

## Summary Report

# Police response to an incident involving injury to a child

## INTRODUCTION

1. On 19 September and 6 October 2013, the Authority received complaints from Ms X and Ms Y about the failure of Police to respond to and investigate two incidents at Ms X's home in Mount Wellington, Auckland. During the second incident, Ms X's son, then aged two years, was injured.
2. The Independent Police Conduct Authority notified Police of the complaints, and the Authority conducted an independent investigation. This report sets out the results of that investigation and the Authority's findings.

## Index of Police officers

Police officers/staff	Roles/District
Communicator	Took emergency calls from Ms X on 26 August 2013 and from Ms Y on 18 September 2013.
Dispatcher 1	Dispatcher on the Counties Manukau radio channel on 26 August 2013.
Dispatcher 2	Dispatcher on the Counties Manukau radio channel on 18 September 2013.
Dispatcher 3	Dispatcher on the Counties Manukau radio channel on 18 September 2013.
Dispatcher 4	Dispatcher on the Auckland City radio channel on 18 September 2013.
Officer A	Sergeant in the field (Counties Manukau Police district on 26 August 2013).
Officer B	Acting Sergeant, Auckland City Police district.
Officer C	Senior Sergeant, Auckland City Police district.
Officer D	Constable, Auckland City Police district.
Officer E	Constable, Auckland City Police district.
Officer F	Detective Sergeant, Crime Squad supervisor, Counties Manukau Police district.

Officer G	Sergeant (based at Otahuhu Police station), Counties Manukau Police district.
Officer H	Acting Sergeant (in the field), Counties Manukau Police district.
Officer I	Detective Sergeant, Child Protection Team, Auckland City Police district.
Officer J	Acting Detective Sergeant, Crime Squad, Counties Manukau Police district.
Officer K	Detective Senior Sergeant, Counties Manukau Police district.

## Summary timeline of events on 18-19 September 2013

Time	Event/Comment
<b>18 September 2013</b>	
11:06pm	The Northern Communication Centre (NorthComms) receives an emergency call from Ms Y advising that Ms X and her young child are being held by unknown men at Ms X's house, and the child has been injured. No units are available to attend.
11:30pm	Ms Y advises NorthComms that she has picked up Ms X and her child and is taking them to Starship Hospital.
11:50pm (approx.)	Officer B (Auckland City Police) is advised of the incident and the need for Police to attend Starship Hospital. After consulting with his supervisor, he sends Officers D and E to the hospital to speak to Ms X and take down details of what happened.
<b>19 September 2013</b>	
12:05am	Officers D and E speak to Ms X at Starship hospital. Ms X is concerned that her partner might unwittingly return to her house and be assaulted by the offenders.
12:41am	Officers D and E report back to Officer B, but forget to hand in their job sheets. Officer B updates NorthComms and recommends that a unit from Counties Manukau Police is sent to clear Ms X's house.
1:00am (approx.)	Officer H (Counties Manukau Police) becomes aware that Ms X's house needs to be cleared, but he is tied up in another incident.
1:50am	Officer H clears the house, but forgets to inform Ms Y of this fact.
7:02am	Ms Y rings Police for an update about Ms X's house, and is rung back by Officer G at 8:30am.
9:00am (approx.)	A social worker at Starship Hospital advises Officer I from the Auckland City Police Child Protection Team that a child arrived overnight with unexplained injuries. Officer I attempts to find out more information.
1:44pm	Officer I is given reference numbers which allow him to link the information to the emergency call received from Ms Y.
2:30pm (approx.)	Officer I sends two detectives to Starship Hospital to talk to Ms X and her child. Afterwards, Officer I decides that Ms X's house needs to be examined.
4pm (approx.)	Officer I rings Officer J from Counties Manukau Crime Squad and requests that he examine Ms X's house. Officer J agrees, and requests the file and investigation plan.
4:37pm	Officer I emails the information he has to Officer J, and assigns him the file.
5:15pm (approx.)	Officer J calls Officer I back to request further information, but is told that there is none. Officer J speaks to his supervisor, Officer K.
6:31pm	Officer K emails the file to Officer I, stating that they will conduct the scene examination when more information has been provided.

## BACKGROUND

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### Incident on 26 August 2013

3. At about 6:15pm on 26 August 2013, Ms X made an emergency call to Police from her house in Mount Wellington, Auckland to report that she was with her young son and her front door had been deliberately “*smashed in.*” Ms X’s house was located in the Counties Manukau Police district.
4. Ms X’s call was answered by a communicator<sup>1</sup> at the Police Northern Communications Centre (NorthComms). Ms X told the communicator that, while she hadn’t seen who had damaged her front door, she and her partner had been having problems with specific gang members and she felt that they were responsible for the incident. The communicator recalled Ms X saying that her neighbours “*scared the offenders off,*” but they were unable to describe the offenders or say in which direction they had fled.
5. The communicator summarised the information provided by Ms X in the Computer Aided Dispatch system (I/CAD)<sup>2</sup>. He assigned it a ‘priority 2’<sup>3</sup> status because Ms X reported that the offenders had left. He therefore judged that Ms X and her property were no longer at risk. Before ending the call, the communicator established that Ms X’s partner had arrived home.
6. At about 6:20pm, dispatcher 1<sup>4</sup> informed the field sergeant (Officer A) about the incident. It was a busy evening with few Police units available. Officer A was dealing with another matter, but said he would look at the incident when he returned to the Police station. This did not happen until 10:30pm, by which time Officer A did not think it was necessary for Police to attend Ms X’s address because he had been informed that everyone at the house was safe and Ms X had not been back in touch to report that the offenders had returned. A wilful damage report was taken from Ms X the next day.
7. Ms X told the Authority that she understood that Police could not do much with the limited information which she could provide about the incident. However, she felt that, because she told Police that she thought the incident was gang-related, they should have responded more quickly to the next incident on 18 September 2013.

### Incident on 18 September 2013

8. Ms X said that at about 3:30pm, four male gang members entered her house and would not leave. They held her and her son against their will. One of them punched her two-year-old son in his face while attempting to punch her. At about 11pm, Ms X discretely called her mother

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<sup>1</sup> A communicator is based at the Communications Centre and is responsible for answering and prioritising calls.

<sup>2</sup> Communicators record the information obtained from a caller in the Computer-Aided Dispatch system, referred to as ‘I/CAD.’ Once the information (called an ‘event’) is entered into the system, the dispatcher is able to read it.

<sup>3</sup> Police assign priority codes to events. Police will aim to attend ‘priority 2’ events within 30 minutes of dispatch (see paragraph 67 for further explanation).

<sup>4</sup> A dispatcher is based at the Communications Centre. He or she reads the information entered into I/CAD and allocates the job to a unit in that area according to availability and priority.

(Ms Y) and told her what was happening. During the phone call, Ms X told Ms Y not to call Police because the gang members had threatened her.

9. Just after 11pm Ms Y made an emergency call to Police and spoke to the same communicator that Ms X spoke to on 26 August. Ms Y outlined what Ms X had told her and requested urgent assistance. The communicator remembered speaking to Ms X on 26 August.
10. The Police communicator recorded the incident in I/CAD as a 'serious assault on a child' and gave it a 'priority 2' status because:

*"..the informant stated this had been an ongoing situation since 15:00 hours, and that while the offenders were still present but not posing an immediate threat to any person or property...police attendance was required in a reasonably short time."*

11. Dispatchers 2 and 3 on the Counties Manukau radio channel read about the assault on I/CAD, and saw that no units (including the duty field sergeant) were immediately able to attend because they were responding to an incident involving fleeing offenders.
12. Both dispatchers felt that it was odd that Ms X was able to call Ms Y while being held by gang members, so dispatcher 2 referred the incident to her team leader for further clarification from the communicator. It is unclear whether either dispatcher informed the team leader that no units were immediately available to send to Ms X's house.
13. The communicator explained to Ms Y that all units were currently busy, but that Police would attend as soon as possible. He then tried to ring Ms X's mobile phone number, but received no answer. Ms Y told the Authority that she was:

*"...completely distraught. I thought I had to do something. I couldn't leave them there, I couldn't even get the Police to come and help."*

14. Ms Y told the communicator that she was going to drive to Ms X's house and rescue Ms X and her son herself.
15. Meanwhile, Ms X was able to escape the house with her son. They ran to the end of the driveway where Ms X and her son were found and picked up by Ms Y.
16. At about 11:30pm Ms Y rang the communicator back to inform him that: she had rescued Ms X and her son and was taking them to Auckland Starship Hospital because the child was injured; and that Police needed to come and arrest the gang members who Ms X said were still in her house.
17. After confirming that they did not need an ambulance, the communicator asked Ms Y to call him back when they reached Auckland Starship Hospital and that a unit would be sent to meet them. The communicator updated I/CAD so that the dispatchers would be aware that the family were safe and that a unit needed to attend Auckland Starship Hospital.
18. Ms X's son was admitted to the hospital so that his injuries could be assessed and treated.

### *Auckland City Police visit Ms X at Auckland Starship Hospital*

19. Auckland Starship Hospital is in the Auckland City Police district.
20. At 11:50pm, dispatcher 4 on the Auckland City radio channel saw that a unit needed to go to Auckland Starship Hospital to speak to Ms X, but no units were available. She rang the Auckland City acting sergeant (Officer B) to inform him of the situation, and looked for a free unit to go to the hospital.
21. Officer B read about the incident on the Police computer, but saw that very limited information was available about what had happened. However, he could see that it appeared to be a serious crime, and so told dispatcher 4 that he would call Auckland City Crime Response so that detectives, who were experienced in investigating serious crimes, could deal with it. He did so, but found that no one was available to assist.
22. Officer B rang his supervisor, a senior sergeant (Officer C), who agreed that they should “free-up” an Auckland City unit and send them to Auckland Starship Hospital to gather initial information about the incident from Ms X. Officer B told the Authority that he understood that Auckland City district’s role was to obtain a clearer picture from Ms X about what had happened, and take any urgent action that was necessary.
23. Both Officers B and C told the Authority that they did not believe that the Metro Auckland District Investigation Protocol (MADI Protocol) was relevant in this instance. This Protocol sets out the responsibilities of respective Police districts in the Metro Auckland area when an offence is reported to Police in one Police district but actually occurred in another (see paragraphs 74-76 for further explanation).
24. Officers B and C told the Authority that they believed that it was their responsibility to attend the hospital and speak to Ms X because she and her child were now in the Auckland City Police district. However, Counties Manukau Police would be ultimately responsible for investigating the incident, because the alleged kidnapping had both occurred, and been reported (via Ms Y’s emergency call), in Counties Manukau Police district.
25. Consequently, Officer B directed two constables, Officers D and E, to go to Auckland Starship Hospital, speak to Ms X and report back to him. He then advised Northcomms that an Auckland City unit was on its way to the hospital.
26. At 11:56pm dispatcher 3 rang Ms Y to update her about the Police response. Ms Y expressed her annoyance that Police were not going directly to Ms X’s house to catch the offenders. Dispatcher 3 explained that they needed to gather information about what had happened so that the officers could establish how best to deal with the situation.
27. Shortly after midnight, Officers D and E arrived at the hospital, and recorded in their notebooks what Ms X told them. Ms X’s son’s injuries (primarily graze wounds on his face and head) had not yet been assessed by a doctor, but the officers took photos of the injuries and emailed these photos to Officer B. The officers told Ms X and Ms Y that the information would be passed on to detectives, who would investigate the matter.

28. At 12:40am, Officers D and E reported back to Officer B over the phone, and told him that Ms X was very concerned that her partner might arrive at her house and be assaulted by the gang members.
29. After speaking with Officers D and E, Officer B said that he was satisfied that:
- Ms X and her son were now safe, and that the child's injuries were not life-threatening;
  - Ms X and her son would be available either at hospital or at Ms Y's house for detectives from Counties Manukau district to speak to in due course;
  - Ms X was upset, and not in a fit state to have a statement taken immediately;
  - the information collected by his officers would be passed to the detectives investigating the incident, and the detectives would be responsible for taking action with respect to Ms X and her son, such as making a referral to Child Youth and Family (CYF) if necessary; and
  - there was a real threat that Ms X's partner might return to the house and be assaulted by gang members present, and this needed to be urgently prevented.
30. After consulting with Officer C, Officer B again contacted NorthComms and told them to send a Counties Manukau unit to Ms X's address as soon as possible to intercept Ms X's partner. He told NorthComms that Ms X and her son were safe in hospital, and that they would likely still be there when Counties Manukau Police were available to interview them.
31. Officer B told the Authority that he expected Officers D and E to complete job sheets detailing the information taken from Ms X, and to leave them on his desk at the end of their shift. Officer B told the Authority that he intended for the information in the officers' job sheets to be passed on to the Counties Manukau investigation team. However, Officer D and E never completed their job sheets, and Officer B forgot to follow them up at the end of his shift. Consequently, the information gathered by Officers D and E was not passed on to officers in either Police district.

*Counties Manukau Police check Ms X's house, but fail to update Ms Y*

32. Just after 11:50pm, the shift supervisor of the Counties Manukau Crime Squad, Officer F was informed about the incident by NorthComms. He was attending another serious incident at the time, so asked for another unit to be sent to Ms X's house to deal with any offenders still at Ms X's house.
33. The sergeant based at the Otahuhu Police station, Officer G, read on I/CAD that a unit needed to go to Ms X's house. After speaking with NorthComms, he rang the field sergeant (Officer H) to alert him that it was a job that needed attending.

34. When Officer H became free at about 1am, he read about this job on his mobility device<sup>5</sup>. Aware that there may be dangerous offenders at the address, he and three other officers returned to Otahuhu Police station to arm themselves and plan how they would approach the house.
35. At about 1:40am, Officer H rang Ms Y to update her and ask her permission to enter the house by force if necessary. Ms Y granted permission, and asked to be updated once Officer H had checked the house.
36. At about 1:50am, the officers checked the house from the outside, and finding it to be secure, empty and apparently undisturbed, decided that there was no need to force entry. Officer H updated NorthComms, then was immediately called away to another job and did not ring Ms Y back.
37. At 2am Officer G rang Officer F to ask if he wanted him to complete a Report of Concern using the Child Protection Protocol (CPP) referral, which would alert the Child Protection Team and Child Youth and Family that there may be concerns about the safety of Ms X's son (see paragraphs 66-73). Officer G said that Officer F told him that a CPP referral would be completed by Auckland City Police because they were dealing with the family, and the investigation file would be sent back to Counties Manukau Police for investigation.
38. At about 7am, Ms Y rang the Crime Reporting Line<sup>6</sup> to get an update about Ms X's house because she hadn't heard back from Police. At 8:30am Officer G rang her back and informed her that the house had been checked at about 2am, and there was no-one there.

#### *Police actions during the day of 19 September 2013*

39. At about 9am, Officer I, a Detective Sergeant in Auckland City district's Child Protection Team, said that he was advised by a social worker based at Auckland Starship Hospital that a young boy had been admitted overnight with unexplained injuries, and after assessing the situation they would advise if Police needed to become involved. The social worker was unaware at this point that Police had already visited Ms X and her son.
40. The social worker had little information about the family available, but gave Officer I an address in Onehunga as a reference to search for more details (neither the social worker nor Officer I knew that this was in fact Ms Y's address).
41. At about 11am, Officer I said that the social worker asked him to find out more information about Police attendance at the hospital during the night. Over the next few hours, Officer I said he attempted to find more details about the incident, but he was unsuccessful. At about 1:45pm, with more information from the social worker, he was able to locate and read about the incident in the Police computer system.
42. Officer I said that he contacted officers in the Counties Manukau Crime Squad, and at the Auckland Central Police station, who did not know anything about the incident. He also rang a

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<sup>5</sup> This is either an iPad or an iPhone that Police officers carry and can use to access I/CAD and other Police databases.

<sup>6</sup> A designated crime reporting service to receive and action non-emergency calls.

Counties Manukau duty sergeant, who had heard Officer G speaking to Ms Y earlier that morning and was able to provide him with some information.

43. Officer I told the Authority that by 2:30pm, the information he had was still ambiguous, so he decided to send two detectives from his team to the hospital to speak to Ms X, assess the safety of her son, and see if there were any urgent enquiries that needed to be made. Officer I and the detectives did not discuss taking formal statements from Ms X or Ms Y. Officer I told the Authority that:

*“...in hindsight,...taking a statement from the mother probably would have been a better thing to do but...it wasn't what I tasked my staff to do and it wasn't the priority when they had that first discussion with her.”*

44. After he had been updated by the detectives, Officer I formed the view that the child's injuries could not be satisfactorily explained, and that Ms X's home should be examined as a priority. However, Ms X's house was in Counties Manukau Police district, and since it was getting late in the day and his staff did not work night shifts, Officer I decided to contact Counties Manukau Crime Squad and ask them to do the scene examination.
45. At about 4pm, Officer J, the Acting Detective Sergeant for the Counties Manukau Crime Squad, said that he received a phone call from Officer I requesting assistance with a scene examination. Officer I explained his suspicions that Ms X's version of events may in fact be an attempt to cover up a child abuse situation.
46. Officer J said that he agreed to undertake the scene examination, because he was aware that Counties Manukau Police would be responsible for investigating the incident which had occurred in their district. However, he says he expected that, in accordance with the MADI Protocol, the complaint and associated file had already been created by Auckland City Police. In particular, he assumed that a statement had been taken from Ms X.
47. Officer J told the Authority that he asked Officer I to email him the file, including an investigation plan. Officer I then told him that there was currently no file, but he would *“enter one.”* Officer J told the Authority that he got the impression that Officer I *“could not be bothered”* to complete the detailed requirements of a CPP investigation plan.
48. At 4:37pm, Officer I sent an email to Officer J which briefly described the child's injuries and Police involvement to date, and provided two 'event' reference numbers so further information could be looked up on the I/CAD system. Officer I also assigned the investigation file to Officer J.
49. Officer J said that he read the email at 5pm, and was disappointed with the lack of information provided. In particular, he noted that there was no information relating to how Ms X's house was to be accessed, practically or legally, to conduct the scene examination.
50. At 5:15pm Officer J said he rang Officer I and asked him if there was any further information available, in particular why no statement had been taken from Ms X. Officer J told the Authority that Officer I replied that there was *“no particular reason why a statement had not been taken”*

and “*I don’t have to justify myself to you.*” He then told Officer J to send the file back if he was unhappy.

51. Officer J told the Authority that he felt that there was no point continuing the conversation, so he ended the call. He then went to discuss the situation with a Detective Senior Sergeant, Officer K.
52. Officer K read the email and file, and decided to decline Officer I’s request to examine Ms X’s home because:
  - without a statement from Ms X it was unclear whether they were dealing with a home invasion or a case of alleged child abuse;
  - Officer I had not provided a search warrant or Ms X’s permission to search the house.
53. In Officer K’s view, entry onto Ms X’s property in order to conduct a scene examination without a clear idea of what offence had allegedly been committed, and without authority to enter her property would have rendered any evidence obtained through the examination inadmissible in court. Officer K further explained his assessment and decision to the Authority, noting that:
  - different types of crimes warrant different scene examination techniques, which may destroy vital evidence if the scene was examined for the wrong crime;
  - they could not enter the house without the occupier’s consent or under emergency search powers; and
  - it was not an option for him to ring Ms X and request permission to enter the house because she could be the offender and might have the opportunity to change or remove evidence.
54. At 6:31pm, Officer K emailed his response to Officer I, and re-assigned the file to him. He told Officer I that he would be happy for his team to conduct the scene examination once the information detailed in paragraph 52 had been provided.
55. On 20 September 2013, Officer I took a statement from Ms X, and sent the file to Counties Manukau Police. Auckland City Police undertook to complete the initial CPP documentation. Meanwhile, Ms X and her son were discharged from hospital and went to stay with Ms Y.
56. On 23 September 2013, Ms Y went to Manukau Police station to ask for an update. She was told that a file had been created with respect to her grandson’s injuries, and Police would need to take a statement from her.
57. On 1 October 2013 Police went to Ms X’s house and found that it had been vacated and thoroughly cleaned (Ms X said that she had already advised Police that she would be moving out of the house at the end of September). Nevertheless, on 7 October 2013 Police conducted a scene examination at Ms X’s former address, despite being aware that it was unlikely that any forensic evidence would be found. This proved to be the case.

58. Statements were also taken from both Ms X and Ms Y on 7 October 2013.

### Ms X

59. Police investigated Ms X's allegation that a gang member had assaulted her son. The investigation concluded that her son's injuries were the result of an accident at Ms X's friend's house, and Ms X was not responsible for causing them. Ms X was warned for making a false complaint.

### Complaint

60. On 19 September 2013, the Authority received a letter with three heads of complaint:

- 1) Police failed to respond with sufficient urgency to Ms Y's emergency call on 18 September 2013 that her daughter and grandchild were being held against their will by gang members;
- 2) Police did not go to the address quickly enough to catch the offenders;
- 3) Despite requesting to be called with an update, Police did not contact Ms X after checking the property in the early hours of 19 September 2013.

61. On 6 October 2013, the Authority received two additional heads of complaint:

- 4) Police failed to respond to Ms X's emergency call on 26 August 2013 that her front door had been smashed while she was at home with her young child;
- 5) Police failed to investigate this incident, and if they had done so the hostage incident on 18 September 2013 may have been prevented.



**Communications**

62. Emergency 111 calls to NorthComms are answered by communicators, who gather initial information and determine whether a Police response is required. If a response is required, a dispatcher allocates Police units to attend and also gathers and passes on any further relevant information to the field units. The communicators and dispatchers are overseen by a team leader.
63. Part of the communicator’s role is to assign a priority level to the call, which determines Police’s response. ‘Priority 1’ and ‘2’ codes are assigned to the most serious active events which require an immediate or timely response:

Priority 1	Response within 10 minutes of dispatch	<ul style="list-style-type: none"> <li>• Actual threat to life/property;</li> <li>• Violence being used or threatened;</li> <li>• Serious offence and offender present or leaving the scene;</li> <li>• Serious vehicle crashes involving injured or trapped people.</li> </ul>
Priority 2	Response within 30 minutes of dispatch	<ul style="list-style-type: none"> <li>• Offender present but not violent;</li> <li>• Suspicious activity not involving a threat;</li> <li>• Vehicle crashes not involving injury;</li> <li>• Disorder;</li> <li>• Distressed victim;</li> <li>• Sudden death;</li> <li>• Evidence present (may be lost).</li> </ul>

64. When an emergency call is received and assigned ‘priority 1’ status, but there are no Police units available to respond, a set of procedures exist for communicators and dispatchers to follow.
65. The dispatcher:
- broadcasts over the radio for an available unit;
  - if no available unit responds, reviews occupied units to see whether a unit can be re-assigned to the emergency;

- contacts the field supervisor to either assign that supervisor to the event or obtain further direction;
- should the field supervisor not be able to respond or be contactable, contacts the local station supervisor and arranges for staff to attend;
- records in the computer system that there were 'No Units Available' (NUA); and
- advises the Team Leader/Shift Manager at the Communications Centre that they have a priority 1 event that they are unable to dispatch due to no units being available. The supervisor will assist the dispatcher to find a suitable response to ensure Police attend as soon as possible. In certain life-threatening circumstances, this might include dispatching Police units from other Police districts to attend.

### Child protection policy and investigation guidelines

66. This policy establishes procedures for dealing with reports to Police about child safety concerns. It is designed to ensure that timely, coordinated and effective action is taken in response to information about child safety concerns so that children are kept safe, offenders are held accountable wherever possible and child victimisation is reduced.
67. Child safety is a critical issue and the investigation of child abuse is given a high priority by Police. Police have adopted a broad approach to child safety to ensure no child falls through the cracks and are committed to a prompt, effective and nationally consistent response to child safety, in conjunction with other agencies and community partners.
68. Child safety concerns include offences or suspected offences relating to physical, sexual, emotional abuse or neglect of a child.
69. Child abuse is defined in the Children, Young Persons and their Families Act 1989 as the harming (whether physically, emotionally, or sexually), ill-treatment, abuse, neglect, or deprivation of any child or young person. Police policy states if the victim is a child and one or more of the following exist then the report of concern should be treated as child abuse:
- physical abuse
  - sexual abuse
  - neglect
  - emotional abuse
  - psychological abuse
  - witness to serious crime
  - witness to family violence
  - presence in unsafe environments (e.g. locations for drug manufacturing or supply)

- cyber crime exploiting children
  - child trafficking.
70. Police have entered into Memoranda of Understanding (MoU) with several other agencies in order to identify and respond to child safety concerns. These agencies include District Health Boards (DHB), and Child Youth and Family (CYF)<sup>7</sup>.
71. The **Child Protection Protocol (CPP)** between Police and CYF clarifies the roles, responsibilities and processes each organisation will adopt in cases of serious child abuse (which includes unexplained grazing or punches to a child’s head). The primary functions of Police under this protocol are addressing the immediate safety of children; investigating; and holding perpetrators to account wherever possible.

#### *Initial Police actions and safety assessment*

72. Initial information about child safety concerns may come to Police from a range of sources. When an officer receives a report of concern (the receiving officer), the priority is to ensure the child’s immediate safety. The designated Police Child Protection Team should be notified as soon as is practicable.
73. The receiving officer should consider whether immediate intervention is required to ensure the child’s safety. If the situation does not require immediate intervention, the receiving officer should complete a CPP referral form and make sure it is emailed to the Child Protection Team and CYF National Call Centre before he or she goes off duty. If there is any doubt as to the degree of seriousness the case should be referred for further discussion with CYF.

#### **Metro Auckland District Investigations Protocol**

74. A protocol exists between Auckland City, Counties Manukau and Waitematā Police districts which sets out how offences that occurred in one district, but are reported to Police in another district, are managed and investigated.
75. The protocol aims to reduce the chance that a victim will be put at risk or Police fail to provide adequate service due to the way a cross-border investigation is managed.
76. The protocol states:
- 1) *“The Area or station responsible for policing the location **WHERE THE OFFENCE OCCURRED** is responsible for completing the investigation regardless of where the complaint was made or where any victims, offenders, or witnesses may live.*
  - 2) *Where a complaint is lodged other than at the location where the offence occurred, the police station where the complaint **IS MADE** is responsible for accurately recording the complaint and completing any necessary initial action before forwarding the file to the Area of station closest to where the offence occurred.” (Emphasis in the original).*

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<sup>7</sup> Child Youth and Family is a service line of the Ministry of Social Development.

## Search and Surveillance Act 2012

### *Section 15: Entry without warrant to find and avoid loss of evidential material relating to certain offences*

77. A constable may enter and search a place without a warrant if he or she has reasonable grounds—
- (a) to suspect that an offence punishable by imprisonment for a term of 14 years or more has been committed, or is being committed, or is about to be committed; and
  - (b) to believe—
    - (i) that evidential material relating to the offence is in that place; and
    - (ii) that, if entry is delayed in order to obtain a search warrant, the evidential material will be destroyed, concealed, altered, or damaged.

## THE AUTHORITY'S FINDINGS

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### Did Police respond adequately to Ms X's emergency call on 26 August 2013?

78. Ms X complained that Police failed to respond adequately to her emergency call made at 6:15pm, and if this incident had been properly investigated the incident on 18 September may have been prevented.
79. At the end of Ms X's emergency call, Police knew that:
- Ms X and her son were safe (the offenders had left and her partner was home); and
  - there were no witnesses to the incident.
80. The communicator who took Ms X's call had coded the incident as 'priority 2' on the basis of this information, meaning Police intended to attend quickly. However, no units were able to do so as they were dealing with higher priority incidents. Officer A was made aware of the incident but was also dealing with other more serious incidents.
81. By 10:30pm, when Officer A was able to read about the incident, he reasonably judged that there was no need for Police to go and disturb the family because he was satisfied that they were still safe, and there was no urgent need to gather evidence at Ms X's house.
82. The Authority is satisfied that Police had no substantive lines of enquiry to pursue in order to catch the offenders. While Ms X was able to suggest who might have been involved, she had not seen the offenders and could not provide Police with any further information.
83. The Authority's view is that Police responded appropriately to Ms X's emergency call given the information provided and the resources Police had available at the time. It was reasonable for Police to keep the matter on file in case any further developments arose.

### FINDING

Police responded adequately to Ms X's emergency call on 26 August 2013.

### Did Police respond adequately to Ms Y's emergency calls on 18 September 2013?

84. Ms Y complained that Police did not respond with sufficient urgency to her emergency call that Ms X and her son were being held against their will by gang members. She also complained that Police did not go to the address quickly enough to catch the offenders, or contact her with an update once they had attended the house.
85. When NorthComms received Ms Y's first emergency call, all Counties Manukau units were dealing with another serious incident. The communicator explained this to Ms Y. However, understandably, she was distressed that her family could not receive immediate Police assistance.

86. The communicator coded the incident as 'priority 2' for the reasons described in paragraph 10. However, the Authority finds that the call was incorrectly prioritised. Ms Y reported that a child had been assaulted, and that Ms X and her son were being held against their will. These facts clearly met the criteria for a 'priority 1 incident', as set out in paragraph 63.
87. Police try to respond to 'priority 1' events as quickly as possible, and Police Communications have developed Standard Operation Procedures (SOP) for managing 'priority 1' incidents in the event that no units are immediately available to attend. These are described in paragraphs 64-65.
88. Police have maintained that communications staff did in fact follow these SOPs when they realised that there were no units to respond to Ms Y's call, despite the fact that it was given 'priority 2' status, because the dispatchers attempted to contact the field sergeant (who was unavailable).
89. However, it is unclear whether the dispatchers informed the team leader that no units were available to attend Ms X's house. This is an important step in the SOPs, because it allows other response options to be considered. Ms X and her son could have had to wait for an unacceptable amount of time in dangerous circumstances for an emergency response.
90. Ms Y has also complained that Police did not go to the address quickly enough to catch the offenders, or contact her with an update once they had attended the house.
91. Police did not have a great deal of information about what had happened at Ms X's house as a result of Ms Y's emergency call. She was only able to pass on limited information which had been given to her by Ms X under strained and unusual circumstances. Ms Y had also mentioned that gang members might be involved, which could indicate that the offenders were drug affected or had firearms.
92. Police needed to get a clearer appreciation of what had happened before they decided how best to respond. This information was best gathered by speaking directly to Ms X at the hospital. This was explained to Ms Y.
93. After obtaining this information, Police attended and cleared Ms X's house as soon as was practicable. Unfortunately, Officer H forgot to ring Ms Y back and update her about what had been found at the house. This was regrettable.

## FINDINGS

Ms Y's emergency call should have been given 'priority 1' status.

It is unclear whether Police followed 'priority 1' standard operating procedures in response to Ms Y's emergency call because the Authority has been unable to determine whether the dispatchers informed their team leader that no units were available to attend Ms X's house.

Police went to Ms X's house and cleared it as soon as was practicable.

Officer H's failure to update Ms Y after Ms X's house had been cleared was an accidental oversight.

### Did Police meet their obligations to Ms X's son under the Child Protection Protocol on 18 and 19 September 2013?

94. As described in paragraphs 66–71, Police work closely with a range of Government and community agencies to respond to and thoroughly investigate all reports of child safety concern. Memoranda of Understanding and protocols, such as the Child Protection Protocol (CPP) between Police and CYF, set out processes and procedures for how these agencies will work together. This is to ensure that, where serious child abuse<sup>8</sup> is suspected, the immediate safety of the child is addressed, concerns are investigated, and any perpetrators are held to account for their actions.
95. Police have developed policy *“designed to ensure timely, coordinated and effective action in response to information about child safety concerns so that children are kept safe, offenders are held accountable wherever possible and child victimisation is reduced.”*<sup>9</sup> It is important that Police officers follow agreed procedures to ensure *“all elements of good child protection practice are applied.”* However, officers should not lose sight of the overriding duty to protect the *“welfare, interests and safety of children.”*<sup>10</sup>
96. Police receive reports of child safety concerns through a variety of avenues. If Police officers become concerned when attending an incident, the priority is to ensure the child's immediate safety and notify the local Child Protection Team as soon as possible. If immediate intervention is not required, a completed CPP referral form should be emailed to the Child Protection Team by the receiving officer before he or she goes off-duty.<sup>11</sup> If there is any doubt as to the degree of seriousness the case should be referred for further discussion with CYF (see paragraphs 72-73).

### Officers D and E

97. The first contact that Ms X's son had with Police was when Officers D and E attended Auckland Starship Hospital. This was the first opportunity Police had to assess the safety of Ms X's son and to protect the child if necessary.
98. The Authority appreciates that Officers D and E were responding to what they believed was a kidnapping, and they had no reason to believe that Ms X was not telling the truth about how her son's injuries had been caused.
99. Their role was to obtain the facts of the situation from Ms X, and relay this information to Officer B who would judge if an immediate response was necessary. While they failed to hand in their job sheets as directed by Officer B, they did provide Officer B with a verbal briefing of their

<sup>8</sup> What qualifies as serious child abuse is determined by a test under the CPP. Serious physical abuse, such as a blow to a child's head, is considered to be serious child abuse.

<sup>9</sup> *Child protection policy and investigation guidelines*, policy in force 18 September 2013, page 1.

<sup>10</sup> *Memorandum of Understanding with the Department of Child, Youth and Family (CYF)*, page 1.

<sup>11</sup> *Child protection policy and investigation guidelines*, policy in force 18 September 2013, pages 13-14.

meeting with Ms X and her son, and photographs of his injuries. This meant that Officer B was in a better position to assess whether there was any indication of serious child abuse, and take the appropriate action.

### *Officers B, C, F and G*

100. Officer B told the Authority that, based on the information received from NorthComms and Officers D and E, he understood that the child's injuries had occurred as the result of an isolated kidnapping incident during which the child was punched by mistake, and there was no suggestion that the child was at risk of ongoing violence at home. Consequently, he believed that the CPP was not relevant in this case.
101. He noted that he did have concerns for the environment in which the child was being raised, which appeared to involve gang activity. However, he believed that any referral to CYF on this basis would be made by detectives from Counties Manukau Police who would be carrying out the investigation.
102. Officer B told the Authority that he understood that his role was limited to ensuring that Police had an initial appreciation of what had happened to Ms X and her son, and undertaking any emergency response. Other than preventing Ms X's partner from being assaulted, he judged that Ms X's son was safe in hospital for the time being, and his injuries were not of a life-threatening nature.
103. Officer B says he discussed his intended approach with his supervisor, Officer C, who was satisfied.
104. Officer B took the information gathered by Officers D and E, and considered the immediate safety of Ms X's son. However, in the Authority's view, he failed to:
- adequately consider Ms X's son's ongoing welfare and safety; and
  - take sufficient action based on the information he had available.
105. Officer B's position as a supervisor and experience as a Police officer should have caused him to consider that there might be doubt around the cause of Ms X's son's injuries. A vulnerable child had presented at hospital having been allegedly punched in the head, and the explanation provided was unusual. The photographs taken by Officers D and E confirmed that he had sustained injuries to his head. It was possible that Ms X's story was true, which indeed raised concerns about the child's living environment. However, it was equally likely that the child was a victim of family violence. Both possibilities meant that Ms X's son was at risk.
106. Whatever the truth behind the child's injuries, the Authority considers that there was enough information to raise concerns for his safety, obliging Officer B to complete a Report of Concern using the CPP referral form and email it to the Child Protection Team and CYF National Call Centre before going off duty. Officer C, as Officer B's supervisor, should also have prompted Officer B to take proactive action in the circumstances.

107. Officer B was mistaken in his belief that the investigation team were responsible for filling out a CPP referral form. The purpose of the referral is to alert a specialist investigation team and CYF to the possibility of serious child abuse at the earliest possible opportunity, so that the situation can be expertly assessed.
108. Officer G identified the need for a CPP referral and checked with Officer F whether he should complete a Report of Concern. As described in paragraph 37, Officer F told him that this would be completed by Auckland City Police who were dealing with the family. This was incorrect advice. However, Officer G was entitled to rely on Officer F's advice due to Officer F's role as an investigator.

#### *Officer I*

109. The Authority accepts that, once Officer I was alerted by a social worker that there were concerns about the cause of Ms X's son's injuries, he made considerable efforts to gather more details through available channels. He was hampered in his early investigation by a lack of accurate information.
110. Officer I took the well-judged decision to send specialist detectives from his Child Protection Team to the hospital to assess the situation. However, it was unfortunate that neither Officer I nor the detectives took this opportunity to take a statement from Ms X. Officer I has admitted that, in hindsight, this should have been done.
111. The Authority finds that Officer I should have forwarded a completed CPP referral to the Counties Manukau Child Protection Team as per the CPP. This was important to ensure that the safety of Ms X's son would continue to be monitored, and the investigation into suspected child abuse would be progressed.

#### **FINDINGS**

Officers B, C, F and I failed to meet their obligations to Ms X's son under the CPP on 18 and 19 September 2013.

Officer B should have completed a CPP referral form and emailed it to the Child Protection Team and CYF National Call Centre before completing his shift.

Officer F should have advised Officer G to complete a CPP referral form rather than waiting for the investigation team to complete the referral form.

Officer I should have forwarded a completed CPP referral form to the Counties Manukau Child Protection Team as per the CPP.

#### **Did Police respond to this incident in a manner that was consistent with the Metro Auckland District Investigations Protocol?**

112. There are three adjoining Police districts in the Auckland region: Auckland City, Counties Manukau and Waitemata. Because of the large number of people living in a relatively small

geographical area, victims and offenders move frequently across these district borders, and an offence may be committed in one district, but be reported to Police in another.

113. Police in these three districts have developed the MADl Protocol to ensure that an offence committed in one of these three Police districts is properly assigned and investigated, regardless of whether the complaint or offence is reported to Police in a different Police district in the Auckland region. The Protocol is explained in paragraphs 74-76.
114. Under the MADl Protocol, Auckland City police were responsible for recording Ms X's complaint and completing any necessary initial action, before forwarding the file to Counties Manukau Police, who would be responsible for completing the investigation into the incident.

#### *Recording the complaint: Officers B and C*

115. The Authority spoke to Officer B and his supervisor Officer C about their understanding of their obligations under the Protocol.
116. Officers B and C both believed that Police had already received a report of this incident through the emergency calls Ms Y made while she was in Counties Manukau Police district attempting to assist Ms X. Consequently, in their view, by speaking to Ms X at Auckland Starship Hospital, Auckland City Police were not recording her complaint in the first instance, and the MADl Protocol was not relevant.
117. Officer B told the Authority that he understood that NorthComms was merely asking for Auckland City's assistance for what was a "south job," and it was "simply that they had no units available and, therefore, [the job] would be passed back and that's why we didn't complete an initial action file." Consequently, Officer B directed his officers to conduct what he described to the Authority as a "fact finding mission." This did not include the officers taking statements from Ms X or Ms Y, or completing any other investigation documentation, which he believed would be done by Counties Manukau Police.
118. The Authority disagrees with Officer B's and C's interpretation of when and where this incident was reported to Police, and consequently of the officers' obligations under the MADl protocol.
119. In the Authority's view, Police did not record Ms X's complaint about the offences that had allegedly been committed against her and her son until Officers D and E spoke to her at Auckland Starship Hospital sometime after midnight on 19 September 2013. Before this point, Police had not spoken to Ms X and did not have a clear idea about what had occurred because the information provided by Ms Y during the emergency calls was sketchy, vague and given in unusual circumstances.
120. The job sheets completed at Auckland Starship Hospital formed part of the initial action on the file. These were not passed on to Counties Manukau Police as intended by Officer B.

#### *Completing initial action and passing the file over for investigation: Officers I, J and K*

121. Under the MADl protocol, Officer I (from the Auckland City Child Protection Team) should have forwarded the file to Counties Manukau Crime Squad with the outline of an investigation plan

and a copy of the CPP referral when he emailed a brief summary of the incident and reference information to Officer J at 4:37pm on 19 September 2013.

122. As explained above, Officer I had accumulated very little information about the incident by late afternoon on 19 September 2013. When Officer I forwarded the information he did have, he requested that the Counties Manukau undertake an immediate scene examination.

123. Upon examining the information that Officer I had sent through, Officers J and K did not believe that they had sufficient grounds to undertake a scene examination (either by emergency powers under the Search and Surveillance Act 2012 or by consent).

124. The Authority agrees with this view. Officers J and K believed that the offence to be investigated was child abuse, not kidnapping. It was unlikely that there would be any evidence at the scene to support an allegation of child abuse. Even if Officers J and K chose to attempt a scene examination:

- Ms X was unlikely to give permission to Police to search her house for any evidence of child abuse against her son. Police could not tell her that they were wanting to search the house for evidence of a kidnapping instead, because this would be obtaining her consent by subterfuge and any evidence found would be inadmissible; and
- Police did not have access to emergency warrantless search powers under section 15 of the Search and Surveillance Act 2012<sup>12</sup> in these circumstances. Section 15 requires a constable to have a reasonable belief that evidential material relating to an offence punishable by imprisonment for a term of 14 years or more is in that place. Child abuse does not fit this offence criterion, and in any case Officers J and K did not have any reasonable belief that they would find such evidence.

125. The failing, having made this decision, was to forward the file back to Officer I. The file had been passed to them under the MADI Protocol, and it was now the responsibility of Counties Manukau Police to progress the investigation.

## FINDING

Officers B, C and I did not act consistently with the Metro Auckland District Investigations Protocol when responding to the incident on 18 September 2013.

Officer I should have forwarded the file to Counties Manukau Crime Squad with the outline of an investigation plan and a copy of the CPP referral.

Officer K should not have re-assigned the file to Officer I after having decided not to conduct a scene examination of Ms X's house. Counties Manukau Police were responsible for progressing the investigation.

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<sup>12</sup> Section 15 of the Search and Surveillance Act is set out in paragraph 77 of this report.

## CONCLUSIONS

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126. On 18 and 19 September 2013, the actions and inaction of some officers created a series of compounding failures which resulted in a vulnerable child not receiving the protection and service from Police which he should have.
127. Police initially failed to recognise the seriousness of a reportedly violent incident involving a small child, consequently the Police response was not as urgent as it might otherwise have been. Once Police were able to visit Ms X and her son, the information gathered was not passed on, and the appropriate alarms were not raised.
128. Once Police were alerted to the possibility that Ms X's son might be the victim of serious child abuse, efforts to progress an investigation were hampered by a lack of information, and a failure to follow processes set out for investigating incidents of child safety concern and for handling investigations across Police districts.
129. In the Authority's view, Police failed to provide an adequate service to Ms X's son during this incident. The Authority has concluded on the balance of probabilities that:
- 1) Police responded adequately to Ms X's emergency call on 26 August 2013.
  - 2) Ms Y's emergency call should have been given 'priority 1' status.
  - 3) It is unclear whether Police followed 'priority 1' standard operating procedures in response to Ms Y's emergency call because the Authority has been unable to determine whether the dispatchers informed their team leader that no units were available to attend Ms X's house.
  - 4) Police went to Ms X's house and cleared it as soon as was practicable.
  - 5) Officer H's failure to update Ms Y after Ms X's house had been cleared was an accidental oversight.
  - 6) Officers B, C, F and I failed to meet their obligations to Ms X's son under the CPP on 18 and 19 September 2013.
  - 7) Officer B should have completed a CPP referral form and emailed it to the Child Protection Team and CYF National Call Centre before completing his shift.
  - 8) Officer F should have advised Officer G to complete a CPP referral form rather than waiting for the investigation team to complete the referral form.
  - 9) Officer I should have forwarded a completed CPP referral form to the Counties Manukau Child Protection Team as per the CPP.
  - 10) Officers B, C and I did not act consistently with the Metro Auckland District Investigations Protocol when responding to the incident on 18 September 2013.

- 11) Officer I should have forwarded the file to Counties Manukau Crime Squad with the outline of an investigation plan and a copy of the CPP referral.
- 12) Officer K should not have re-assigned the file to Officer I after having decided not to conduct a scene examination of Ms X's house. Counties Manukau Police were responsible for progressing the investigation.

### SUBSEQUENT POLICE ACTION

130. Since this incident, Police have undertaken some further training on Child Protection referral requirements. The Authority also understands that the Child Protection Protocol and related policy is currently being reviewed, and that this review should be completed by the end of the year.
131. In addition, Police have updated standard operating procedures to require dispatchers to follow 'priority one' procedures (see paragraph 65) where no units are available to attend 'priority 2' and '3' events.



**Judge Sir David Carruthers**

Chair  
Independent Police Conduct Authority

22 October 2015



## ABOUT THE AUTHORITY

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### Who is the Independent Police Conduct Authority?

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

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

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

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

### WHAT ARE THE AUTHORITY'S FUNCTIONS?

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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 about the Police conduct, policy, practice or procedure which was the subject of the complaint. The Authority may make recommendations to the Commissioner.



**IPCA**

Independent Police  
Conduct Authority

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