had taken the shot, and therefore identified himself to the STG Commander."

104. The STG Commander later explained to the Authority that he objected to the officers being subjected to the alcohol testing because it was not mandatory, and there were no existing policies or guidelines about how the results would be used or what would amount to an unacceptable level of alcohol.
105. STG Officer F said that he had not consumed any alcohol, medication, or illicit substances in the 24 hours prior to his deployment. He also said that, if he had been asked, he would have undergone the testing to remove any doubt.
106. However 14 of the other 32 STG and AOS officers who attended this incident later admitted that they had consumed alcohol in the 10 hours prior to attending this incident. This issue is discussed further at paragraphs 125-129.

Return to duty

107. STG Officer F was not available for deployment for a short time after the shooting and was required to re-qualify with his firearm certification before he could be deployed again. He was approved for re-deployment within a week.
108. As required by the Police's Trauma policy, STG Officer F and others who were directly involved in this incident were offered counselling following Mr Ratahi's death.

Debriefs

109. The specialist groups involved in this incident (the AOS, the PNT, and the STG) each held their own debriefs following this hostage incident. The detailed debriefs were held after the officers had been interviewed by the Police investigators. However there was no joint

debrief involving all the different groups involved, including general duties staff and CentComms.

POLICE INVESTIGATION

110. Police carried out an investigation into Mr Ratahi's death. The investigation was managed by a Detective Inspector and overseen by a Detective Superintendent from outside Central District.
111. Specialist interviewers from outside Central District were brought in to conduct the interviews of 20 of the key STG and AOS officers who were involved, including STG Officer F. Some of the interviews were conducted over several days. Ms Z was interviewed twice; firstly on the day of the shooting and again three days later. Police obtained 134 witness statements in total.

Scene examination

112. Police commenced a scene examination at the Headlands Hotel on 16 July 2011, assisted by staff from the Institute of Environmental Science and Research (ESR).
113. The scene examination found damage throughout the hotel that was consistent with Mr Ratahi barricading himself within the building and forcing his way into various rooms. Several lights had been smashed and the blinds were pulled down in one of the accommodation suites on the top floor, where Mr Ratahi and Ms Z had mostly stayed throughout the night.
114. In the reception area of the hotel, Mr Ratahi's body had been left in the position that it had fallen: face down with his head towards the reception entrance and his feet towards the restaurant area. The large kitchen knife which STG Officer F and STG Officer H had discovered tucked into the back of Mr Ratahi's pants was next to his body. A .223 cartridge case, from the bullet fired by STG Officer F, was found on the floor of the reception area.
115. On 17 July 2011 Mr Ratahi's body was searched and the air pistol was found inside his inner left jacket pocket.

Post mortem

116. On 18 July 2011 a forensic pathologist conducted a post mortem examination of Mr Ratahi at Wellington Hospital.

117. The forensic pathologist determined that the cause of Mr Ratahi's death was "*a single gunshot wound to the head*". The bullet had struck Mr Ratahi in his left eye. Mr Ratahi also had some injuries to his left leg where he was bitten by the Police dog.
118. During the post mortem examination \$895 in cash and a \$2000 cheque were found in Mr Ratahi's clothing, along with a methamphetamine pipe, a small electronic scale and 230 milligrams of methamphetamine.

Toxicology

119. Mr Ratahi's blood was tested for the presence of drugs and alcohol. Only a trace amount of alcohol was detected.
120. Mr Ratahi had a tetrahydrocannabinol (THC) level of 2 micrograms per litre of blood – the equivalent of one cannabis cigarette within five hours prior to death. However the ESR report noted that blood THC levels are generally considered to be a poor indicator of cannabis intoxication, and that it was not possible to determine whether or not Mr Ratahi was affected by cannabis at the time of his death or when exactly the cannabis had been used.
121. There was no evidence for the use of opiate type drugs, cocaine, methamphetamine or MDMA (Ecstasy) in the blood.

Firearms inspection

122. Mr Ratahi's air pistol was examined by an ESR scientist. It was identified as a Crosman Model 38C .22 calibre airgun. The cylinder chambers of the airgun were empty.
123. The ESR scientist also examined STG Officer F's rifle: a Colt Model M4LE semi-automatic rifle which fires .223 Remington calibre cartridges. He confirmed that STG Officer F's M4 rifle had fired the cartridge that was found in the reception area during the scene examination at the Headlands Hotel, and determined that in his opinion "*... the muzzle of the rifle was no closer than 0.75 metres and no further than 2.25 metres from Mr Ratahi when he was shot.*"

Consideration of criminal liability

124. The Police investigation concluded that STG Officer F was not criminally liable for causing Mr Ratahi's death; the shooting was justified because STG Officer F was acting in self-defence.

Code of Conduct investigations

125. During the Police investigation, 14 AOS and STG officers disclosed that they had consumed alcohol within 10 hours prior to being called out to attend the hostage incident at Opunake.
126. Police conducted Code of Conduct investigations but determined that no further action would be taken against the officers because there was confusion about the requirements of Police policy in respect of alcohol consumption by officers while off duty but on call for AOS and STG duties (see paragraphs 239-240 for policy). Police undertook to clarify their policy.
127. Police have subsequently advised the Authority that under current policy, AOS and STG officers are rostered on standby one week and off standby the next week – so that half the squad is available to be deployed each week and the other half is not on call. No alcohol is to be consumed for 12 hours prior to the officers coming on duty or on standby. This policy has been communicated to all officers.
128. The hostage incident at Opunake highlighted a problem in remote areas, where there are fewer AOS officers available. In these areas AOS members are essentially always on call because a certain number of AOS officers are needed to attend an incident in order for Police to be able to respond effectively. This affects the officers' ability to consume alcohol when they are off duty.
129. Police have advised the Authority that, in the event of an AOS call out in a remote area, neighbouring AOS teams are called in as backup to ensure that there are enough AOS officers to respond. In any event, if an AOS officer is called out to an incident but they have consumed alcohol, they must notify their supervisor of that fact.

Liaison with Mr Ratahi's family

130. Police maintained contact with Mr Ratahi's family during the hostage incident and the subsequent Police investigation.
131. Late in the evening of 15 July 2011, after the hostage incident had begun, a Police officer visited the home of one of Mr Ratahi's daughters who lived in Taranaki. The daughter advised Police that she and her sister, who lived in Auckland, had both spoken to Mr Ratahi earlier that evening (see paragraph 14).
132. The Police officer phoned the daughter who lived in Auckland and discussed what Mr Ratahi had said to her. The officer later said in a statement:

"She sounded very drowsy when I spoke with her and when I ended the call she said she was going to bed.

I never gave [Mr Ratahi's daughter] any undertaking that she would get to speak to her father. I requested that she did not try to contact her father. I knew very little information about what was happening in Opunake so I could not tell her anything further."

133. As set out above, the PNT negotiated with Mr Ratahi overnight and in the morning Officer A was called in and took over as the primary negotiator. In his Police statement the Area Commander said:

"There was some thought around engaging family however the plan was to continue with trained negotiators with possible input from [Officer A], however the use of family or friends to communicate with RATAHI in my view is always an option."

134. At around the same time as Police were carrying out the plan to arrest Mr Ratahi, two of Mr Ratahi's family members approached Officer A at the Opunake Fire Station and asked what was happening, and if there was anything they could do to help. Officer A explained that he had been talking to Mr Ratahi but could not say much at this time. Officer A later said that, in his view, using family to assist in negotiations was an option but there needed to be very careful consideration of the circumstances in each case.
135. At around 11.30am, Mr Ratahi's Auckland-based daughter called Police. She had not yet been advised that Mr Ratahi had been shot about an hour earlier. She said that if anyone could stop Mr Ratahi, it was her, and asked to speak to the officer in charge of the hostage incident. She commented that she knew gunshots had already gone off. The Area Commander called the daughter at 11.40am and had a brief conversation with her, but did not discuss any details of the incident. He advised her that he would get one of his officers to call her.
136. Officer A was assigned to notify the family of Mr Ratahi's death. At around 2.00pm he met members of the family at the Opunake Police Station and advised them that Mr Ratahi had passed away.
137. After Police had completed the scene examination, and before Mr Ratahi's body was removed from the Headlands Hotel, elders from the family were given the opportunity to perform karakia at the site.
138. Police met with Mr Ratahi's family in February 2012 to advise that their investigation was completed and they had found the shooting to be justified. Another meeting was held in May 2012 to advise the family about the issue that had arisen regarding AOS and STG officers consuming alcohol in the hours before they were called out to attend the hostage incident.



The Authority's Investigation

INDEPENDENT POLICE CONDUCT AUTHORITY

THE AUTHORITY'S ROLE

139. Under the Independent Police Conduct Authority Act 1988, the Authority's functions are to:

- receive complaints alleging misconduct or neglect of duty by any Police employee, or concerning any practice, policy or procedure of the Police affecting the person or body of persons making the complaint; and to
- investigate, where it is satisfied there are reasonable grounds for doing so in the public interest, any incident in which a Police employee, acting in the course of his or her duty, has caused or appears to have caused death or serious bodily harm.

140. The Authority's role on the completion of an investigation is to determine whether Police actions were contrary to law, unreasonable, unjustified, unfair, or undesirable.

THE AUTHORITY'S INVESTIGATION

141. As required under section 13 of the Independent Police Conduct Authority Act 1988, Police notified the Authority on 16 July 2011 of the shooting of Mr Ratahi. The Authority immediately commenced an independent investigation.

142. On 17 July 2011 the Authority's investigator arrived in Opunake, visited the scene, and attended a Police briefing. He also met with members of Mr Ratahi's family at the local marae on the morning of 18 July 2011.

143. On 26 July 2011 the Authority's investigator again visited the Headlands Hotel at Opunake, where the Police investigators updated him on the progress of their investigation and conducted a walkthrough of the scene.

144. The Authority monitored the Police investigations throughout and reviewed all the documentation produced by the Police investigation team. The Authority's investigator

also independently interviewed Ms Z and 15 officers, including the Area Commander, the AOS Commander, the STG Commander and STG Officer F.

145. The Authority has maintained regular contact with Mr Ratahi's family throughout the course of its investigation.

ISSUES CONSIDERED

146. The Authority's investigation considered the following issues:

- 1) Did Police take all reasonable steps to protect Ms Z when Mr Ratahi was released from prison?
- 2) Were the Police justified in arming themselves in response to this incident, and were all procedures for arming complied with?
- 3) Were the deployments of the AOS, PNT and STG appropriate and were the proper procedures followed?
- 4) Did the Police comply with all requirements in respect of communications, and command and control; if not, did any failings contribute to the outcome?
- 5) Were tactical options other than the use of firearms available and considered?
- 6) Were the Police justified in shooting Mr Ratahi?
- 7) Was all reasonable assistance given to Mr Ratahi after he was shot?
- 8) Were the Police's post-incident actions appropriate?
- 9) Should Police have used family members to help them negotiate with Mr Ratahi?



The Authority's Findings

INDEPENDENT POLICE CONDUCT AUTHORITY

ISSUE 1: DID POLICE TAKE ALL REASONABLE STEPS TO PROTECT MS Z WHEN MR RATAHI WAS RELEASED FROM PRISON?

147. Police were well aware of the danger Mr Ratahi posed to Ms Z and took many steps to protect her, including:

- i) trespass orders;
- ii) a protection order;
- iii) alarms at Ms Z's house;
- iv) discussing the risks with Ms Z's employer;
- v) circulating intelligence about Mr Ratahi to Police stations in the area; and
- vi) arranging for an urgent response from local officers to any incident involving Ms Z.

148. Additionally Police charged Mr Ratahi with breaching the protection order shortly after his release from prison, and his bail conditions prohibited him from going to Opunake.

FINDING

Police took all reasonable steps to protect Ms Z from Mr Ratahi upon his release from prison.

ISSUE 2: WERE THE POLICE JUSTIFIED IN ARMING THEMSELVES IN RESPONSE TO THIS INCIDENT, AND WERE ALL PROCEDURES FOR ARMING COMPLIED WITH?

149. Police are justified in carrying firearms in order to defend themselves or others, to carry out an arrest, or to prevent an offender from escaping (see paragraphs 222-226 for relevant law and policy). The officers must believe on reasonable grounds that the

offender poses a threat of death or grievous bodily harm to any person. Officers are also authorised to carry firearms while performing their duty as part of an AOS or STG team.

150. The Authority finds that the officers attending this incident were justified in arming themselves due to the threat posed by Mr Ratahi. Witnesses at the Headlands Hotel restaurant had seen Mr Ratahi with a gun, and Mr Ratahi had a history of violence towards his hostage, Ms Z, which was known to local Police. As the incident continued through the night, Police obtained further information about Mr Ratahi's background and current state of mind which reinforced the need for an armed response.
151. As required by policy, general duties officers who attended this incident were given fire orders when they were issued with firearms. The AOS and STG officers were also given fire orders before being deployed to the inner cordon around the hotel.

FINDINGS

Police were justified in arming themselves in response to this incident. Procedures for arming were complied with.

ISSUE 3: WERE THE DEPLOYMENTS OF THE AOS, PNT AND STG APPROPRIATE AND WERE THE PROPER PROCEDURES FOLLOWED?

152. Police policy requires that, when time and circumstances permit, all forward operations against armed offenders must be carried out by the AOS and the PNT. The STG may be called in to assist the AOS with complex or prolonged operations (see paragraphs 229-231 for policy).
153. In this case the New Plymouth AOS and PNT were notified of the hostage incident at Opunake very soon after it began, and arrived at the scene within an hour and 10 minutes. The Wanganui AOS was called out at 1.15am to provide additional support, and arrived at Opunake about two hours later.
154. The STG Commander was also notified about the hostage incident just after it began. He directed that the AOS Commander should contact him once more information was known about the incident.
155. After several hours it became apparent that the STG may be needed to assist the AOS with arresting Mr Ratahi and rescuing the hostage, and at around 2.00am the AOS Commander contacted the STG Commander. At around 2.30am the STG Commander requested permission to deploy the STG from the National Commander: Tactical Groups.
156. At the time the National Commander: Tactical Groups believed that the Assistant Commissioner: Operations could authorise the partial deployment of the STG in an

emergency situation. In fact Police policy required authorisation from the Commissioner or Deputy Commissioner. However the policy has since been amended to provide that the Assistant Commissioner: Operations, the Assistant Commissioner: Investigation/International, or in their absence any other Assistant Commissioner, may approve the partial deployment of STG as part of an emergency response within New Zealand.

157. The fact that authority to deploy the STG was mistakenly sought and obtained from the Acting Assistant Commissioner: Operations instead of the Commissioner or Deputy Commissioner did not affect the outcome of the hostage incident.
158. The STG arrived at Opunake within about four hours of the AOS Commander contacting the STG Commander. Arrangements were made for additional support to be provided by the Palmerston North AOS, the Hamilton AOS and another group of STG officers; however the incident ended before they were deployed to the scene.

FINDINGS

The deployments of the AOS, PNT and STG to attend the hostage situation in Opunake were appropriate and completed within a reasonable time.

Authorisation to deploy the STG should have been obtained from the Commissioner of Police or Deputy Commissioner, rather than the Acting Assistant Commissioner: Operations. However this did not have any effect on the outcome of the incident and Police policy has subsequently changed to enable an Assistant Commissioner to authorise the partial deployment of the STG within New Zealand.

ISSUE 4: DID THE POLICE COMPLY WITH ALL REQUIREMENTS IN RESPECT OF COMMUNICATIONS, AND COMMAND AND CONTROL; IF NOT, DID ANY FAILINGS CONTRIBUTE TO THE OUTCOME?

159. CentComms was responsible for controlling the initial Police response to the hostage incident at the Headlands Hotel (see paragraphs 217-221 for relevant policy). The CentComms shift commander was the incident controller from around 9.50pm until 10.58pm when the Hawera sergeant, Officer C, arrived in Opunake and was in a position to take over command. CentComms continued to participate in the Police response in a support role.
160. The CentComms shift commander later told the Authority that at the time he was happy having Officer C as the incident controller, particularly because Officer C possessed valuable local knowledge of the environment and the individual involved (Mr Ratahi), which a higher ranking officer from another area might not have. He also considered that the incident might be successfully resolved within a short time without the need to step up the level of command.

161. It was not until the National Commander: Tactical Groups spoke to the CentComms shift commander at around 4.30am (about six hours and 40 minutes after the incident began) that the decision was made to notify the Area Commander and District Commander of the incident. The Area Commander immediately travelled to the scene and took over as the incident controller.
162. The Authority finds that the Area Commander should have been notified of the incident when the AOS and PNT were called to the scene, especially because this was a hostage situation involving an armed offender. Although initially there may have been some doubt about how long the hostage situation would last and how serious it was, it soon became clear that the incident was not going to be resolved quickly and that there was a high risk that Police would have to enter the hotel in order to rescue the hostage. In any event both the Area Commander and District Commander should have been notified of the incident by the time the STG were called out to attend, because a higher level of command was needed at the scene to prepare for the STG's arrival.
163. However the Authority notes that the delay in notifying the Area Commander and District Commander did not materially affect the outcome of the hostage incident.
164. In other respects the command and control of the incident were in line with policy and best practice. The AOS Commander, and later the STG Commander, took control of the Police's tactical response and formulated plans to arrest Mr Ratahi and rescue the hostage. Long-term planning was also undertaken in respect of arranging for more officers to travel to Opunake in order to relieve the AOS, PNT and STG officers at the scene as the incident continued.

FINDING

The CentComms shift commander should have notified the Area Commander of the hostage incident in Opunake when the AOS and PNT were called out to attend; however this delay did not materially affect the outcome, and in all other respects the command and control of the incident were in line with policy and best practice.

ISSUE 5: WERE TACTICAL OPTIONS OTHER THAN THE USE OF FIREARMS AVAILABLE AND CONSIDERED?

165. Other than use of firearms, options that can be considered by the Police when dealing with a violent offender include:
- cordon and containment;
 - retreat or delaying an arrest;

- using CS gas;
- using oleoresin capsicum (OC) spray and/or a baton;
- using a Taser; and
- using Police dogs.

Cordon and containment

166. Standard Police practice when dealing with an armed offender is to cordon the area and verbally appeal to the offender in order to negotiate a surrender (if the offender's actions permit). This was the approach adopted by Police from the time the hostage incident at Opunake began until the arrest plan was carried out (a period of about 12 and half hours).
167. Police policy states: *"Never go unnecessarily into danger. However, if the offender is acting in a way that makes casualties likely, Police must act immediately to prevent this."*
168. Based on the information they had gathered about Mr Ratahi overnight (including that he had a history of using violence towards Ms Z and appeared to be suicidal), Police decided that it was necessary for them to get Mr Ratahi out of the building, arrest him and rescue the hostage, rather than just continuing their attempts to negotiate with him.

Retreat or delay

169. Retreat or delay in arresting Mr Ratahi was not an appropriate tactical option considering the immediate threat he posed to his hostage, Ms Z.

CS gas

170. CS gas (or 'tear gas') may be used by trained AOS or STG officers in order to force an armed offender to exit a building, in circumstances when there would be an unacceptable risk posed to officers approaching or entering the building to arrest the offender.
171. In his Police statement the STG Commander said he thought about using CS gas, but:

"I considered the CS gas would likely be ineffective based on the size of the stronghold and its internal layout and the delivery options available at the time.

In my view CS gas would likely agitate and/or antagonise the offender elevating the risk of the hostage as a result. So in summary CS gas was too dangerous to deliver at this stage."

OC spray or baton

172. The use of OC spray or a baton against an armed offender is not generally advisable, because it requires the officer to get very close to the offender. STG Officer F stated that:

“At no time did I get into a position where I was able to use any less than lethal tactical options available to me.

... Because of the distance. Spray is ineffective out from three metres and the baton has to be close enough to strike and it wasn’t an option.”

Taser

173. In July 2011, the Police Manual instructed officers that:

“You should not normally consider carrying and using a TASER against a subject armed with a firearm. Police firearms remain the most appropriate tactical response for such situations but circumstances may exist where the use of the TASER may be appropriate when deployed with or in support of conventional weapons.”

174. STG Officer F was not armed with a Taser but three members of the AOS/STG Team were, including STG Officer I and AOS Officer Q who were holding open the reception entrance doors to the hotel at the time STG Officer F fired at Mr Ratahi.

175. AOS Officer Q commented that he:

“... was not in a position to deploy the Taser. The offender was still six to eight metres away and moving, therefore he was well outside the maximum range of the Taser.”

176. STG Officer I did not comment on whether he could have used a Taser. However he did say that he was in the process of aiming his own rifle at Mr Ratahi when STG Officer F fired the shot, because he believed Mr Ratahi was searching through his clothing for a firearm and was prepared to engage Police.

Police dog

177. A Police dog was deployed in an attempt to apprehend Mr Ratahi when he came out of the hotel. STG Officer E signalled for the dog to be released once Mr Ratahi was at least five metres from the reception entrance doors. The Police dog bit Mr Ratahi’s leg but Mr Ratahi refused to surrender and was able to re-enter the hotel.

FINDING

Police did consider and use tactical options other than firearms, however the other options were either not effective or not realistically available.

ISSUE 6: WERE THE POLICE JUSTIFIED IN SHOOTING MR RATAHI?

178. The Authority has considered whether the lethal force used by STG Officer F was lawfully justified under the relevant provisions of the Crimes Act (see paragraphs 222-226 for relevant law and policy).

Self-defence or defence of others

179. STG Officer F was justified under section 48 of the Crimes Act in using force so long as:

- i) The force he used was in defence of himself or another; and
- ii) The level of force was reasonable *in the circumstances as he believed them to be* (Authority's italics).

180. The starting point for consideration of self-defence is to assess what STG Officer F believed the circumstances to be from his subjective point of view at the time he shot Mr Ratahi.

181. The second matter to be considered is whether, bearing in mind STG Officer F's belief about what was happening, he was acting in self-defence or in the defence of another, again to be considered from his point of view.

182. The third step is to ask whether, given STG Officer F's belief, the force he used was reasonable. In other words, whether the degree of force was proportionate to the level of threat as STG Officer F perceived it. The essential balancing requirement is for both the subjective and objective elements of the test to be assessed in light of the circumstances as the person responding to the threat saw them.

What were the circumstances as STG Officer F believed them to be?

183. From the time STG Officer F was called out to attend the incident at Opunake, he was provided with a large amount of information about Mr Ratahi's background and the ongoing hostage situation, including that:

- i) The hostage incident had begun at the Headlands Hotel around 9.45pm the previous evening. Witnesses and AOS officers on the cordon had seen Mr Ratahi holding a firearm. The firearm was thought to be a pistol but could also be a sawn-off rifle.

- ii) Mr Ratahi had been imprisoned for charges related to using violence against his hostage involving a knife, and had been released about a week earlier.
 - iii) Mr Ratahi was aggressive during his conversations with PNT and hung up on them.
 - iv) Mr Ratahi was asking for \$100,000 to be delivered to him and had threatened to kill his hostage. He had also threatened to shoot Police and said he was not going back to prison.
 - v) He had made phone calls to his family and effectively said goodbye.
 - vi) Mr Ratahi had a history of drug use, domestic violence, and threats to commit suicide.
184. On the basis of the above information, it was believed that Mr Ratahi was a very high risk to himself, his hostage and Police, and that the hostage incident was likely to end in a murder suicide. Subsequently Police decided that it was necessary to take positive action to rescue the hostage and arrest Mr Ratahi, rather than just continuing to contain him within the hotel building and negotiate with him.
185. The arrest plan was carried out but Mr Ratahi was able to re-enter the hotel. Police had determined that if an arrest was attempted outside the building but was unsuccessful, then the STG would have to follow Mr Ratahi inside the building to prevent him from harming the hostage.
186. STG Officer F was one of the first officers to enter the hotel. At the time STG Officer F fired the shot which killed Mr Ratahi, he believed the circumstances were that:
- i) Mr Ratahi had actively resisted arrest and refused to comply with Police orders to surrender.
 - ii) Mr Ratahi then attempted to escape by running to the stairs that led to the first floor of the hotel.
 - iii) The hostage, Ms Z, was near the bottom of the stairs in close proximity to Mr Ratahi.
 - iv) Instead of continuing to run up the stairs and away from the officers, Mr Ratahi turned around and moved towards the officers and Ms Z. STG Officer F later commented that he would not have fired the shot if Mr Ratahi had continued running up the stairs away from him and the hostage.
 - v) Mr Ratahi was facing STG Officer F and attempted to retrieve something from inside his jacket or his belt. This was also witnessed by Ms Z and other STG officers.

STG Officer F believed that Mr Ratahi was reaching for his gun, and that he intended to shoot STG Officer F, Ms Z, or one of the other STG officers.

187. STG Officer F aimed for Mr Ratahi's head and fired a single shot from his M4 rifle.

Did STG Officer F fire the shot for the purpose of defending himself or another?

188. It is clear that STG Officer F believed he was using force in defence of himself and Ms Z, as well as the other officers in the area. In his statement to Police, STG Officer F said:

"I had been a couple of metres from the bottom of the stairs and whilst [Mr Ratahi] has been turning and advancing on me and making those jerky actions I thought, "He has got a gun, he is going to present it, he is going to shoot either myself or that hostage". Through my training and the hundreds of scenarios and 'don't shoot' scenarios we have been put through in my career in the Armed Offenders Squad and the Special Tactics Group, I know that actions are faster than the reaction and that the time that it would take him to draw his weapon and shoot would be a lot quicker than my ability to make the distinction that the weapon has been presented to me and fire a shot before he has either shot myself or the hostage. So when he's continued to go for the weapon and on the third attempt to draw that weapon, I have perceived it to be an immediate threat to my life and the life of the hostage and the life of the other Special Tactics Group members entering. I then fired one shot to his head."

Was the degree of force used by STG Officer F reasonable in the circumstances?

189. Police policy on firearms and use of force provides that officers should use the minimum force needed to achieve their purpose. Before firing a shot at an offender, Police must first ask them to surrender unless that would be impractical and unsafe. It must also be clear that the offender cannot be disarmed or arrested without being shot and that further delay in arresting the offender would be dangerous or impractical (see paragraphs 232-238 for relevant policy).

190. In this case STG Officer F believed that Mr Ratahi had a gun and posed an immediate threat of death or serious bodily harm. Police had asked Mr Ratahi to surrender but he showed no signs of doing so. Mr Ratahi also had the opportunity to escape by running up the stairs, but he instead chose to turn around and confront the STG officers, forcing them to take immediate action to apprehend him and remove the threat. The hostage was also nearby and vulnerable to an attack from Mr Ratahi. In those circumstances it would not have been appropriate for Police to delay.

191. In his statement to Police, STG Officer F explained why he aimed his shot at Mr Ratahi's head:

"... we are an elite squad which trains full time for hostage rescue situations and other high risk jobs and our training tells us that the best way to stop a goal driven and motivated offender is a shot to the head. Our training also tells us that a shot to his centre of mass, if an offender is goal driven and motivated will not necessarily stop him from following through with his actions. I assessed [Mr Ratahi] to be a goal driven and focused offender by my observations of him dealing with the dog biting him and not giving himself up to Police when faced with fully kitted Special Tactics Group Police members advancing and calling upon him and the fact that he had the opportunity to run up the stairs and continue to the upper levels to escape, yet he chose to turn and face and try and get a gun out and present it at Police."

192. The Authority accepts that STG Officer F believed Mr Ratahi needed to be incapacitated immediately due to the threat he posed, and that shooting him in the head was a reasonable level of force in the circumstances.

Conclusion regarding justification for shooting

193. In light of the circumstances described above, the Authority finds that STG Officer F believed that Mr Ratahi posed an immediate threat of death or serious bodily harm to himself, his fellow officers and Ms Z. He was justified in firing the shot that killed Mr Ratahi.

FINDING

Under the circumstances as he believed them to be, STG Officer F was justified in shooting at Mr Ratahi in order to remove the threat of death or serious bodily harm.

ISSUE 7: WAS ALL REASONABLE ASSISTANCE GIVEN TO MR RATAHI AFTER HE WAS SHOT?

194. Two STG medics, STG Officer F and STG Officer H, were tasked with attending to Mr Ratahi while the other officers finished clearing the building. The medics quickly determined that Mr Ratahi was dead. This was confirmed by paramedics a short time later.

FINDING

Police attempted to provide medical assistance to Mr Ratahi, but the bullet wound was not survivable.

ISSUE 8: WERE THE POLICE'S POST-INCIDENT ACTIONS APPROPRIATE?**Handover of the scene**

195. After the STG officers had cleared the hotel building, the STG Commander went to the scene alone (without the Area Commander or Police investigators). He conducted a walkthrough and spoke to each of his officers. The STG officers then left the building and the STG Commander invited the Area Commander and a Police investigator forward to be briefed at the scene.
196. The STG Commander later stated that this process is standard practice in the STG and is in accordance with international best practice. He said that as the officer in charge of the STG he had a responsibility to find out what had happened during the incident (see paragraphs 242-243 for policy). He also commented that STG officers would be reluctant to speak to anyone outside the squad about what had happened and so he was the best person to speak to them and pass on information to the Police investigation team.
197. The STG Commander told the Authority:

"... I think it's wholly appropriate that the tactical commander, be that an AOS commander or an STG commander, goes forward and gets sufficient information from each of the individuals personally and then removes those individuals so that they've been taken away from the area and then he hands over the scene to the investigative staff. Because it's still – until such time as there is a formal handover of the scene – the tactical commander is responsible for that forward area, has control and has responsibility of that forward area. So I think it's natural and appropriate that the commander hands that scene over with a degree of confidence and a degree of knowledge to be able to provide the investigative staff with a solid platform to be able to begin their investigation from."

198. While Authority understands the reasons behind the STG Commander's actions, it is concerned that this practice of the STG remaining at the scene while they are debriefed by the STG Commander conflicts with the standard Police practice for dealing with a crime scene, which is to 'freeze, control and preserve' the scene by removing everybody as soon as possible and then controlling who is allowed to enter.

199. By having the STG officers remain alone at the scene for over an hour after the shooting occurred, Police made themselves vulnerable to allegations that the officers may have:
- i) accidentally contaminated the scene;
 - ii) deliberately tampered with the scene; or
 - iii) conferred with each other about what had happened.
200. The Authority does not suggest, and has not found any indication, that any of the above actions occurred in this case.
201. However the Authority's view is that once the threat from Mr Ratahi had been removed and the building was made safe, the STG's mission was complete and they should have immediately left the scene and handed control over to the Police investigators. The STG officers could still have been individually debriefed by the STG Commander, but it should have happened somewhere other than the Headlands Hotel building, and each officer should have been spoken to separately from (and not within earshot of) the others.

Alcohol and firearm residue testing

202. Shortly after the shooting, a Police investigator asked the STG Commander about testing the STG officers for alcohol and firearm residue. The STG Commander stated that he would not ask his officers to undergo the alcohol testing and the firearm residue testing was unnecessary.
203. At the time of the incident, participation in testing was entirely voluntary and officers were entitled to refuse. The Authority has found no reason to suspect that STG Officer F was under the influence of alcohol or drugs during his involvement in this incident.

Debriefs

204. The specialist groups involved in responding to this incident (the AOS, PNT and STG) each held their own debriefs about this incident. However there was no combined debrief involving all the specialist groups, general duties officers and CentComms.
205. In the Authority's view, it would have been preferable for Police to hold a combined debrief soon after the event so that the different sections could critically review their actions and address any issues relating to how they cooperate during an incident of this nature.
206. Police policy was amended in 2012 in relation to debriefs and a more detailed procedure has been introduced. This requires a formal or multi-agency debrief to be held no later than four weeks from the date of the incident, which must involve the key players that were involved in the response to the incident.

FINDING

The STG should have been removed from the scene immediately after the hotel building was cleared.

ISSUE 9: SHOULD POLICE HAVE USED FAMILY MEMBERS TO HELP THEM NEGOTIATE WITH MR RATAHI?

207. One of Mr Ratahi's daughters has expressed concern that she was not given the opportunity to speak to her father before he was shot.
208. The timeline of the Police's interaction with Mr Ratahi's family during and after the incident at the Headlands Hotel is set out above at paragraphs 130-138.
209. Police policy generally advises against using third parties, such as family members, as negotiators (see paragraph 241 for policy). The Area Commander said that Police did consider using family members during the negotiation process, but decided to continue using trained negotiators for the time being. The Authority finds that this was a reasonable approach.
210. The Authority has not found any indication that family members directly requested to take part in the Police's negotiations with Mr Ratahi before the Police's arrest plan was underway. By the time Mr Ratahi's Auckland-based daughter contacted Police and expressed a clear interest in helping Police to negotiate with her father, Mr Ratahi had already been shot and killed.

FINDINGS

Police did consider the option of using family members in the negotiation process but, for good reason, decided to continue using trained negotiators. By the time family members asked to take part in negotiations, Mr Ratahi had already been shot.



Conclusions

INDEPENDENT POLICE CONDUCT AUTHORITY

211. The Authority has examined the Police response to the hostage incident at Opunake on 15 and 16 July 2011, and determined that STG Officer F was justified in shooting Mr Ratahi because he believed that Mr Ratahi posed an immediate threat of death or serious bodily harm to his hostage, STG Officer F and other officers who were nearby. The force used by STG Officer F was appropriate in the circumstances.
212. The Authority also found that Police took all reasonable steps to protect Ms Z before the hostage incident occurred, and were justified in arming themselves in response to the incident.
213. Tactical options for apprehending Mr Ratahi other than the use of firearms were considered and used but were either not effective or not appropriate in the circumstances. Police also considered using family members to assist them in their negotiations with Mr Ratahi but, for good reason, decided to continue using trained negotiators. By the time family members asked to be involved in the negotiations, Mr Ratahi had already been shot.
214. The command and control aspects of the incident were generally handled well, however the CentComms shift commander should have notified the Area Commander and District Commander of the hostage incident much sooner, and authority to deploy the STG to Opunake was sought and obtained from the wrong person. These failures were undesirable but did not affect the outcome of the incident. The Authority also identified that there was an undesirable delay in the STG Commander handing control of the scene of the shooting over to the Police investigators.

Recommendations

215. Police have advised the Authority that they:
 - i) are currently in the advanced stages of implementing a policy for compulsory alcohol and drug testing of officers involved in critical incidents; and

- ii) have undertaken to develop protocols to ensure the timely handover of crime scenes after a critical incident, once the scene has been made safe.

216. Therefore 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

7 AUGUST 2014



Appendix: Applicable Laws and Policies

INDEPENDENT POLICE CONDUCT AUTHORITY

INCIDENT CONTROL & COMMUNICATION

217. The 'Radio Protocols' chapter of the Police Manual sets out communication requirements and incident control responsibilities when Police are responding to incidents. The policy states that: *"An efficient and effective Police response to incidents requires that everyone involved in the process clearly understands their own role and responsibilities, and those of the other participants."*

Incident control

218. Under the policy, the communications centre is responsible for the initial Police response to an incident. This responsibility to act as the 'incident controller' formally lies with the communications centre shift commander; although in practice a team leader or dispatcher is often delegated to take this role.

219. For as long as the communications centre retains the responsibility for incident control, officers at the scene must comply with the directives given by the shift commander (or by the delegated team leader or dispatcher). The shift commander makes the final decision on operational matters and *"is expected to actively manage, direct and supervise those staff responding to the incident, including initial tactics to be utilised"*.

220. The policy provides that the communications centre retains the responsibility for incident control until that role is formally passed to a suitable officer in the field, preferably ranked sergeant or above, who is willing to assume command. The policy sets out formal procedures for handing over this responsibility, and states that incident control will not be handed over to a field supervisor until he or she has arrived at a safe forward point, been fully briefed, and formed a tactical response plan.

221. Once incident control has passed to a field unit, the shift commander is still required to maintain active oversight of the Police response. This may include engagement with the incident controller over tactics and timing, peer support and mentoring, and advice about legislative powers. Even after incident control is handed over, there may be situations where the field supervisor is no longer best placed to manage the Police response, and so

the shift commander may take back incident control. One example of when this may occur is when the offender is mobile.

CARRIAGE AND USE OF FIREARMS

Crimes Act 1961

222. Section 39 of the Crimes Act 1961 provides authority for Police carrying out an arrest to use *“such force as may be necessary”* to overcome any force used in resisting the arrest, unless the arrest can be made *“by reasonable means in a less violent manner”*.
223. Section 40 of the Act provides authority for Police to use *“such force as may be necessary”* to prevent a person from escaping in order to avoid arrest, unless the escape can be prevented *“by reasonable means in a less violent manner”*.
224. 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.”*
225. Under section 62 of the Act, anyone who is authorised by law to use force is criminally responsible for any excessive use of force.

Authorisation to carry firearms

226. The Police Manual authorises officers who hold the position of sergeant or above, and officers who are authorised by a district or communications centre supervisor, to carry firearms when there is *“clear and specific evidence”* that they may encounter circumstances in which they may be required to use a firearm in order to:
- i) defend themselves or others, if they fear death or grievous bodily harm to themselves or others and cannot reasonably protect themselves or others in a less violent manner (section 48 of the Crimes Act); or
 - ii) arrest an offender, if they believe on reasonable grounds that the offender poses a threat of death or grievous bodily harm in resisting their arrest, and the arrest cannot be reasonably effected in a less violent manner, and the arrest cannot be delayed without danger to other people (section 39 of the Crimes Act); or
 - iii) prevent an escape, if they believe on reasonable grounds that the offender poses a threat of death or grievous bodily harm to any person (whether identifiable or a member of the public at large), and the offender is fleeing to avoid arrest or is escaping after arrest, and the flight or escape cannot reasonably be prevented in a less violent manner (section 40 of the Crimes Act).

227. Additionally officers may carry Police issue firearms while performing duty as a member of the AOS or the STG.
228. The Police Manual sets out the following requirements when officers arm themselves:
- i) *Notification of Comms:* In any case where Police arm themselves to attend an incident, or are already at an incident and carry firearms, they must notify the communications centre that they are armed.
 - ii) *Body armour:* Authorised ballistic body armour must be worn while a firearm is carried or when Police attend or expect to attend an armed incident.
 - iii) *Fire Orders:* Any officer issued with a firearm is personally responsible for ensuring that he or she is thoroughly familiar with relevant law, particularly sections 39, 40, 41, 48 and 62 of the Crimes Act 1961 (see paragraphs 222-225); General Instruction F061 (see paragraphs 233-235); and all relevant instructions and guidelines in the Police Manual. When firearms are issued, if time and circumstances permit, supervisors must draw officers' attention to the 'Fire Orders', which set out the circumstances in which Police officers may use firearms. These are printed on the inside cover of Police notebooks and are also stored in vehicle firearm security cabinets.

Responding to armed offenders

AOS, PNT and STG

229. The Police Manual outlines the role of AOS in an armed incident. Where time and the offender's actions permit, all forward operations against armed offenders, particularly any direct approaches to the offender, must be carried out by AOS members assisted by the Police negotiation team (PNT).
230. The STG may be called in to assist the AOS and PNT with armed incidents that are prolonged or require the STG's specialist skills and equipment. In July 2011 the Police Manual stated:

"Approving STG deployment

This table details who can approve deploying the STG.

<i>Deployment size & situation</i>	<i>Approval must be given by</i>
<p><i>Full deployment in all situations</i></p> <p><i>Partial deployment:</i></p> <ul style="list-style-type: none"> • <i>in an emergency situation</i> • <i>If STG deployment is overseas.</i> 	<p><i>Commissioner or a deputy commissioner if the Commissioner is not available</i></p>

<i>Partial deployment as part of a <u>Planned</u> operation within New Zealand.</i>	<i>Commissioner, Deputy Commissioner or Assistant Commissioner: Crime and Operations</i>
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Requests for STG deployment

*Requests for STG deployment must be in writing for emailing to required parties. They **must** include:*

- *Risk Assessment*

And should include

- *a detailed Intel package (maps, photographs etc) relating to the location of the operation, outline of the operation and/or person(s) of interest*
- *In emergency situations there may be insufficient time for the above requirements and verbal briefings may be substituted (see *Deploying STG in emergencies*).*

231. Examples of emergency situations requiring the deployment of the STG included “escalating AOS call outs needing greater tactical resources” and “hostage rescues involving armed offenders”.

Principles for responding to armed offenders

232. The ‘Firing at offenders’ section of the Police Manual sets out the basic principles for Police responding to an armed incident:

“When dealing with an armed offender or an offender believed to be armed, Police should observe these basic principles:

- *It is better to take the matter too seriously than too lightly.*
- *Treat all armed offenders or offenders believed to be armed, as dangerous and hostile unless there is definite evidence to the contrary.*
- *Make every effort to prevent casualties.*
- *Caution is not cowardice. When the offender’s actions permit, cordon the area, and adopt the wait and appeal role in order to negotiate surrender.*
- *Never go unnecessarily into danger. However, if the offender is acting in a way that makes casualties likely, Police must act immediately to prevent this.”*

Use of firearms

233. Police General Instruction F061 (Use of Firearms) provides that Police may only use firearms for the purposes of defending themselves or others, arresting an offender, or preventing escape, in the circumstances referred to in paragraph 226 and in accordance with the Crimes Act provisions referred to in paragraphs 222-225.
234. The instruction reminds officers that *“An overriding requirement in law is that minimum force must be applied to effect the purpose.”* It also says that: *“Where practical, Police should not use a firearm unless it can be done without endangering other persons.”*
235. General Instruction F061 directs that an offender is not to be shot until all of the following conditions have been satisfied:
- *“they have first been asked to surrender (unless it is impractical and unsafe to ask them)*
 - *it is clear they cannot be disarmed or arrested without first being shot*
 - *further delay in apprehending the offender would be dangerous or impractical.”*

Firing at offenders

236. The ‘Police Firearms’ section of the Police Manual contains a section on ‘Firing at offenders’. That section also reminds officers of the Crimes Act provisions and the need to use the minimum force necessary to achieve the objective. It states that the *“circumstances justifying Police firing at an offender can change very rapidly”*, and any officer who fires a shot *“must be personally satisfied there is justification for doing so”*.
237. The Police Manual reminds officers of the circumstances in which they are able to claim self-defence under section 48 of the Crimes Act, and states: *“There is no justification for firing at a suspect when they are no longer a threat to life. This applies regardless of the suspect’s previous actions.”*
238. The manual states that, as a general rule, warning shots should not be fired. However, a warning shot may be appropriate if: extreme caution is taken to safeguard the safety of others; the suspect has been asked to surrender (if practical) and has not done so; and the shot can be clearly aimed as a warning shot.

Alcohol

239. In July 2011, the ‘Police Firearms’ chapter of the Police Manual stated:

“Consuming alcohol when firearms might be carried

Employees who may be required to carry firearms must not consume alcohol:

- *while on standby for duty*
- *during duty*
- *before commencing duty if when their duty commences they may still be under the influence of alcohol or their work performance may be impaired as a result of their alcohol consumption.*

Employees assigned as personal escorts during VIP visits or on similar duties and who may be asked to take up duty at short notice, must not consume alcohol at any time during the assignment.

Off duty employees called back

Off duty employees called back before their expected start time should consult a supervisor if they have consumed alcohol and are unsure whether it is appropriate for them to be deployed (e.g. because of the amount of alcohol consumed or the timing of their last drink).

In these situations:

- *employees should not commence duty without a supervisor's approval*
- *the supervisor should record details of the conversation."*

240. Additionally, if AOS and PNT officers are formally notified that they will be required to respond to callouts on a non-duty day, the officers are required to maintain a state of immediate readiness and fitness to return to duty.

NEGOTIATION

241. The 'Police negotiators' chapter of the Police Manual states:

"Third party intervention

People who know a subject may believe they are the best people to do the negotiation. This is usually not the case. Such people may include:

- *family members or friends*
- *clergy*
- *lawyers*
- *mental health professionals*
- *media representatives.*

These people are not trained negotiators and generally should not be used as such. The relationship between these people and the subject may not be as it has been described to Police and how they will react to each other is not known. The third party may provide an audience for the subject doing what they have been threatening, or become a hostage.

Gather the knowledge that third parties have of a subject as part of operational intelligence.”

POLICE INVOLVEMENT IN IN DEATHS AND SERIOUS INJURIES

242. The ‘Police involvement in deaths and serious injuries’ chapter of the Police Manual provides that Police must treat the scene (where an officer has caused death to serious injury to someone) as they would any other serious crime scene.

243. The policy also states that:

“The incident controller, O/C of the Police operation or of any specialist squad involved in the incident, or the area commander (whoever is most appropriate) must:

- *submit a report to the district commander, Commander AMCOS, or the employee's national manager outlining the circumstances of the incident before going off duty. This will enable an initial investigation to be commenced prior to the full interviewing of those involved.”*

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 employs highly experienced staff who have worked in a range of law enforcement and related roles in New Zealand and overseas.

WHAT ARE THE AUTHORITY'S FUNCTIONS?

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

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

On completion of an investigation, the Authority must form an opinion 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.



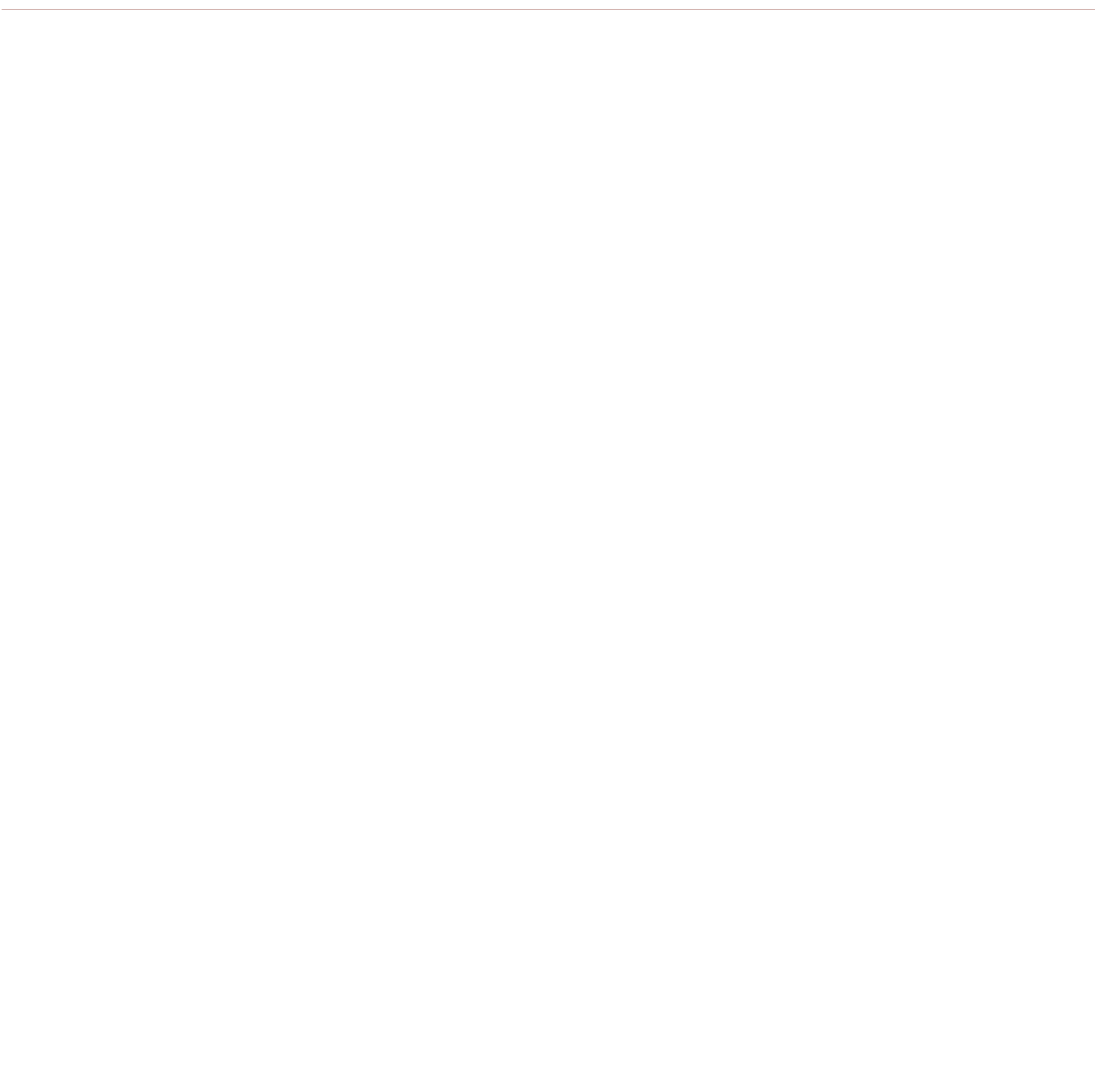
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