



**IPCA**

Independent Police  
Conduct Authority

Whaia te pono, kia puawai ko te tika

# **The serious injuries of two men following a Police pursuit**

*April 2015*

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## Introduction

1. At around 10.41pm on Thursday 28 February 2013, a Holden Commodore crashed on State Highway 1 at Tamahere, Waikato, following a Police pursuit. The two occupants (Mr Y and Mr Z) were injured but fled the scene on foot.
2. Police received information that the Holden was connected to Mr Y, who was wanted for aggravated robbery and believed to have access to firearms. Officers were advised to arm themselves and two dog handlers (one armed with a Glock pistol) were deployed to track the Holden's occupants.
3. The two dog handlers found Mr Y hiding in a nearby truck yard and attempted to arrest him. Mr Y resisted and was bitten by the Police dog but was able to climb over a fence and escape to a nearby property. A short time later one of the officers found Mr Y choking the Police dog. After Mr Y dropped the unconscious dog, the officer fired a warning shot. More officers then arrived and arrested Mr Y after a struggle.
4. Shortly after that, Police sighted Mr Z in a nearby paddock and a group of armed officers attempted to track him with another Police dog. Mr Z was eventually located by the Police helicopter (Eagle) and arrested by Armed Offenders Squad (AOS) members.
5. Due to the serious injuries suffered by Mr Y and Mr Z, the Police notified the Independent Police Conduct Authority of the incident and the Authority conducted an independent investigation. This report sets out the results of that investigation and the Authority's findings.
6. The Authority has examined issues relating to the pursuit, the use of road spikes, command and control of the incident, whether Police were justified in arming themselves, the tactical decisions made by officers, the Police's use of force, and whether all reasonable assistance was given to Mr Y and Mr Z after they were apprehended.

## Glossary of terms

Abbreviation/term	Explanation
AOS	Armed Offenders Squad
Eagle	Police helicopter
Empty hand techniques	Close-quarter skills using arms, hands, legs and feet to control or defend against a subject
TDD	Tyre Deflation Device, i.e. road spikes

## Index of officers

Communications Centre Staff	Roles/Comment
NorthComms shift commander	Pursuit controller Assisted with command and control of tracking operation
Waikato Rural dispatcher	Dispatched the event on the Waikato Rural channel and relayed shift commander's instructions to field staff
Hamilton dispatcher	Notified Officer E about the pursuit and directed officers attending to switch to the Waikato Rural channel
Field Staff	
Officer A	Single-crewed Initiated the pursuit of Mr Y and Mr Z
Officer B	Driver Took over lead position in the pursuit in Cambridge
Officer C	Passenger (senior) Provided commentary to NorthComms
Officer D	Deployed road spikes at Tamahere
Officer E	Dog handler Deployed Police dog and used 'empty-hand' force on Mr Y
Officer F	Dog handler Fired warning shot and used 'empty hand' force on Mr Y
Officer G	Te Awamutu sergeant Assigned to be incident controller and attended the crash scene
Officer H	Hamilton senior sergeant – late shift Assumed incident control of the tracking operation
Officer I	Hamilton senior sergeant – swing shift
Officer J	Notified NorthComms that dog handlers had located an offender Helped Officer F to handcuff Mr Y
Officer K	Sergeant instructed Officer L to present a Taser at Mr Y after his arrest
Officer L	Presented a Taser at Mr Y after his arrest
Officer M	Spotted Mr Z lying in a field after Mr Y's arrest

## Background

### PURSUIT

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7. At around 10.22pm on Thursday 28 February 2013, a member of the public called Police to report that a silver car was driving dangerously heading north on State Highway 1, south of Cambridge. He said that the car had overtaken him on double yellow lines and nearly crashed “head on” with an oncoming vehicle. The Police Northern Communications Centre (NorthComms) advised officers in the area of the incident.
8. Officer A was on duty in a category A marked patrol car.<sup>1</sup> As Officer A was the sole occupant of the car, in addition to driving he was also responsible for operating the radio and communicating with NorthComms.
9. Officer A drove about two kilometres south of Cambridge on State Highway 1, and parked facing south so that he could watch for the offending car. A short time later, at around 10.34pm, the officer noticed a car accelerating towards him and locked the car’s speed on his radar equipment at 129 kph (in a 100 kph zone). As the car passed him he observed that it was silver and appeared to be a Holden saloon.
10. Officer A decided to signal the Holden’s driver to stop and activated his patrol car’s warning lights and siren. As the officer completed a u-turn to follow the Holden, the driver of the Holden increased his speed and failed to stop. Officer A then radioed NorthComms on the Waikato Rural channel and reported that the car had failed to stop for him.
11. The Waikato Rural dispatcher immediately alerted the NorthComms shift commander that a pursuit had been commenced. Throughout the ensuing pursuit the shift commander supervised the dispatcher and at times he relayed his own instructions to the Police staff involved.
12. Police fleeing driver policy requires that once a pursuit has been commenced, the communications centre dispatcher must give the warning: *“If there is any unjustified risk to any person you are to abandon pursuit immediately, acknowledge.”*
13. The dispatcher issued this warning and Officer A acknowledged it. Officer A advised that the fleeing car had been travelling at 129 kph and was heading towards Cambridge. He then reported that the car was about 400 metres ahead of him, coming into Cambridge at a maximum speed of 160 kph entering a 70 kph zone, and that there was no other traffic on the road at the time.
14. The dispatcher asked for the current speed and Officer A said he had lost sight of the fleeing car but it *“... appears to be going straight on, now going into the 50s [zone], speed 100 for myself.”*

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<sup>1</sup> Category A vehicles are authorised to be the lead vehicle in pursuits. Officer A is certified as a gold licence holder and trained under the Professional Police Driver Programme (PPDP), and therefore is competent to engage in pursuits as the lead driver.

15. When Officer A was later interviewed by the Authority, he explained the risk assessment he had undertaken during the pursuit. He said it was very quiet at that time of night with no pedestrians around, and although he lost sight of the fleeing car occasionally due to bends in the road, he kept following and could soon see where the car was going ahead of him. He further commented that the fleeing driver overtook a couple of vehicles in a safe manner just after the pursuit started and:

*“... his driving in my opinion was not erratic, even to the fact that he was braking a lot for the corners and taking them at a good speed. You could tell that because there was no loss of traction, he didn’t seem to slide, and in my opinion there was no undue risk at that time, and so I continued the pursuit.”*

16. The dispatcher told Officer A to keep the updates coming, and was prompted by the shift commander to ask about the reason for the pursuit. Officer A reported that he was going past Albert Street, and explained that the fleeing car had been travelling at 129 kph and matched the description of a silver car which had earlier been reported driving dangerously. He then advised that the pursuit was heading towards the intersection of Victoria Street and Queen Street (State Highway 1) in the centre of Cambridge. When asked about his current speed, he replied that it was 100 kph, and said that the fleeing driver *“seems to be driving ok at the moment.”*
17. Meanwhile, Officers B and C had heard about the pursuit while at the Cambridge Police Station. They left the station in a category A marked patrol car and drove to the intersection of Victoria Street and Queen Street.<sup>2</sup>
18. As Officers B and C neared the intersection, they saw the fleeing car approaching at speed with Officer A in pursuit. The fleeing car went straight through the roundabout and continued heading west on Queen Street. Officer C caught a glimpse of the driver, a male wearing a reddish top, but he did not see any passengers. Officer B pulled in behind the fleeing car and activated the patrol car’s warning lights and siren, taking over the role of lead pursuit vehicle from Officer A.
19. Officer A radioed NorthComms and advised that there was another Police car between him and the fleeing car. He reported that the fleeing car was turning right into Bryce Street, and then left onto State Highway 1 in a 50 kph zone.
20. After clarifying that a different Police unit had taken over as the lead vehicle in the pursuit, the dispatcher called on that unit to identify themselves. Officer C radioed in and the dispatcher re-issued the pursuit warning (see paragraph 12), which Officer C acknowledged.
21. Officer C then advised NorthComms of the fleeing car’s registration number, but accidentally swapped two of the digits. Subsequently the dispatcher checked the wrong vehicle’s details on the Police database and obtained information that the fleeing car was a silver and green Toyota Corolla registered to a Gisborne address.

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<sup>2</sup> The driver, Officer B, is certified as a gold licence holder and trained under the Professional Police Driver Programme (PPDP), and therefore is competent to engage in pursuits as the lead driver.

22. The fleeing car was actually a silver Holden Commodore that was suspected of being involved in a number of recent burglaries in Hamilton. Unknown to the officers and NorthComms staff conducting the pursuit, the Police database contained a safety alert for the Holden which stated that Mr Y was associated with the vehicle and was believed to have access to firearms. A warrant to arrest Mr Y had been issued on 18 February 2013 (10 days prior to this incident) because he had failed to appear on numerous aggravated robbery and firearms charges at the Auckland High Court. The other occupant of the car was Mr Z, who was wanted in relation to armed robberies in the Auckland area, including an incident where shots were discharged at tourists.
23. After Officer C had passed on the fleeing car's registration number, he advised NorthComms that the pursuit was still on State Highway 1, going past Peake Road at a speed of 130 kph. He also reported that the road was *"relatively clear and dry"*. The dispatcher asked about the current speed limit; Officer C said the speed had gone up to 150 kph, and then down to 130 kph again in a 100 kph zone as they were passing St Peter's School.
24. The NorthComms shift commander then confirmed that the Police cars and drivers involved in the pursuit were 'category A' and 'gold' respectively. At around 10.39pm the dispatcher requested an update on speed and location and Officer C replied:
- "Yeah roger, past Hooker Road, he is about 400 metres ahead of us. We are maintaining a speed of 150, he is pulling away from us. He has overtaken a truck, traffic is still quite light, dry, he is out of our vision now, probably coming up to Hautapu Road."*
25. At this point the shift commander asked about the manner of driving and Officer C reported that it was fine and the fleeing driver was *"not doing anything silly"*.
26. Officers B and C were later interviewed by the Authority and explained the risk assessment they undertook throughout the pursuit. They said the level of traffic was extremely light, and road conditions were dry with excellent visibility despite the time of night. They described the fleeing driver's manner of driving as good, though fast, and said he stayed in his lane, overtook vehicles safely, braked reasonably for corners, and did not swerve or drive erratically.
27. Officer C said he instructed Officer B to keep a good distance between them and the fleeing car, due to the speeds involved. This gave them more time to assess the fleeing driver's actions and make decisions. He commented that the road was open and quite straight, and they were able to see a long way ahead of them and observe what the fleeing car was doing.

## ROAD SPIKES

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28. About five minutes into the pursuit, the NorthComms shift commander advised that Police units from Hamilton were on the way and gave authority for units to lay road spikes to stop the fleeing vehicle *"if safe"*.

29. Officer D, a Highway Patrol officer, had heard about the pursuit earlier while on duty in east Hamilton. He drove to the Tamahere interchange on State Highway 1, which he considered to be an ideal location to lay road spikes and intercept the fleeing car before it reached Hamilton. When he reached the interchange, he drove up the northbound onramp and parked his patrol car with its flashing lights activated on a grass verge beside State Highway 1.
30. After Officer D heard the shift commander authorise the use of road spikes, he retrieved a set of road spikes from the back seat of the patrol car and prepared to deploy them. The Authority later asked him about his risk assessment of the deployment site and he explained that he considered it to be an appropriate location because there were hardly any vehicles on the road, there was a wire safety barrier between the northbound and southbound lanes, and the road was quite straight (it had a slight left hand bend). He also said that he had an escape route and plenty of time to lay the road spikes.
31. Meanwhile NorthComms had notified Officer E, a Police dog handler in Hamilton, of the pursuit and asked him to switch over from the Hamilton radio channel to the Waikato Rural channel. At 10.39pm all units on the Hamilton radio channel who were attending the pursuit were also advised to: *“switch to Waikato Rural, that is where the pursuit is being run from.”*
32. Officer E switched channels, radioed the Waikato Rural dispatcher and asked what sort of car the fleeing vehicle was. Officer C responded that it was a *“Holden Commodore, probably Z shape. It’s silver with mags, male driving, possibly Maori ....”*
33. Officer C then reported that they were approaching the Tamahere interchange and advised: *“We are doing 160. [The fleeing car is] still within view, probably about 800m in front of us now. Doing a lot of braking.”*
34. At this point Officer D contacted NorthComms, stated his call sign and said: *“spikes at Tamahere”*. The dispatcher stated: *“Unit at Tamahere”*, and Officer D responded: *“Tamahere, have spikes.”*
35. The dispatcher confirmed that Officer D was at Tamahere and described the fleeing vehicle as *“a green and silver Toyota Corolla, station wagon”* (based on the Police database result from the incorrect registration number – see paragraph 21). Although Officer C had just given a different description of the fleeing car, NorthComms did not seek clarification of the type of vehicle or the registration number.
36. Officer C then reported that the fleeing car was about 600 metres in front of them, and pulling away. He also advised that the car’s headlights were on. The dispatcher asked about the fleeing car’s speed and manner of driving and Officer C said:

*“His speed would be about 180 now we have crept up. He’s staying within his lane. He is just going out of vision. He’s probably about a K ahead of us now, past the turnoff to the airport. He won’t be too far away from the end of the Tamahere flyover now.”*

37. Immediately after this message, at around 10.41pm, the NorthComms shift commander got on the radio and ordered the pursuing patrol cars to abandon the pursuit.
38. In the meantime (before the order to abandon was given), Officer D had seen a car's headlights approaching the Tamahere interchange and estimated its speed to be well in excess of 150 kph. Correctly assuming that it was the fleeing vehicle, he deployed the road spikes and extended them across the road so they were covering most of the two northbound lanes.
39. Officer D saw the headlights of the fleeing car dip right, just before the bridge at the Tamahere interchange. During his interview with the Authority, Officer D commented that this may have been the fleeing driver's reaction to seeing the officer's reflectorised jacket or his patrol car's flashing lights. The road curves slightly at the interchange and this would have been the first point at which the fleeing driver was able to see that Officer D's patrol car was parked beside the highway.
40. The fleeing car continued and ran over the road spikes at high speed. Officer D saw the road spikes twist in the air and land upside down on the road.
41. The fleeing driver lost control of the Holden which slid and spun sideways, ultimately colliding with trees and bushes beside the highway and coming to a stop about 200 metres down the road. Mr Y and Mr Z told the Authority they thought they were going to die. The crash caused extensive damage to the Holden, particularly the front and right side which took most of the impact.
42. Officers B and C arrived at the interchange and saw Officer D beside the highway. Neither of them had heard Officer D's earlier message that he had road spikes at Tamahere (see paragraph 34) and they had not realised that road spikes were going to be used. Officer C later said he would have advised against it, due to the speeds involved. They drove over the road spikes but the patrol car's tyres were not deflated because the road spikes had been turned upside down.
43. Officer B later told the Authority:
- "We got to the top of the flyover there and out of the corner of my eye in a millisecond I saw a police officer standing on the side of the road next to his car, and then we ran over something, and my first thought was: "Crap, I hope that's not a body", because I ... couldn't see it coming up to it, it was out of my view, and it wasn't until I ran over it that I thought: "Well that must have been spikes, I hope it wasn't a body." So we've gone over the spikes and at that stage, that exact moment was when I heard the "abandon pursuit" call."*
44. Officer B also said that he had intended to abandon the pursuit himself if he could no longer see the fleeing car ahead of him after going through the Tamahere interchange.
45. After driving over the overturned road spikes Officers B and C quickly realised that the fleeing car had crashed into the trees beside the highway. Officer C contacted NorthComms and

advised: *“The vehicle has crashed on Tamahere. Just getting out to have a look.”* The officer also suggested that an ambulance should be called.

46. The pursuit lasted approximately seven minutes and covered a distance of about 16 kilometres.

## TRACKING THE OFFENDERS

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47. Officers A, B and C checked inside the crashed vehicle and searched the immediate area but could not find any occupants of the fleeing car. The Holden was extensively damaged and it was expected that the driver and any passengers would have suffered serious injuries in the crash. At around 10.42pm Officer C advised NorthComms that the car appeared to have rolled and they had not yet been able to locate anybody.
48. Officer E, the dog handler, arrived at the crash scene within a few minutes. He spoke to the officers at the scene and it was agreed that he would use his Police dog to search the area around the crashed vehicle and try to locate the occupants. Officer E parked his dog van on Devine Road, which runs alongside State Highway 1 just north of the Tamahere interchange, and harnessed his Police dog.
49. The Police dog immediately found a scent leading away from the crash scene in a westerly direction to a nearby school. Officer E and the Police dog followed the track, which led them through the school and into a rural area. They went into a field, over a fence, and then headed south towards the Regal Haulage NZ Limited truck yard on Airport Road.
50. Meanwhile another dog handler, Officer F, travelled to the crash scene to assist. A sergeant from Te Awamutu, Officer G, also notified NorthComms that he was attending the crash.
51. At around 10.53pm, Officer B found the licence plate of the Holden at the crash scene and contacted NorthComms to give them the registration number. A Hamilton officer then informed the dispatcher: *“...that’s a vehicle wanted in relation to a couple of burglaries in Hamilton overnight last night. Also a male with warrants. Quite a bad man in that vehicle.”*
52. Earlier that evening the Hamilton night shift senior sergeant, Officer H, and the swing shift senior sergeant, Officer I, had briefed the Hamilton officers about the risks associated with Mr Y and the silver Holden when the night shift came on duty. They were told that Mr Y was believed to be in the area and had alerts for aggravated robbery, and if officers sighted him in the Holden they should call for backup and consider conducting an armed vehicle stop. Fire orders were read out at the end of the briefing.<sup>3</sup>
53. The dispatcher checked the Holden’s registration number and advised that there was a safety alert for Mr Y, who was wanted in relation to an aggravated robbery with a firearm. At this point the NorthComms shift commander got on the radio and said: *“... can we have all staff*

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<sup>3</sup> ‘Fire orders’ are a reminder of the circumstances under which Police may use firearms – see paragraphs 217-219 for policy.

*armed and can we give consideration to a second person following [Officer E] please that is armed."*

54. Following this message, most of the officers who were attending the scene armed themselves with Glock pistols or M4 rifles and read the fire orders recorded in their Police notebooks as required by Police firearms policy (see paragraph 219).
55. At around 10.55pm the shift commander contacted Officer G and said: *"When you are in position I would like you to take incident control please and if you can advise us when you are prepared to do that."* Officer G acknowledged the message. The shift commander later told the Authority that he chose Officer G to be the incident controller because he was experienced in dealing with crashes and was the most senior officer known to be attending the incident at the time.
56. Officer E then radioed NorthComms and advised that he had done a big circle and was at the Tamahere kindergarten. The shift commander told Officer E that the person he was tracking had access to firearms, and that he needed to be armed and have a second person shadowing him. Officer E asked for an officer with a firearm to join him and Officer F arranged to meet him on Devine Road.
57. At around 10.58pm the shift commander radioed Officer G and told him that a serious crash investigator would not attend the crash scene until Police found an occupant of the fleeing car and determined the extent of any injury. He also told Officer G that he was sending the Police helicopter (Eagle) to assist with tracking.
58. Meanwhile Officer H (the Hamilton night shift senior sergeant) called the dispatcher for the Hamilton radio channel at NorthComms and asked whether he was needed at Tamahere. The Hamilton dispatcher said he did not believe Officer H was required at this stage. Officer H asked who the incident controller was and the dispatcher said it was Officer G. The dispatcher then told Officer H that the NorthComms shift commander had asked him to switch over to the Waikato Rural channel.
59. Officer H contacted the shift commander on the Waikato Rural channel and was given a briefing. He asked the shift commander: *"If we're hot on [Mr Y's] tail do we need to consider AOS?"* They agreed that the shift commander would discuss it with the AOS Commander. Officer H then said: *"[Officer G] incident controller?"* and the shift commander said: *"Yeah affirmative unless you get there and wish to take it over."*
60. Officer H and Officer I decided to attend the scene and began travelling towards Tamahere. Night shift officers from Hamilton also attended, and as they arrived at Tamahere they began taking up cordon positions around the crash site in order to contain any offenders who had fled from the crashed vehicle.
61. At around 11.06pm Officer G contacted the Waikato Rural dispatcher and advised that he was at the crash scene. He commented: *"Comms keep cutting in and out for some strange reason around here"*, and the dispatcher said she was experiencing it as well.

62. The two dog handlers, Officers E and F, met up on Devine Road and prepared to recommence tracking. Both officers are qualified AOS operators but were on general duty at this time. Officer F did not bring out his own Police dog for this incident; he was armed with a Glock pistol and his role was to be a 'cover man' for Officer E while they tracked the offender using Officer E's dog. At around 11.03pm Officer F notified NorthComms on the Waikato Rural channel that both he and Officer E had read their fire orders.
63. Officer E did not have a firearm and neither he nor Officer F carried a Taser. The officers later advised the Authority that they do not usually carry Tasers because the Police dog is considered to be their "*less than lethal*" tactical option. They also said that, as experienced AOS officers, they both understood their roles and there was no need for discussion about what each of them would do as the tracker (Officer E) and the cover man (Officer F).
64. Officer F carried a portable radio which had its signal boosted through a 'linkline' in Officer E's Police vehicle, and therefore was able to be tuned to the Waikato Rural channel. Officer E carried a portable radio that was unable to have its signal boosted (because there was not another linkline readily available) and could only be tuned to the Hamilton channel.
65. The Police dog led Officers E and F back towards the Regal Haulage truck yard. On the way Officer F spoke to two people living nearby and told them to go inside their homes and lock the doors because they were looking for someone considered to be dangerous.
66. At the truck yard Officer F spoke to a security guard and two truck drivers at the front office, advising them to stay inside and lock the doors. He also confirmed that it would be reasonably safe to let the Police dog off the leash in the truck yard if necessary, without the dog coming into contact with any members of public.
67. Officer E contacted the Hamilton dispatcher at NorthComms at around 11.12pm and advised that they were in the truck yard and talking to some night-watchmen. He asked whether Eagle was on the way and the dispatcher confirmed that it was.
68. The Police dog (still on its tracking lead) then led Officers E and F to the north-western corner of the truck yard, where a disused truck cab was parked. The west side of the yard had a fence approximately two metres high. Adjacent to the fence was a drain about 2.5 metres wide, which Officer F later described as "*a cess pit that obviously was filled with excrement, oil and diesel.*" There was a narrow path between the drain and the parked truck cab.
69. The Police dog indicated that the offender they were tracking was inside the truck cab. Officer F walked up the narrow path beside the drain to the passenger's side of the cab and climbed up to look through the window. He saw a shirtless man (Mr Y) lying inside and, after climbing down, said: "*There isn't anyone there*" while signalling to Officer E that the offender was inside.
70. Officers E and F went around to the front of the truck and had a very brief discussion during which they decided to carry out an 'armed clearance' of the cab. The plan was for Officer F to

open the passenger door and challenge Mr Y to surrender, while Officer E and the Police dog waited behind the open door towards the front of the cab.

71. Officer E later said in his Police statement:

*“We had considered waiting for other [officers], although we had attempted to keep the entry element of surprise to get the upper hand, we couldn’t rule out that the offender knew we were there. I would suspect he did know we were there, therefore we were committed to the apprehension of him as we had a firearm and dog. There was no verbalisation of our plan to apprehend the offender as we both knew our roles and are trained.”*

72. During his interview with the Authority, Officer E was asked why he and Officer F did not seek back up from other officers before trying to arrest Mr Y. He said:

*“... we made the decision well he’s here now, we know he’s in there. We’ve got the skills, we’ve got the experience, we’re both AOS members, we’ve got the tactical options. Really are we going to be any better off.”*

73. Officer F told the Authority:

*“... if we had waited for AOS it meant that we had to contain him in this truck. If he’s in there with a firearm – then he’s got all the time in the world ... ideally it would’ve been great to wait ... but in that situation ... because of the offender’s actions and what he’d done previously ... waiting was not an option. Certainly to be able to cordon it effectively, properly would’ve involved a serious risk to our safety.*

*... in that situation we weren’t able to wait because it would’ve put us in more danger than dealing with it would have ... the best option was to roll forward and deal with it. And at the end of the day we’re big boys, we’re both AOS, we’ve got an AOS dog, we’re armed – we’ve got the jump on him now. ... He doesn’t think we’re on to him so we’ve got a little bit of an advantage there ....”*

74. Officers E and F also advised the Authority that:

- a) while there may have been cover available in the truck yard to shield them from Mr Y’s view, it was not adequate to protect them from gunfire;
- b) they had to act urgently and there were not enough officers to cordon, contain and appeal in this situation (see paragraph 220 for Police policy on dealing with an armed offender);
- c) they would have had to wait for a break in the radio traffic to notify NorthComms that they had located Mr Y and explain their location, and the delay would have put them in danger;

- d) radio difficulties in the area meant that it would have been difficult to organise other officers to come to their location and assist them;
  - e) withdrawing to cordon and contain Mr Y would have enabled him to escape, which would have put lives at risk;
  - f) by agreeing to track Mr Y they had committed to apprehending him themselves; and
  - g) Mr Y had just been in a car crash and they needed to urgently check on his condition after they saw him lying still in the back of the truck cab.
75. Officer F said he took his Glock pistol from its holster and opened the passenger door of the cab. He raised the Glock and turned on the torch attached to it so he could see into the truck. Mr Y moved slightly but did not otherwise react. Officer F then yelled “armed Police” and told Mr Y he was under arrest for dangerous driving and to show him his hands. Officer F saw Mr Y’s face in the torchlight and noticed that it was distorted (Mr Y had suffered a cut along the bridge of his nose and below his left eye in the crash).
76. After Mr Y still did not react, Officer F pulled on his leg. Officer F later described what followed:
- “I have given a reasonable pull, this has brought about a sudden rush of movement from the offender who sat up and jumped out of the cab so quickly that he almost landed on me. As soon as he landed on the ground, he’s come straight at me.”*
77. Mr Y told the Authority that after Officer F opened the door to the truck cab and pulled on his leg:
- “... I pulled back and I said, “Nah, just take the dog away first and then I’m coming down,” it was like, “I’m not going anywhere. I can’t see.” And then he said, “Yep.” He just held it like a half a metre away and then when I came down he let the dog go on me and we were fighting for a bit ...”*
78. Officer F said that he backed away from Mr Y on the narrow path beside the truck cab while holding his Glock behind him in his right hand and fending off Mr Y with his left hand. Mr Y tried to grab Officer F’s arm and body armour, and struck him in the stomach in an attempt to overpower him. During the struggle, Officer F slipped off the narrow path and into the adjacent drain, which was about waist-deep.
79. Meanwhile Officer E ducked under the truck cab’s open door and saw Mr Y assaulting Officer F. He believed that if Mr Y managed to get hold of Officer F’s gun, then both he and Officer F would be in immediate danger of death or serious bodily harm. He then deployed his Police dog which bit Mr Y on the leg and distracted him from his attack on Officer F.
80. Mr Y turned his attention to the Police dog and began grabbing its neck, trying to fight it off. Both Mr Y and the Police dog fell into the drain with Officer F, and Mr Y pushed the dog’s head under the water to force it to let go of him. The Police dog then released its hold on Mr Y, and Mr Y swam to the opposite side of the drain.

81. As Mr Y climbed up out of the drain and onto a bank, the Police dog swam up behind him and attempted to bite him between the shoulder blades. Mr Y shrugged the dog off then quickly climbed over the two metre fence on the west side of the truck yard and disappeared from the officers' view.
82. Officers E and F were surprised by how easily Mr Y had managed to scale the fence, considering that it was likely he had suffered serious injuries in the car crash. They concluded that Mr Y was a very driven and physically capable offender. Officer E later said that he also suspected Mr Y was under the influence of drugs, probably methamphetamine.
83. The Police dog climbed out of the drain (by now Officer E had let go of its tracking lead) and unsuccessfully tried to jump the fence in pursuit of Mr Y. Knowing that there was open farm land on the other side of the fence, Officer E signalled to Officer F to assist the dog. Officer F joined the Police dog and helped it over the fence before climbing over himself. By the time he got over the fence, he could no longer see where the Police dog was. Mr Y was nowhere in sight.
84. Officer F followed the fence line north and found the Police dog trying to jump another fence. Just as he reached the Police dog, it managed to get over the fence and went through a small drain and into a residential property located next to the truck yard. At this stage Officer F realised that Officer E was not with him.
85. Officer E was still making his way over the truck yard fence. He radioed the Hamilton dispatcher at 11.18pm and said: *"Comms [dog handler] priority, we've got him, he's been bitten but he's decamped."* The Hamilton dispatcher asked for his location and he replied: *"in the yard"*. The dispatcher then said: *"Roger, if it is feasible for you to do so, switch to Hamilton Rural [i.e. the Waikato Rural channel] and pass that update, over."*
86. At around the same time, Officer F contacted NorthComms on the Waikato Rural channel and said: *"Break, break. Offender running."* Thirty seconds later the shift commander said: *"NorthComms are listening, we are leaving the channel free at this stage."*
87. Meanwhile, Officer F lost sight of the Police dog as he followed it over the second fence and through the drain. He entered the driveway of the residential property and heard grunting noises which he believed to be coming from the offender. Officer F later said he was *"pretty sure"* he had spoken to someone living at the house earlier (see paragraph 62), so he knew there were people inside who would be at risk.
88. Officer F went up the driveway and around the corner of the building into an alcove, where he saw Mr Y with his hands around the Police dog's throat. The Police dog appeared to be unconscious. When interviewed by the Authority, Mr Y said he was trying to stop the dog from attacking him.
89. Officer F later said:

*"My assessment at this stage was that [the Police dog] was dead. For that to have occurred in such a short space of time it was extremely likely that the*

*offender had stabbed [the Police dog] with a knife or some type of weapon. Having known and worked with [the Police dog] for nearly 7 years, I am well aware of what a determined and strong dog he is. For him to have been beaten and overpowered in such a short space of time, I realised that I was dealing with a very highly motivated, violent and driven offender who must be armed with some form of weapon."*

90. From a distance of about three metres Officer F pointed his Glock pistol at Mr Y, told him he was "armed Police" and directed him several times to get down on the ground. Mr Y dropped the Police dog. Officer F then told Mr Y to get on the ground or he would be shot, however Mr Y did not seem to register what he was saying. Officer F observed that Mr Y was covered in blood but did not seem to be in any pain, and looked like "some form of mad man".
91. After Mr Y again failed to respond to an order to get down on the ground, Officer F fired a single warning shot into the air in a slight south-westerly direction. He took this action on the basis that:
- Mr Y had just assaulted a Police officer and killed or seriously injured a Police dog, and was attempting to escape Police custody (all imprisonable criminal offences);
  - Mr Y did not seem to feel pain, and was very determined and physically strong despite his injuries, which suggested that he was heavily affected by drugs;
  - Officer F believed that Mr Y must have had a knife or some sort of weapon in order to overpower the Police dog;
  - if Mr Y was capable of overpowering the Police dog, then it was highly unlikely Officer F would be able to overpower or arrest Mr Y on his own;
  - Officer F believed that he would be in danger of death or serious bodily harm if he engaged in a physical confrontation with Mr Y, and there was a risk that Mr Y would take his gun off him;
  - if Mr Y managed to force his way into the house, then members of the public would be taken hostage and/or be at risk of death or seriously bodily harm; and
  - the best tactical option left available to Officer F was his firearm – he did not have a Taser and did not believe a baton or OC spray would be effective in these circumstances.
92. According to Officer F, Mr Y's only reaction to the warning shot was to tilt his head slightly. At this point the Police dog regained consciousness and tried to bite Mr Y on the upper leg, but Officer F could see that the dog was still groggy and was struggling to subdue Mr Y. Officer F continued to order Mr Y to get down on the ground.
93. Meanwhile Officer E heard the gunshot from nearby and ran up to their location. He saw Mr Y leaning down heavily on the Police dog with his arms across the dog's throat, and feared that the dog would be seriously injured.

94. Officer F holstered his Glock pistol and both he and Officer E ran over to try to overpower Mr Y. Officer E kicked Mr Y's legs out from under him in an attempt to get him on the ground, and Mr Y fell forward with his weight on the Police dog. Officer E saw that the Police dog was struggling to breathe and was about to lose consciousness, so he began punching Mr Y in the shoulder and ribs to make him to release his grip on the Police dog. According to the officers, Mr Y continued to resist arrest and showed no sign of pain.
95. At some point Officer E grabbed the scruff of the Police dog's neck and tried to pull the dog out from under Mr Y, while punching Mr Y in the ribs to make him flinch. Mr Y's arm moved slightly over the dog's head and Officer E eventually managed to pull the dog free. The dog lost consciousness for a moment but then started to breathe again and gradually stood up.
96. As Officers E and F were attempting to arrest Mr Y, an officer on the Waikato Rural channel (Officer J) notified NorthComms that the dog handlers had located an offender and a shot had been fired. The shift commander contacted Officer H (who was still travelling to Tamahere) and advised that he was paging the AOS and was going to link the Hamilton and Waikato Rural radio channels so they did not miss any information.
97. NorthComms linked the channels and requested radio silence until they heard an update from Officer E. At 11.20pm Officer E got on the radio and said: *"Yeah we need some assistance here urgently. We're in some buildings in behind Regal Haulage."* The dispatcher asked Officer E to activate his personal safety alarm if he had one (which he did not). Officer J said he was on his way to the dog handlers' location and offered to activate his personal safety alarm so that NorthComms could pinpoint their position.
98. The shift commander then radioed Officer H and said: *"If our staff are not in contact with this offender I am suggesting we back off, we cordon, we await AOS over."* Officer H said that he agreed.
99. Meanwhile Officer F struggled to control Mr Y and get hold of his hands to handcuff him. He later commented that Mr Y *"had a lot of blood on him, he was extremely slippery and this combined with his extreme violent behaviour and determination made him impossible to get control of."* Officer F managed to get one handcuff on Mr Y but was unable to handcuff the second hand until Officer J arrived to assist him. Together they subdued Mr Y and handcuffed his hands behind his back. At around 11.21pm Officer E notified NorthComms that they had apprehended Mr Y.
100. During the arrest Officer E's Police dog suffered injuries to his lower back/hip area, but was treated by a vet and recovered within about a week. Officer E sustained minor scrapes on the knuckles of his right hand, and Officer F suffered cuts, scratches and bruises to his hands, forearms and torso.

#### TASER PRESENTED AFTER MR Y'S ARREST

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101. After Mr Y had been handcuffed, Officer F decided that they needed to escort Mr Y to Devine Road so he could receive medical attention, particularly for the injury to his face. Officer F and Officer J lifted Mr Y up off the ground to a standing position and began walking him down the

driveway. When interviewed by the Authority, Mr Y said he was in great pain from his injuries and could hardly walk.

102. Officer J notified NorthComms that they were taking Mr Y to Devine Road and needed an ambulance urgently. The shift commander said they wanted to make sure the area was safe before sending in an ambulance, and that Mr Y would either be taken to the ambulance or the ambulance would come to their location.
103. The shift commander then contacted Officer H and said: “... these requests we’re getting from staff, if you’re in a position I’d like to channel them through you so we have one point of co-ordination.” Officer H said he was going to the scene, and was directed to Devine Road.
104. More officers joined the officers escorting Mr Y down the driveway, including Officers K and L. Officer K, a sergeant, later said in his Police statement that Mr Y was not compliant, and that one of the officers escorting Mr Y complained that he was struggling and being awkward. Officer K advised Officer L to draw a Taser, cover Mr Y and warn him that they had a Taser. He said:

*“My reasons for this course of action are that the offender was still high and affected by a substance unknown. This was borne out by his previous actions with the pursuit and with his running. He still had the ability to become extremely violent and with him being under substance abuse he could possibly break out of his handcuffs.”*

105. Officer L thought that it was a dog handler who asked him to present the Taser at Mr Y. He said in his Police tactical options report:

*“I located the [dog handler] at the rear of a commercial trucking yard, he had the offender in handcuffs and there were approximately 5-7 other officers in the area. The arresting [dog handler] requested a taser as the offender was particularly resistant and had previously assaulted the officer. He requested the camera on the taser be activated in order to capture the offender’s actions.*

*... I felt that the offender was unpredictable and violent and capable of at any time carrying on his violence towards police. Therefore I engaged the taser and informed him that it was on and recording his behaviour.*

*... The taser while recording had the desired effect as it captured and deterred the offender’s actions while under arrest.”*

106. Officer L never actually fired the Taser but he aimed it at Mr Y and recorded him for the next 18 minutes and 33 seconds. The TaserCam footage shows Mr Y being escorted by two officers down a long driveway to Devine Road. When asked by one of the officers: “Where do you hurt?”, Mr Y responded “Everywhere.” When asked: “What happened to your eye?” he said “I don’t know”.

107. At around 11.23pm, the NorthComms shift commander contacted Officers B and C at the crash scene and asked whether there were any other offenders they should be looking for. One of the officers replied that they had only seen a driver in the fleeing car, and that there was no evidence of anyone else having been in the vehicle.
108. The dispatcher then advised Officer H that it appeared there was only person in the car, who was now in custody. Officer H said he would “take over”. The Hamilton and Waikato Rural channels were un-linked at this point.
109. Meanwhile an officer escorting Mr Y asked him whether there were any other people in the car. Mr Y said there were four but denied knowing their names.<sup>4</sup> When asked other questions he either did not respond or said “I don’t know.”
110. The TaserCam footage shows the officers sitting Mr Y down against a fence on Devine Road after about two minutes of walking. The officers told Mr Y that the Taser was “still there” and was recording. There was a lot of blood visible on the left side of Mr Y’s face, and he was panting and occasionally groaning. An officer asked the Waikato Rural dispatcher whether an ambulance was coming to their location and the dispatcher confirmed that it was on its way.

## SIGHTING OF MR Z

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111. A group of officers gathered on Devine Road, including Officers E and F and the senior sergeants from Hamilton, Officers H and I. Officer F gave Officer H a briefing on what had happened with Mr Y, and Officer E sent an officer (Officer M) back to the truck yard to check whether Mr Y had left any evidence behind.
112. A short time later, as Officer M was crossing one of the paddocks west of the truck yard, he shone his torchlight on a man (Mr Z) lying prone on the ground in a neighbouring paddock. Officer M yelled at Mr Z to stay still but he got up and ran; Officer L gave chase but lost sight of Mr Z when he entered a line of pine trees. At 11.30pm the officer got on the radio and advised: “I got one running”.
113. Several officers, including Officer H, went to Officer M’s location and decided to attempt tracking Mr Z. Officer F brought along his own Police dog, because Officer E’s dog was still recovering from its encounter with Mr Y. Officer E became a ‘cover man’ for Officer F; Officer F gave him his Glock (which he had earlier used to fire the warning shot) because Officer E’s gun was in his vehicle parked about 500 metres away.
114. Around this time Officer I made several unsuccessful attempts to contact NorthComms. He used the call sign for the Hamilton senior sergeant (which Officer H was also using) and asked NorthComms to ring his cellphone. He later told the Authority that it was not clear who the incident controller was at that point (because Officer G had stayed at the crash scene, and Officer H had involved himself in tracking Mr Z). He was trying to advise NorthComms of his rank, and that he was available to take control and was familiar with the area. Eventually

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<sup>4</sup> As far as the Authority is aware, Mr Y and Mr Z were the only occupants of the Holden when it crashed.

Officer I gave up trying to contact NorthComms due to radio difficulties and stayed at the cordon on Devine Road.

## MR Y TAKEN TO AMBULANCE

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115. Meanwhile, NorthComms advised that the AOS and Eagle were on the way, and that the ambulance had been told to stay away (because there was a possibly armed offender in the area). NorthComms also said that they were linking the Waikato Rural and Hamilton channels again because some units were still using the Hamilton channel.
116. At this point, about 10 minutes into the TaserCam footage, the officers decided to move Mr Y and he was lifted to his feet. An officer told him: *“Remember that the Taser is still here”*. The officers walked Mr Y across the road to another fence, where he was placed down in a sitting position again. One of the officers said: *“I think we need to get him out to an ambo”*, and it was decided that they would escort Mr Y along Devine Road, back in the direction of State Highway 1.
117. The TaserCam footage shows the officers walking down the road with Mr Y for about five minutes until the camera was turned off. Shortly after that Officer B picked Mr Y up in a patrol vehicle and drove him to a nearby location where the ambulance was waiting. Mr Y was then transferred to Waikato Hospital. He underwent surgery for the injury to his face and his dog bite wounds were cleaned and sutured.
118. Mr Y later said that during his arrest one of the dog handlers hit him in the face with a torch or baton, on top of the injury to his left eye area which he had sustained in the car crash. He claimed that this blow fractured his eye socket and opened the wound up further. The Authority interviewed Mr Y’s maxillofacial surgeon, who was of the opinion that the fractures were consistent with damage caused by a car crash and that there was no evidence indicating whether or not Mr Y had also been struck in the face by a torch or baton. The Authority’s findings on Mr Y’s complaint are discussed at paragraphs 183-185.

## APPREHENSION OF MR Z

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119. While Mr Y was being taken to the ambulance a group of officers, including Officers E, F, H and K, began tracking Mr Z in the paddocks south-west of the truck yard.
120. An AOS officer contacted NorthComms and was given a description of the scene. NorthComms advised: *“... one offender outstanding, firearm outstanding. [Officer H] is incident controller. [Dog handler] tracking at the moment ...”*.
121. After some time the Police dog lost Mr Z’s scent, and the officers eventually made their way over to Airport Road where they met up with the AOS at around 11.50pm. The AOS (including the dog handlers Officers E and F) took over from the general duties officers at this point and continued to track Mr Z.

122. Eagle arrived at the scene around this time and soon located Mr Z with their infra-red equipment. The AOS officers found Mr Z hiding behind a hedgerow further up Airport Road and arrested him without incident at around 12.15am.
123. Mr Z had a serious wound to his upper right arm which was bandaged by an AOS medic. He also complained of sore ribs and ankles. Police escorted Mr Z to an ambulance on Airport Road and from there he was transported to Waikato Hospital for medical treatment.
124. Mr Z later said that Police had fired a shot at him. He told the Authority that he only realised he was wounded after his arrest, and that an AOS officer told him he had been shot after seeing the gash on his arm. An ambulance officer later gave a statement saying that when she saw Mr Z's wound at the hospital she thought it was a gunshot wound (though she had not seen one before).
125. However none of the officers at the scene said they had fired or heard a second gunshot during the incident – the only gunshot heard was the warning shot fired into the air by Officer F during his confrontation with Mr Y. Also, a Police medical officer examined the wound on Mr Z's arm and concluded:

*“This wound had many features to suggest it was a laceration or skin tear caused by initial contact with a firm object which then caused the skin to tear, without significant damage to the underlying muscle. It had NO features to suggest it was caused by a bullet.”*

126. The Authority's findings on Mr Z's complaint are discussed at paragraphs 183-185.

## MR Y AND MR Z

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127. Police tested Mr Y's and Mr Z's blood for the presence of alcohol and none was detected.
128. Police were unable to determine whether it was Mr Y or Mr Z driving the fleeing car, so no charges were laid in relation to the pursuit. Police recovered stolen property in the silver Holden and subsequently Mr Y and Mr Z were both charged in respect of three burglaries in Hamilton.
129. Mr Y was also charged with assault on Police, escaping lawful custody and injuring a Police dog. On 9 April 2015 he was sentenced to two months' imprisonment for each of those offences, to be served concurrently.



## The Authority's Investigation

### THE AUTHORITY'S ROLE

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130. 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.
131. 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

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132. As required under section 13 of the Independent Police Conduct Authority Act 1988, Police notified the Authority on 1 March 2013 of the serious injuries of Mr Y and Mr Z. The Authority commenced an independent investigation.
133. The Authority's investigator travelled to the scene and viewed the environment where the pursuit and tracking took place.
134. The Authority reviewed material provided by Police, including statements from the officers involved, statements from independent witnesses, copies of the NorthComms transmissions, and reviews of the incident. The Authority also independently interviewed Mr Y, Mr Z, Mr Y's surgeon, and 12 Police officers.

### ISSUES CONSIDERED

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135. The Authority's investigation considered the following issues:
- 1) Did Police comply with the law and fleeing driver policy during the pursuit?
  - 2) Did Police comply with policy in relation to the use of road spikes?
  - 3) Did Police exercise appropriate command and control of the incident following the pursuit?
  - 4) Were Police justified in arming themselves to respond to this incident?
  - 5) Was Officers E and F's decision to confront Mr Y tactically appropriate?
  - 6) Was the Police's use of force justified?

- a) Police dog
  - b) Warning shot
  - c) 'Empty hand' techniques
  - d) Presentation of Taser
  - e) Complaints from Mr Y and Mr Z
- 7) Was all reasonable assistance given to Mr Y and Mr Z after they were apprehended?

## The Authority's Findings

### ISSUE 1: DID POLICE COMPLY WITH THE LAW AND FLEEING DRIVER POLICY DURING THE PURSUIT?

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136. Officer A attempted to pull over the silver Holden due to its speed (129 kph), and because it matched the description of a car reported to be driving dangerously. When the driver of the Holden failed to stop, Officer A was justified in commencing a pursuit.
137. The communication between NorthComms and the pursuing officers was generally good. The dispatcher issued the standard pursuit warning to both of the lead pursuit vehicles, and Officers A and C regularly provided updates on speed, location and manner of driving. The NorthComms shift commander also ensured that the officers and Police vehicles involved were qualified to undertake pursuits.
138. An incorrect registration number was accidentally passed on to NorthComms, which resulted in the pursuing officers being unaware of the risks associated with the occupants of the fleeing vehicle. NorthComms did not realise that they had identified the wrong car on the Police database, despite the pursuing officers giving a different description of the fleeing vehicle (see paragraphs 32 and 35). Whilst it would have been desirable for NorthComms to clarify the details of the fleeing car, this did not ultimately affect the outcome of the incident.
139. The Police fleeing driver policy states that officers conducting a pursuit must carry out risk assessments to determine:
- “... whether the need to immediately apprehend the fleeing offender is outweighed by the potential risks of a pursuit to the public, the occupants of the pursued vehicle, and/or the occupants of the Police vehicle.”*
140. The officers involved in this seven-minute pursuit clearly assessed the risks as the pursuit progressed. They reported that the driving conditions and manner of driving were good, and there was a low level of traffic. The only area of concern was the high speeds involved: the reported speeds were 129 and 160 in a 100 kph zone; 100 in a 50 kph zone; and 130, 150, 130, 150, 160, and finally 180 in a 100 kph zone. Over time the distance between the lead pursuit vehicle and the fleeing car increased from 400 metres to one kilometre.
141. The NorthComms shift commander ordered officers to abandon the pursuit after being informed that the fleeing car had reached a speed of 180 kph and was about one kilometre ahead of the lead pursuit vehicle.

## FINDINGS

Police generally complied with law and fleeing driver policy during the pursuit.

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## ISSUE 2: DID POLICE COMPLY WITH POLICY IN RELATION TO THE USE OF ROAD SPIKES?

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142. After hearing that Police had commenced a pursuit on State Highway 1 heading north from Cambridge, Officer D drove to the Tamahere interchange. He considered that it would be a good location to deploy road spikes and stop the fleeing car before it reached the more populated area of Hamilton about six kilometres away.
143. The NorthComms shift commander issued a general authorisation for the use of road spikes “*if safe*” about five minutes into the pursuit. In the circumstances, the decision to try using road spikes to stop the fleeing vehicle was reasonable, provided the risks involved did not outweigh the need to apprehend the occupants of the fleeing car.
144. Officer D carried out a risk assessment of the deployment site at Tamahere, and determined that it was suitable due to the minimal level of traffic, presence of a median barrier, good visibility, absence of pedestrians, and lack of sharp bends or corners on the road. Officer D also identified an escape route and had enough time to extend the road spikes across the road before the fleeing car arrived.
145. The Police tyre deflation devices policy requires deploying officers to conduct ongoing risk assessments of the situation and provide situation reports to the pursuit controller (the communications centre shift commander). The policy also states that the pursuit controller must regularly question deployment staff about their risk assessment.
146. Although Officer D notified NorthComms that he had road spikes at Tamahere (see paragraph 34), there was no further communication about the possible deployment of road spikes there. The radio channel was busy with updates on the progress of the pursuit and there was little time to discuss the use of road spikes before the fleeing car approached the Tamahere interchange.
147. The pursuing officers later said they did not hear or realise that road spikes were going to be used (which led to them accidentally running over the overturned spikes at speed when they reached the Tamahere interchange).<sup>5</sup> Officer C said that if he had known that road spikes were going to be deployed, he would have advised against it due to the fleeing car’s speed.
148. Just before deploying the road spikes, Officer D estimated the fleeing car’s speed to be well in excess of 150 kph. Prior to August 2011, Police policy prohibited officers from deploying road spikes when a fleeing vehicle was travelling in excess of 100 kph. That restriction has now been removed and there is no speed limit identified in policy.
149. The Authority acknowledges that Police policy did not explicitly prevent Officer D from deploying road spikes in this situation, and that he conducted a risk assessment and considered the use of road spikes to be safe given the suitability of the deployment site.
150. However the Authority has concerns about the risks associated with deploying road spikes on a car travelling at well over 150 kph, and considers that the potential danger of deploying the road spikes outweighed the need to apprehend an offender who, at this stage, was only

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<sup>5</sup> Problems with the radio reception in this area were also noted later that evening (see paragraph 61).

wanted by Police for dangerous driving and failing to stop. The Authority notes that Police are currently reviewing the tyre deflation devices policy, including the issue of the fleeing car's speed (see paragraphs 194-195).

## FINDINGS

Officer D complied with the risk assessment requirements of the tyre deflation devices policy. However there was insufficient communication about the impending deployment of road spikes at the Tamahere interchange.

### ISSUE 3: DID POLICE EXERCISE APPROPRIATE COMMAND AND CONTROL OF THE INCIDENT FOLLOWING THE PURSUIT?

151. Police policy on command and control states that the initial command of the Police response to all incidents reported to the Communications Centre is the responsibility of the Communications Centre shift commander, until it can be passed to a suitable officer in the field (ranked sergeant or above if possible). However the shift commander may retain command or take it back from a field officer if necessary (see paragraphs 210-212 for policy).
152. During this incident there was some confusion about who the incident controller was after the fleeing car crashed and the pursuit ended. Initially the NorthComms shift commander retained command and control in the aftermath of the crash.
153. The incident soon turned into an armed tracking operation and at 10.55pm the shift commander assigned Officer G to be the incident controller, due to his seniority (he was a sergeant) and his experience dealing with vehicle crashes. Officer G was still travelling to the scene at that point, and the shift commander asked him to advise when he had arrived and was ready to take control.
154. Before Officer G arrived at the scene, however, Officer H (a senior sergeant from Hamilton) became involved in the incident. Officer H contacted NorthComms, and the shift commander told him that Officer G was the incident controller “... unless you get there and wish to take it over.”
155. Officer G heard Officer H on the radio and assumed that, because Officer H was the more senior officer, he was now the incident controller. Officer G also mistakenly believed that Officer H was already at Tamahere (he was actually still travelling to the scene from Hamilton). Consequently, when Officer G arrived at Tamahere he limited his involvement to overseeing the crash scene on the highway. He later explained to the Authority that he believed the crash scene and the tracking operation were, in effect, separate incidents and that while he was the incident controller of the crash scene, the Hamilton senior sergeant was the incident controller of the operation to capture the offenders.
156. There was no clear statement over the radio to clarify that Officer G was only in charge of the crash scene, or that Officer H would assume command and control of the tracking operation

when he arrived at the scene. In the meantime NorthComms continued to oversee the incident while Officers E and F were tracking Mr Y and other officers sought direction on where they should set up cordons.

157. When Officer H arrived at Tamahere, the NorthComms shift commander contacted him about channelling requests from officers through him, and shortly afterwards Officer H said he would “take over” (see paragraphs 102 and 108). However there was no formal announcement over the radio to explain that incident control had now shifted from NorthComms, or from Officer G, to Officer H.
158. Within a short time Officer H joined a group of armed officers assisting the dog handlers to track Mr Z. Radio reception in the Tamahere area was poor at times, and NorthComms found it difficult to get in touch with Officer H while he was out tracking. Officer I attempted to contact NorthComms to advise them that he was available to take incident control, however he was unsuccessful.
159. The Authority is of the view that, while Officer H took effective command of the incident in some respects (such as suggesting that the AOS should be called out and organising Hamilton units to attend the scene), he should not have involved himself in tracking Mr Z. As incident controller, his role was to stand back and have oversight of the entire incident so that resources could be managed effectively and risks properly assessed.
160. There was also an ongoing problem during this incident with officers using the Hamilton radio channel after they had been told to switch to the Waikato Rural channel. As a result the channels had to be linked twice so that information was not missed.
161. Furthermore, NorthComms had difficulty locating the dog handlers during their confrontation with Mr Y. Officer safety alarms were a valuable tool to pinpoint their position, however neither of the dog handlers had them at the time (Police have since addressed this issue; see paragraph 192). Fortunately another officer was able to locate the dog handlers and set off his safety alarm for NorthComms.

## FINDINGS

There should have been clearer communication between NorthComms and the senior officers (Officers G, H and I) about who was taking responsibility for overall incident control and this decision should have been clearly conveyed to all attending officers.

Once Officer H had assumed incident control, he should not have directly involved himself in tracking Mr Z.

Officers should have switched over to the Waikato Rural channel when directed to do so.

## ISSUE 4: WERE POLICE JUSTIFIED IN ARMING THEMSELVES TO RESPOND TO THIS INCIDENT?

162. 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 213-221 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.

163. In this case the NorthComms shift commander made the decision to arm officers after information came to light that the silver Holden had been linked to Mr Y, who was wanted in relation to aggravated robbery with a firearm. Mr Z was also wanted for similar offences.
164. The Authority finds that the officers attending this incident were justified in arming themselves, due to the information that the occupants of the fleeing car may be carrying firearms. As required by policy, officers who attended this incident were given or read the fire orders when arming themselves.

## FINDING

Police were justified in arming themselves in response to this incident.

## ISSUE 5: WAS OFFICERS E AND F'S DECISION TO CONFRONT MR Y TACTICALLY APPROPRIATE?

165. When Officers E and F found Mr Y in the Regal Haulage truck yard, they decided to arrest him by executing an armed clearance of the truck cab he was hiding in. They later explained to the Authority that they believed this was the best tactical option because they were both experienced and capable AOS members, and they had a Police dog and a Glock pistol available to them. They also wanted to take advantage of the element of surprise (although Officer E acknowledged that Mr Y may have known they were there).
166. Standard operating procedure for Police when dealing with a potentially armed offender is, when the offender's actions permit, to cordon and contain the area and then appeal to the offender to negotiate a surrender. Police firearms policy also 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"* (see paragraph 220 for policy).
167. In this case Officers E and F explained that they could not have safely cordoned and contained the area without a serious risk to their safety, because it would have exposed them to being fired upon by the offender. They believed they had to act urgently and did not have enough officers available to effectively cordon and contain Mr Y, or enough time to contact NorthComms and seek back up. They also noted that they had a duty of care which obligated them to quickly check on Mr Y's well-being, given that he had just been involved in a serious car crash.
168. The Authority considers that, while other officers may have made a different decision in the same circumstances, the decision by Officers E and F to attempt to arrest Mr Y by themselves was appropriate in view of their assessment of the risks involved.

## FINDING

Officers E and F's decision to attempt to arrest Mr Y by themselves was tactically appropriate given their risk assessment of the situation.

## ISSUE 6: WAS THE POLICE'S USE OF FORCE JUSTIFIED?

### Police dog

169. After Officer F challenged Mr Y in the truck cab, Mr Y jumped down and began wrestling with Officer F in an effort to escape arrest. Officer E quickly deployed his Police dog and the dog took hold of Mr Y's leg, which distracted him from his attack on Officer F. While Mr Y said that the dog handlers deployed the Police dog on him without provocation (see paragraph 75), the Authority does not accept his version of events.
170. Police policy on the use of force with Police dogs states that officers must issue a warning or a challenge to surrender before deploying a Police dog to bite an offender, unless it is unsafe or impractical to do so. The warning must identify that the officer has a Police dog and that the dog will be used to bite the offender if he or she does not surrender (see paragraphs 222-226 for policy).
171. In this case Officer E did not warn Mr Y that he had a Police dog, but the Authority accepts that the officer had to act quickly to stop Mr Y from attacking Officer F and that it was not safe or practical to issue a warning in the circumstances.
172. After Mr Y escaped the truck yard by climbing over a fence, the officers released the Police dog from its tracking lead so that it could pursue the offender. Officer F helped the Police dog over the fence, but by the time he got over the fence himself he could no longer see the dog. He found the dog a short time later and then lost sight of it again. Subsequently the Police dog caught up with Mr Y and engaged him without the direct oversight of a dog handler.
173. Police policy states that dog handlers must have control of the Police dog at all times, and that *"Police dogs must not be allowed to contact or bite suspects unless commanded to do so by the handler."* Officers E and F arguably breached the policy because they lost sight of and lacked control over the Police dog for a short time.
174. Although the officers could have pursued other options after Mr Y escaped from the truck yard (such as stopping to seek back up from officers in the cordon and/or tracking Mr Y with the Police dog still on its lead), the Authority considers that the officers' decision to release the Police dog over the fence was understandable, given that they were in the midst of trying to apprehend a violent offender and it was a fast-moving and high-adrenaline situation. The risk of the Police dog biting an innocent bystander was low because the dog had Mr Y's scent, and people were unlikely to be outside at that time of night. It was quite a rural area, but there were residential properties nearby and it was imperative to arrest Mr Y before he put members of the public at risk of harm.

175. Mr Y suffered numerous and extensive bites to his legs during his struggles with the Police dog. While Police policy requires that dog handlers should try to limit dog bite injuries and “*must stop their dog from biting as soon as possible after the dog has apprehended a suspect or bitten any person*”, the Authority notes that (i) Mr Y was not quickly or easily apprehended, which prolonged his exposure to the Police dog, and (ii) Mr Y’s active resistance to the Police dog may have worsened his injuries.
176. The Authority finds that the officers’ use of the Police dog to apprehend Mr Y was reasonable in the circumstances.

### Warning shot

177. Within a short time after releasing the Police dog to pursue Mr Y, Officer F followed noises up a driveway and found Mr Y with his hands around the Police dog’s throat. After Mr Y had dropped the unconscious dog, Officer F decided to fire a warning shot for the reasons set out in paragraph 91, including that he believed Mr Y posed a threat of death or serious bodily harm.
178. Although Police policy generally advises against firing warning shots, the Authority is satisfied that Officer F fired the warning shot as a last resort, and that he complied with policy requirements by considering the safety of others, carefully aiming the shot as a warning shot, and first asking Mr Y to surrender (see paragraph 221).

### ‘Empty hand’ techniques

179. Soon after Officer F fired the warning shot, Officer E arrived and both officers attempted to overpower and handcuff Mr Y. Throughout this process the officers wrestled with Mr Y; Officer E described kicking Mr Y’s legs out from under him and delivering punches to his shoulder and ribs to try and get him to release the Police dog (see paragraph 94). The Authority considers that this was clearly a reasonable use of force in the circumstances.

### Presentation of Taser

180. Once Mr Y was handcuffed, officers escorted him down a driveway towards Devine Road. At this time Officer L was instructed to present a Taser at Mr Y in order to record his actions,<sup>6</sup> and deter him from further resisting Police. Officer L ‘laser-painted’ Mr Y with the Taser (but did not fire the Taser at any stage) and the Taser’s camera recorded him for the next 18 and half minutes. The TaserCam footage shows that Mr Y was not behaving violently during this time.
181. The Authority accepts that Police were concerned that Mr Y would continue to resist arrest and that the presentation of a Taser can be effectively used to de-escalate a situation and deter violence before it occurs.

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<sup>6</sup> The Authority notes that Police policy prohibits using a TaserCam for the sole purpose of gathering video evidence (see paragraph 228).

182. However in this case, by the time Officer L presented the Taser, Mr Y had already been handcuffed and there were up to seven other officers nearby (see paragraph 105). The Authority's view is that while Police would have been justified in presenting the Taser if Mr Y had recommenced acting violently towards the officers or threatened to break out of his handcuffs, it was unnecessary to present the Taser at Mr Y for such a length of time when he was no longer resisting and there were numerous other officers in the vicinity to restrain him if needed.

### Complaints from Mr Y and Mr Z

183. As noted earlier (see paragraphs 118 and 124), both Mr Y and Mr Z have made complaints that Police used excessive force against them during this incident. The Authority has not found any evidence to support these complaints.

184. Mr Y said that Officer E or Officer F hit him in the face with a torch or baton, fracturing his eye socket. Both officers denied using a torch or a baton against Mr Y, and the medical evidence was inconclusive as to whether or not such a weapon had been used – though the surgeon noted that the injury was consistent with a car crash.

185. Mr Z said that Police had shot at him during the incident. None of the officers spoken to by the Authority recalled hearing more than one gunshot (that is, the warning shot fired by Officer F), and the Police doctor determined that the wound to Mr Z's arm was not caused by a bullet.

### FINDINGS

The Police's use of force against Mr Y was justified. However Police were not justified in presenting a Taser at Mr Y for over 18 minutes.

The Authority has found no evidence to support the complaints that Officer E or Officer F hit Mr Y in the face with a torch or baton, or that Police fired a gunshot at Mr Z.

### ISSUE 7: WAS ALL REASONABLE ASSISTANCE GIVEN TO MR Y AND MR Z AFTER THEY WERE APPREHENDED?

186. Police quickly sought medical assistance for Mr Y after his arrest, particularly due to his facial injury. Initially the ambulance was going to drive to Devine Road to meet up with Mr Y and the officers, but there was a delay after Mr Z was spotted in the area and it was considered too dangerous to send the ambulance in due to the possibility that there was an armed offender on the loose. The officers at Devine Road were concerned about Mr Y's condition so they decided to walk Mr Y towards the main road. From there he was driven to the ambulance and received treatment for his injuries at Waikato Hospital.

187. Mr Z was bandaged by an AOS medic upon his arrest, and then handed over to ambulance staff before being taken to the hospital for further treatment.

## FINDING

Police gave appropriate medical assistance to Mr Y and Mr Z.



## Subsequent Police Action

### COMMAND AND CONTROL

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188. The Police investigation into this incident found that it was not managed effectively due to the lack of an incident controller at the scene. The investigation report noted that issues around command and control had been identified in a number of recent incident reviews and debriefs in the Waikato District, and that Police had recognised this as a *“District training opportunity”*.
189. Command and control training was delivered to Waikato District shift commanders in December 2013.
190. Police have also advised the Authority that the findings of this report will be provided to all Shift Commanders, the Operations Group, and the Royal New Zealand Police College *“as part of the organisational learning arising from this situation”*.

### TASER

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191. Officer K has advised the Authority that he recently completed Taser refresher training and re-certification, and that as a result of the Authority’s findings in this report he has updated his knowledge on the Police’s Taser policy.

### OFFICER SAFETY ALARMS

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192. The Police investigation report noted that the use of officer safety alarms during this incident *“proved invaluable allowing Comms to identify the position of units unaware of their exact location”*. The dog handlers, Officers E and F, did not have officer safety alarms at the time but this has now been rectified and all Waikato District dog handlers are equipped with the alarms.

### ONGOING DISCUSSIONS WITH POLICE REGARDING FLEEING DRIVERS

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193. As expressed in other reports, the Authority wishes to confirm that it is working with Police on a process of discussing and improving policies connected with the pursuit of fleeing drivers. This is due to the conflict between the often prescriptive nature of the relevant polices and the reality of a fast-paced, time-pressured situation. This process is well advanced.

### REVIEW OF TYRE DEFLATION DEVICES POLICY

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194. In this report the Authority has identified the following issues in relation to the Police use of road spikes during the pursuit of Mr Y and Mr Z:
- the pursuit controller issued a blanket authorisation to officers to deploy road spikes;

- communication between the NorthComms shift commander, the deploying officer and the pursuing officers did not meet the requirements set out in the Tyre Deflation Devices policy; and
- road spikes were deployed on a vehicle travelling at extremely high speeds (in excess of 150 kph).

195. The Authority notes that Police are currently reviewing the Tyre Deflation Devices policy and as part of that review are considering how these issues should be addressed.

## Conclusions

196. The Authority has found that Police were justified in commencing a pursuit of the car occupied by Mr Y and Mr Z after it failed to stop, and generally complied with law and fleeing driver policy during the pursuit.
197. Officer D also complied with Police policy by conducting a risk assessment of the site where he deployed the road spikes, but there was insufficient communication with the NorthComms shift commander and the pursuing officers regarding the imminent deployment of the road spikes at the Tamahere interchange.
198. Furthermore, the NorthComms shift commander and the senior officers attending this incident after the car crashed should have communicated more clearly about who was assuming incident control, and should have conveyed this information to the other attending officers. Some officers failed to switch over to the Waikato Rural radio channel when they were directed to so, and Officer H involved himself in tracking Mr Z when he should have stayed behind as the incident controller.
199. Police were justified in arming themselves to respond to this incident and, in the circumstances, were justified in deploying a Police dog, firing a warning shot and using 'empty hand' techniques while apprehending Mr Y. The Authority also considers that Officers E and F's decision to attempt to arrest Mr Y by themselves was tactically appropriate given their risk assessment of the situation.
200. However the Authority has determined that Police were not justified in presenting a Taser at Mr Y for over 18 minutes after he had been arrested and handcuffed.
201. The Authority has not found any evidence to support Mr Y's complaint that he was hit in the face with a torch or baton, or Mr Z's complaint that he was shot at by Police. Police provided appropriate medical assistance to Mr Y and Mr Z following their arrests.
202. As Police are already reviewing their policies in respect of fleeing drivers and tyre deflation devices, the Authority makes no recommendations.



**Judge Sir David Carruthers**

Chair

Independent Police Conduct Authority

16 April 2015



## Applicable Laws and Policies

### FLEEING DRIVER POLICY

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203. The overriding principle of the Police fleeing driver policy is that: *“Public and staff safety takes precedence over the immediate apprehension of the offender”*.
204. Officers are required to carry out risk assessments before and during a pursuit in order to determine whether the need to immediately apprehend the fleeing offender is outweighed by the potential risks of a pursuit to the public, the occupants of the pursued vehicle, and/or the occupants of the Police vehicle.

### TYRE DEFLATION DEVICES POLICY

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205. The Police tyre deflation devices (TDDs, i.e. road spikes) policy has the same overriding principle as the fleeing driver policy, and goes on to say that:

*“Every deployment is inherently dangerous and Police deploying TDDs must take care to preserve the safety of themselves, their colleagues and members of the public. This must be the primary consideration at all times.”*

206. Certified officers may deploy road spikes when there is no other, less dangerous, means of stopping a fleeing vehicle and the spikes can be used without unjustified risk to any person. Officers are instructed to consider, amongst other things, the urgency of the situation and how the deployment will impact on the fleeing driver and vehicle.
207. Under the policy officers deploying road spikes are required to establish the speed of the pursuit, provide situation reports to the pursuit controller (i.e. the communications centre’s shift commander), and conduct ongoing risk assessments of the situation and deployment site. The pursuit controller must regularly question deployment staff about their risk assessment, including road and traffic conditions.
208. The deployment site must:
- provide cover and an escape route for the deploying officers;
  - provide a clear view of the road;
  - not be on or immediately before a bend in the road;
  - be suitable for the safe and effective deployment of the road spikes; and
  - be far enough away from the fleeing vehicle to allow time to select and assess the site and carry out the deployment.
209. Officers must abandon the deployment of the road spikes if instructed to do so by the pursuit controller, or if injury is likely to occur to the public, Police or the occupants of the fleeing car.

## COMMAND AND CONTROL

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210. The Police radio and communication centre protocols provide that the initial command of the Police response to all incidents reported to a communications centre is the responsibility of the communications centre's shift commander, until it can be passed to a suitable field supervisor (ranked sergeant or above where possible).
211. The policy sets out a list of matters for shift commanders to consider before handing over incident control to an officer in the field, including that:
- In the early stages of an incident, the communications centre is usually best equipped to control the response.
  - The highest-ranking officer will not necessarily be the most appropriate person to assume command.
  - The officer in the field should not be given command until they have had an opportunity to:
    - establish an incident command point;
    - familiarise themselves with the incident and obtain a briefing; and
    - formulate a response plan.
212. In some circumstances the shift commander may retain incident control, or may take it back from a previously appointed incident controller.

## USE OF FORCE

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### Crimes Act 1961

213. 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"*.
214. 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"*.
215. 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."*
216. Under section 62 of the Act, anyone who is authorised by law to use force is criminally responsible for any excessive use of force.

### Use of firearms

217. 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, (ii) arrest an offender or (iii) prevent an escape – provided they believe on reasonable grounds that the offender poses a threat of death or grievous bodily harm and the action cannot be carried out in a less violent manner.
218. 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.”*

### Fire orders

219. 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; General Instruction F061; 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.

### Principles for responding to armed offenders

220. 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."*

## Warning shots

221. In respect of warning shots, the policy states:

*"As a general rule warning shots should not be fired. However, there may be circumstances where a warning shot may be appropriate. Only fire a warning shot 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*
- *it can be clearly aimed as a warning shot."*

## USE OF FORCE WITH POLICE DOGS POLICY

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222. Police policy on the use of force with Police dogs states that a dog handler is personally responsible for any use of force by their dog.

223. Dog handlers are required to consider all tactical options available to them when considering the use of force with Police dogs. Before releasing the dog, the dog handler must be satisfied that the use of force is justified in the circumstances and must ensure that the force used by the dog is kept to a minimum.

224. Dog handlers must issue a warning or a challenge to surrender before deploying a Police dog to bite an offender, unless it is unsafe or impractical to do so. The warning must identify that the officer has a Police dog and that the dog will be used to bite the offender if he or she does not surrender. Once challenged, the offender must be given a reasonable time to comply.

225. The policy requires dog handlers to have control of their dog at all times during deployment. This means that the dog is under physical or voice control and responds to that control. The policy states:

*"When locating suspects ... handlers must take reasonable steps to ensure that their Police dog cannot initiate contact or bite that person unless commanded to do so.*

*... If a Police dog is released to pursue a suspect, there is a risk to third parties being involved. You must be constantly alert to that risk and be capable of stopping the dog and recalling the dog back to you at any time.*

*At any time that a dog loses sight of a suspect after the dog has been deployed to chase and apprehend you should:*

- *recall or down the dog*
- *regain control of the dog*
- *redeploy the dog once the suspect is in sight again and it is safe to do so."*

226. Dog handlers must stop their dog from biting as soon as possible after the dog has bitten any person. People bitten or injured by Police dogs must be given appropriate medical care as soon as practicable.

## TASER POLICY

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227. Police policy on the use of Tasers provides that a Taser may only be used when the offender's behaviour is, or has the potential to escalate to, *"within or beyond the assaultive range"*. *"Assaultive"* is defined as: *"Intent to cause harm, expressed verbally, through body language/physical action."* The officer must have an honest belief that the offender is capable of carrying out the threat posed.

228. The policy also states that: *"Under no circumstances must the taser be employed or used in situations where the sole purpose of the deployment is the gathering of digital video and audio evidence."*







## About the Authority

### WHO IS THE INDEPENDENT POLICE CONDUCT AUTHORITY?

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The Independent Police Conduct Authority is an independent body set up by Parliament to provide civilian oversight of Police conduct.

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

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

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

### WHAT ARE THE AUTHORITY'S FUNCTIONS?

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

- 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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