

Pursuit in Whangārei where driver shoots at Police

Summary of the Incident

1. On 21 September 2020, Police notified us of an incident where someone shot at Police officers during a pursuit in Whangārei.
2. At about 11.33pm on 2 September 2020, Police pursued a car for driving over the speed limit in Whangārei. The car had two occupants inside, who Police identified upon arrest. Mr X was the driver and Mr Y was in the front passenger seat.
3. During the initial pursuit Mr X shot a rifle once out of the car's window and the pursuing officers abandoned the pursuit.
4. Officer C saw the car, and the Police Northern Communications Centre (NorthComms) told him to follow it at a safe distance. The pursuit controller instructed all units to follow at normal road speed,¹ not to engage Mr X, and to get into position to prepare for a covert spiking of the fleeing car.²
5. Officer E stopped his patrol car at the intersection of Riverside Drive and Mackesy Road where he successfully spiked Mr X's car, but Mr X continued driving.
6. Officer D, a Police dog handler with extensive experience in the Armed Offenders Squad (AOS), who now followed Mr X, saw traffic approaching from the front and became concerned because Mr X was driving a dark coloured car, late at night, and without its headlights switched on. Officer D informed the pursuit controller that he had switched on his flashing lights to warn the oncoming traffic of a possible hazard approaching them.

¹ The pursuit controller supervises the pursuit and co-ordinates the overall response, including the appropriate tactical options.

² A covert deployment requires that marked patrol cars and officers be hidden from a fleeing driver's line of sight.

7. The pursuit controller instructed the dispatcher, to give the pursuit warning,³ thereby recommencing the pursuit.
8. Officer F, also a dog handler, took position behind Officer D (thereby becoming the secondary pursuit car).
9. When the pursuit approached the roundabout at Riverside and Dave Culham Drives, Mr Y took hold of the car's steering wheel, as Mr X stood up in his seat. Mr X leaned out of the car's driver window and fired a shot at Officer D with a sawn-off .303 bolt action rifle. Officer D did not inform NorthComms that he had been shot at.
10. Shortly afterwards, as the pursuit continued up Dent Street, Mr Y again took hold of the steering wheel and Mr X fired another shot at Officer D, who informed NorthComms that he had been shot at.
11. As the pursuit continued through Whangārei, at Walton Street, and at Murdoch Crescent, Mr X aimed the rifle several more times at Officer D. Officer D believed that Mr X was trying to shoot at him, but the rifle seemed to have malfunctioned. Officer D informed NorthComms accordingly.
12. The pursuit continued until Mr X's car came to a stop on Tarewa Road where both men were arrested. The AOS arrived shortly after the arrests.
13. At the time of the incident, Mr X was intoxicated, did not hold a valid driver's licence, and had previously been forbidden to drive.
14. Mr X says that after he was placed into a Police car, an unknown officer struck him with an elbow in his face.
15. Mr X subsequently pleaded guilty on charges related to his driving and firing a rifle at Police, he was sentenced to seven years imprisonment.

The Authority's Findings

Issue 1: Was the initial pursuit justified?

Officers A and B were not justified to pursue a car for speed alone.

Issue 2: Was the incident managed correctly after the pursuit had been abandoned?

NorthComms should have directed an inquiry phase after the pursuit had been abandoned.

³ A pursuit warning requires involved officers to acknowledge that they will abandon the pursuit should there be any unjustified risk to any persons.

Officers C and D should have fitted their front hard armoured plates (HAP) before they followed an armed offender.

Issue 3: Should the pursuit have recommenced?

The recommencement of the pursuit was justified because of the risks posed by Mr X.

Issue 4: Should the second pursuit have been abandoned, after Mr X shot at Police?

The decision not to abandon the pursuit after Mr X shot at Police was reasonable.

Issue 5: Did any officers use excessive force on Mr X after his arrest?

There is not enough evidence to determine if excessive force was used against Mr X.

Analysis of the Issues

ISSUE 1: WAS THE INITIAL PURSUIT JUSTIFIED?

16. Officers A (the driver) and B (the passenger) of a marked patrol car, saw a car with two occupants speeding on Kiripaka Road with a posted speed limit of 50kph. The officers followed the car, and their speed radar recorded it driving at 80kph.
17. The officers signalled Mr X to stop by switching the patrol car's flashing lights and siren on. Mr X did not stop, and Officer B informed NorthComms that they had started a pursuit.
18. NorthComms gave the pursuit warning which the officers acknowledged. Officer A was qualified to drive in pursuit.
19. Under the Land Transport Act, Officer A could lawfully signal Mr X to stop and by failing to stop, Mr X was in breach of the law.⁴
20. In deciding if a pursuit is justified, officers have to consider the following:⁵
 - the fact that a driver is fleeing does not in itself justify a pursuit; and
 - pursuits should only be started where the seriousness of an offence and the need to immediately apprehend someone, outweighs the risk of a pursuit.
21. The underlying risk of a pursuit is that it may end in serious injury or death to those in the fleeing vehicle, or an innocent member of the public, or even Police.

⁴ See appendix, paragraph 73.

⁵ See paragraph 76.

22. By driving at a speed of 80kph on a road with a 50kph posted speed limit, Mr X's offence did not pose a serious threat that would outweigh the risk of serious injury or death by a pursuit occurring. Starting this pursuit, for speed alone, was not justified.
23. During the pursuit, Mr X suddenly swerved his car right, exposing the driver's side of his car to the patrol car behind him. The officers saw a flash coming from the driver's window and heard a loud bang.
24. Believing Mr X had just fired a shot out of his car's window, the officers abandoned the pursuit and informed NorthComms that they had come to a stop. NorthComms instructed all units to abandon the pursuit.
25. Mr X steered his car back into the road and continued driving.
26. Since this incident the Fleeing Driver policy has been updated, and officers trained, to ensure that pursuits are undertaken and managed in line with the guidelines of the updated Fleeing driver policy.

FINDING ON ISSUE 1

Officers A and B were not justified to pursue a car for speeding alone.

ISSUE 2: WAS THE INCIDENT MANAGED CORRECTLY AFTER THE PURSUIT HAD BEEN ABANDONED?

27. The car was seen on local traffic cameras and its location communicated to NorthComms.
28. A unit asked if the fleeing car could be spiked but NorthComms declined saying they were arranging resources and planning on how to safely deal with pursuit of an armed offender.
29. Officer C was the shift sergeant and was on his way to check on Officers A and B. He saw Mr X drive past him on Otaika Road and informed NorthComms, asking what they wanted him to do. NorthComms instructed him to follow the car at a safe distance.
30. The pursuit controller may direct a patrol car to follow a fleeing driver after a pursuit is abandoned.⁶ Officer C was tasked to follow at a safe distance while the pursuit controller contacted the AOS and the Air Support Unit (Eagle). Eagle was however unable to deploy at the time. Traffic camera footage shows that Officer C was following at a safe distance and that his patrol car's flashing lights were not activated when he followed Mr X.
31. Officer C was driving alone in his Police car and was armed with a Glock pistol as the previous job he attended involved a firearms incident. Officer C did not have his HAP fitted to his ballistic vest.
32. A post-incident review undertaken by Police outlined that: *"As soon as it is identified that offenders are armed, all responding officers should ensure that ballistic plates are fitted to their*

⁶ See appendix, paragraph 77.

BAS (Body Armor System). This should be a priority, regardless of any concern that it might delay a response.” We agree with this finding and Officer C should have stopped and fitted his HAP before dealing with any firearms incident.

33. The review describes this part of the incident (after the initial pursuit was abandoned) as a ‘surveillance phase’. There is no ‘surveillance phase’ or ‘search phase’ provided for in the Fleeing driver policy. The policy (which applied at the time) required that an ‘inquiry phase’ be prioritised after the pursuit was abandoned.⁷ NorthComms did not direct an ‘inquiry phase’ after the pursuit had been abandoned. An ‘inquiry phase’ typically involves officers following up on all available lines of inquiry to find out who the fleeing driver was (this has now been replaced by an ‘investigation’ in the current policy). As part of the Police inquiries, someone should have contacted the registered owner of the fleeing car.⁸
34. Shortly after the officers abandoned the initial pursuit, the dispatcher checked the Police database and saw that the car was registered to a woman from Hamilton. Ms Z (Mr X’s mother) bought the car from her sister-in-law, who was the registered owner living in Hamilton. There were however no phone numbers for Ms Z in the Police database and consequently Police could not immediately make enquiries with her.
35. Overall, the pursuit controller was professional; and maintained good control and co-ordination of the situation on the ground. He communicated his plans clearly to all units and provided supporting commentary to Officer D, after he was shot at. This was a highly stressful situation for all involved and we acknowledge that despite this, the incident, overall, was well managed and ultimately resolved without serious injury or the loss of life.

FINDINGS ON ISSUE 2

NorthComms should have directed an inquiry phase after the pursuit had been abandoned.

Officer C should have fitted his front HAP before he followed an armed offender.

ISSUE 3: WAS THE RECOMMENCEMENT OF THE PURSUIT JUSTIFIED?

36. Officer D did not hear the radio communications about the initial pursuit and shooting. A colleague called and told him what happened. Officer D hurried to his car, took out his Glock pistol, and reviewed the Police fire orders.⁹ He also did not have his front HAP in his ballistic vest and says he did not want to waste critical time searching for it. We believe (and Police policy insists) Officer D should have put on his HAP, regardless of the concern that a delay might have posed.
37. Officer C saw the car turning into Sherwood Road, a dead-end cul-de-sac and made a U-turn. Officer C thought he might be shot at if Mr X drove past him and he reversed, backing out of

⁷ See appendix, paragraph 78.

⁸ See appendix, paragraph 80.

⁹ ‘Fire Orders’ are operationally specific instructions on the circumstances in which Police employees may use firearms (see appendix, paragraphs 90-96).

Sherwood Road. Officer D drove into Sherwood Road but did not see where Officer C was. Mr X drove past him without shooting and Officer D took over following Mr X.

38. Officer D first asked for permission to switch on his car's flashing lights to warn oncoming traffic and then informed NorthComms that he had switched on his flashing lights. The pursuit controller, believing Police were now actively following the car, asked the dispatcher to issue the pursuit warning.
39. The policy outlines that a pursuit should only be re-engaged if the pursuit controller is satisfied that risks are mitigated, or the situation has changed.¹⁰ The pursuit controller believed the fleeing car was now driving in a "rural area" of Whangārei and followed by two, armed dog handlers, both having AOS training and experience.
40. The pursuit controller wanted to minimise the risk officers faced and authorised a covert deployment of road spikes to immobilise Mr X's car. A covert deployment requires that marked patrol cars and officers be hidden from a fleeing driver's line of sight.¹¹
41. The law allows Police to use "*such force as may be necessary*" to prevent the escape of someone who takes flight in order to avoid arrest.¹² We are satisfied that Police reasonably believed Mr X was fleeing to avoid arrest and agree that the use of road spikes was a lawful tactic in the circumstances to try to stop Mr X from escaping.
42. As the fleeing car had been spiked, it now became a matter of time before its tyres would deflate, bringing the car to a stop. Other armed Police Safety Team (PST) units were in the area to provide tactical support if required, and the AOS was on the way. The pursuit controller told all units to follow at a safe distance until the AOS was in position to take over the pursuit.
43. At this point, the pursuit controller reasonably believed there was a risk that Mr X could shoot at Police or injure members of the public. The risk to the public would increase significantly if the pursuit moved into a built-up area, as it subsequently did. The recommencement of the pursuit became necessary because the car was spiked. There was a risk that Mr X, knowing his car was going to come to a stop, and given his wilful intent in evading Police, could attempt to forcibly hijack a vehicle from a member of the public to make his escape.
44. We acknowledge that the pursuit controller's decision to spike Mr X's car, was made in a dynamic and fast evolving situation where time pressures demanded action be taken to stop Mr X's car. At the time he authorised the spiking of Mr X's car, the pursuit controller did not anticipate the pursuit to be recommenced, which eventually lead to the subsequent shootings.
45. With the benefit of hindsight, and without criticising a difficult decision, we believe another, potentially safer option, would have been to delay the spiking of the car, and allow it to be safely followed (as Police had done up until that point), until the AOS were nearby and ready to take over the pursuit.

¹⁰ See appendix, paragraph 82.

¹¹ See appendix, paragraph 89.

¹² See appendix, paragraph 74.

46. This is because the AOS is equipped with specialist training to resolve high-risk situations. They specifically have the ability to execute a non-compliant vehicle stop. This is a tactic where an AOS commander can authorise the use of Police vehicles to force a mobile, armed, and fleeing driver to stop.
47. The AOS commander had been briefed about the event shortly after the first shooting, and the AOS team were busy deploying to the incident as the pursuit continued.
48. Notwithstanding the availability of this option, the deployment of road spikes to stop Mr X's car was justified as was the recommencement of the pursuit.

FINDING ON ISSUE 3

The recommencement of the pursuit was justified, because of the risks posed by Mr X.

Officer D should have fitted his front HAP before he followed an armed offender.

ISSUE 4: SHOULD THE SECOND PURSUIT HAVE BEEN ABANDONED, AFTER MR X SHOT AT POLICE?

49. Mr X shot at Police at the roundabout at Riverside and Dave Culham Drives, and again where Riverside Drive becomes Dent Street. The distance between these points is approximately two kilometres. Officer D told NorthComms that the pursuit speed was about 53kph on Riverside Drive. In factoring the relative speed (53kph) over the distance (2km) it appears that the shots were fired about 2 minutes and 16 seconds apart.
50. Officer D did not inform NorthComms of the first shooting and says this was because there was heavy radio traffic, and his hands were alternating between the steering wheel, his pistol, and the radio's mic, depending on what was happening in front of him. From listening to the radio transmissions, except for the dispatcher giving the pursuit warning, Officer D is mostly talking. After he passed Riverside and Dave Culham Drives (the location of the second shooting), Officer D informed NorthComms that he passed Memorial Drive and requested a second spiking of the fleeing car. Officer D had the opportunity to inform NorthComms then that he was shot at, and this critical information should have been relayed.
51. Policy outlines that if a lead pursuing car has only one officer in it (as was the case with Officer D), the driver of the second pursuit car (in this case, Officer F) must take over the pursuit commentary.¹³ If the pursuit controller had known Mr X was shooting at Police he would have ensured Officer D was relieved of the responsibility for providing commentary about the pursuit at the earliest opportunity, to reduce his cognitive load during this fast-moving incident.
52. Officer F was already behind Officer D when they approached the roundabout at Dave Culham Drive. He saw Mr X firing from the fleeing car and noticed that NorthComms was not informed of this. When Officer D requested a second spiking of the fleeing car, Officer F informed him that he was right behind him. Officer F was not asked to take over the pursuit commentary.

¹³ See appendix, paragraph 84.

About six minutes into the second pursuit, Officer F offered to take over the pursuit commentary, but there was no response.

53. Officer D eventually asked Officer F to take over the pursuit commentary, but this was well after he had been shot at and the rifle pointed at him at several times. In addition, there were two instances involving members of the public being put at risk that were not relayed to NorthComms:
- At Bank Street, Mr X moved his car into the path of an approaching civilian car. The civilian car managed to drive around him, avoiding being struck.
 - The same happened at Tarewa Road where a civilian car approached from the front.
54. Officer F should have taken over the pursuit commentary when he took position as the secondary pursuit car. The pursuit controller agreed that this should have happened.
55. In both shooting instances, Officer D says that Mr X was aiming the rifle at him. When Mr X shot at him at Dent Street, Officer D heard something hit his patrol car and thought it might have been debris, or a piece of shredded tyre coming from the fleeing car. It was later found that a bullet struck the front left headlight of Officer D's patrol car.
56. Officer D now informed NorthComms that, *"he's just fired another shot out of the driver's window!"* The pursuit controller did not clarify if Mr X fired directly at Officer D, or just out of the car's window, as was reported.¹⁴ The pursuit controller believed that Officer D, as an experienced AOS operator, would have told him if Police had been directly fired on. We agree, Officer D should have informed the pursuit controller of this critical detail as it raised the level of risk Police were exposed to considerably and would have informed the pursuit controller's decision-making.
57. Conversely, Mr X told us that he did not aim, or shoot directly at Police, but near them because he wanted them to go away (abandon the pursuit). Mr X denies that Mr Y was holding the steering wheel and that he stood-up and aimed the rifle at the Police car pursuing him. According to Mr X, *"I just had one hand on the steering wheel, and one hand out the window with the gun... I didn't even look back, but I had it facing down to the ground."*
58. Mr X says he is lefthanded and he passed his left hand, holding the rifle, over the top of his right hand, and then out of the driver's window. Given how Mr X was holding the rifle with one hand pointed to his rear, we find it difficult to accept that he still managed to drive his car and aim his shots at the tyres of the Police car behind him. Officer F (driving behind Officer D) told us that he only saw movement coming from Mr X's window, followed by flashes and loud bangs when he shot. Officer F did not have a clear view of what Mr X was doing.
59. Mr X told us that he drank 18 Cody's cans before driving.¹⁵ By shooting out of a moving car, Mr X endangered not only the officers following him, but also risked the safety of the public at large.

¹⁴ See appendix, paragraph 83.

¹⁵ 'Cody's' refer to an alcoholic beverage containing 7% alcohol per 250ml can.

It is impossible for anyone (including Police) to know or predict where a stray or ricocheting bullet might strike.

60. At the second shooting location, at the roundabout at Riverside and Dave Culham Drives, there are fields south of Riverside Drive and residential houses north of it. The houses north of Riverside Drive are situated on a hill. The third shooting location, where Riverside Drive becomes Dent Steet, is in a business district. From there the pursuit moved into residential areas in Whangārei where Mr X attempted to shoot at Police.
61. When asked if he thought about abandoning the pursuit in light of the risks, Officer D explained that he was not prepared to do so because:
- Mr X knew his car was spiked and that it was going to become immobile soon.
 - Given his experience from previous incidents, there was a real risk that Mr X might use his car to force a member of the public off the road to take their car.
 - Mr X also showed that he was willing to use his firearm against Police and would likely also be willing to use it against the public to affect his escape.
62. Officer D explained that he was essentially between a *“rock and a hard place.”* On the one hand he was exposed to danger from Mr X shooting at him, and on the other hand, the public was exposed to danger that he would harm them to get another car in order to escape. The same risks existed when Mr X later pointed the rifle at him.
63. The pursuit controller similarly told us that the pursuit could not be abandoned as Police could not risk Mr X carjacking someone else.¹⁶
64. We agree that under the circumstances, the decision to continue the pursuit was reasonable. The pursuit took place late at night and it was unlikely there would be many pedestrians or traffic on the road. Police needed to follow Mr X given he was armed and actively shooting out of his car. Officer D says Mr X knew his car would soon stop as the tyres had been spiked, and he thought there was real risk Mr X would try to forcibly take a vehicle from a member of the public to make his escape. We accept the risks to the public were serious and outweighed the risks of Police continuing a pursuit.

FINDINGS ON ISSUE 4

The decision not to abandon the pursuit after Mr X shot at Police was reasonable.

Officer D should have informed NorthComms when Mr X first shot at him.

Officer D should also have informed NorthComms that Mr X was shooting directly at Police.

Officer F should have taken over the pursuit commentary when he became the secondary pursuit car.

¹⁶ See appendix, paragraph 81.

ISSUE 5: DID ANY OFFICERS USE EXCESSIVE FORCE, AFTER MR X'S ARREST?

65. According to Mr X he was handcuffed and sat in the rear of the car with an officer, when another officer opened the door and called him a “meth head” and a “piece of shit.” This officer elbowed him in the left side of his face and pushed him down into the seat. According to Mr X the unknown officer walked away after he did this. He says it was not the officer who sat next to him in the back of the patrol car. Mr X says he had a bruise and some swelling to his jawbone the next day.
66. Officers G and H placed Mr X in their patrol car and took him to the station.
67. Officer H was the driver, and Officer G the passenger who sat in the back of the patrol car with Mr X. Officer H denies that he struck Mr X with an elbow in the face or that he used any force on him. Officer G also denies that this happened and says that he saw no use of force against Mr X in the back of the patrol car.
68. Photos taken of Mr X at the police station, show a graze on his right cheek. No injury can be seen on Mr X's left cheek or jaw area where he claims the officer had struck him.
69. Mr X told us that he sustained the graze injury on his right cheek when he was arrested. He says the arresting officer grabbed the back of his head and scraped it across the ground.
70. Officer D, who assisted in arresting Mr X says he was laying on the ground with his face on the asphalt. He knelt on Mr X's back to secure him while Officer A handcuffed him. Officer D suspects Mr X might have sustained the graze injury from this but is unsure. He does not recall Mr X saying anything about being in pain when he was restrained.
71. Officer F and Officer H provided cover when Mr X was handcuffed. The officers say they did not see any use of force, other than Officer D kneeling on Mr X to restrain him.
72. We are unable to determine exactly how and when the injury to Mr X's face occurred.

FINDING ON ISSUE 5

There is not enough evidence to determine if excessive force was used against Mr X.

A handwritten signature in black ink, appearing to read 'Colin Doherty' with a horizontal line underneath.

Judge Colin Doherty

Chair

Independent Police Conduct Authority

27 September 2022

IPCA: 20-4891

Appendix – Laws and Policies

LAW

Land Transport Act 1998

73. Section 114 (1)(2) allows an enforcement officer to signal, or request, a driver of a vehicle to stop by displaying flashing blue and red lights or sounding a siren. Signalled vehicles are required to stop. Part (6) allows an enforcement officer to arrest a person who fails to stop when signalled without a warrant.

Crimes Act 1961

74. Section 40(1) of the Crimes Act 1961 provides for Police officers to use reasonable force to “prevent the escape of that other person if he takes flight in order to avoid arrest”, unless the escape can be prevented “by reasonable means in a less violent manner”.
75. Under section 62 of the Act, anyone who is authorised by law to use force is criminally responsible for any excessive use of force.

POLICIES

Fleeing driver policy

76. The overarching principle is that public and Police employee safety takes precedence over the immediate apprehension of a fleeing driver. Additional principles are:
- fleeing driver incidents must be managed in the safest possible manner;
 - the fact that a driver is fleeing does not in itself justify a fleeing driver pursuit;
 - fleeing driver incidents will only be commenced and/or continued when the seriousness of the offence and the necessity of immediate apprehension outweigh the risk of pursuing.
77. Police vehicles may collect intelligence in response to a Pursuit Controller’s direction as a requested tactical option.
78. If the fleeing driver is not apprehended at the time of the fleeing driver pursuit, all viable lines of inquiry to identify and hold the fleeing driver accountable should be exhausted. The inquiry phase should be dealt with as a priority prevention activity.
79. An inquiry phase does not qualify for urgent duty driving.

80. An inquiry phase may consist of, but is not limited to, the following actions:
- registered vehicle address inquiries.
81. The lead or secondary vehicle drivers and the pursuit controller all have a responsibility to make decisions about the safe management and apprehension of the fleeing driver. Any of these individuals can order the fleeing driver pursuit to be abandoned.
82. Permission will only be granted to re-engage a vehicle previously involved in an abandoned fleeing driver incident, if the pursuit controller is satisfied that any subsequent risks are mitigated or the situation has changed.
83. The Police staff responsible for the fleeing driver communications should provide the Pursuit Controller with timely and uniform sit-reps (when safe to do so). Where additional information is required or yet to be transmitted the dispatcher or Pursuit Controller should prompt for the required details.
84. The secondary pursuit vehicle should follow behind the lead vehicle at a safe distance, to provide support and take over the pursuit commentary, if the lead vehicle is single-crewed.

Tyre deflation devices

85. 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.
86. Staff can deploy a TDD at their own discretion but only in accordance with their TENR risk assessment if that indicates that an immediate response is justified and when they are unable to gain prior approval from a Pursuit Controller.
87. Where a Pursuit Controller has directed a pursuit of a fleeing driver to be abandoned, staff have no power to self-authorise a TDD deployment.
88. The deployment site must:
- always provide cover and an escape route for deployment staff;
 - provide cover to ensure your safety. Fixed objects such as overpass pillars, buildings, guardrails and bridge abutments provide the most solid protection;
 - not rely on the use of Police vehicles or any other vehicle to provide cover, unless operational circumstances require such in the interests of officer safety.
89. A covert deployment will require an unmarked car (or marked patrol vehicle hidden from the offender's line of sight) and an officer concealed prior to the TDD deployment. This is potentially the safest deployment as the target vehicle driver would have no indication that the deployment is about to occur limiting any exit or evasive manoeuvres.

Firearms

90. The New Zealand Police are not routinely armed. As such, it is recognised that firearms need to be made available for deployment in such a way that they are accessible, depending on the situation.
91. Employees who carry firearms because their assessment of a situation is that it is in, or likely to escalate to be within, the death/grievous bodily harm range as specified by the Tactical Options Framework must advise their immediate supervisor and the Police Communications Centre of their decision to deploy with firearms as soon as practicable.
92. With the exception of specialist groups, employees must wear ballistic body armour when deploying to an incident where they believe firearms are or could be present. This includes circumstances where routine carriage of firearms has been authorised in response to a specific threat.
93. When dealing with an armed offender or an offender believed to be armed, these basic principles apply:

An ongoing risk assessment should be conducted during the course of an incident.

It is better to take the matter too seriously than too lightly.

Caution is not cowardice.

When the offender's actions permit, focus on de-escalation, communication, and prevention, cordon the area, and adopt the wait and appeal role in order to negotiate a surrender.

Never go unnecessarily into danger. However, if the offender is acting in a way that makes casualties likely, act immediately to prevent this.

Treat all armed offenders, or offenders believed to be armed, as dangerous and hostile unless there is definite evidence to the contrary.

94. 'Fire Orders' are operationally specific instructions on the circumstances in which Police employees may use firearms.
95. Every Police employee issued with a firearm is personally responsible for ensuring they are thoroughly conversant with relevant law, particularly sections 39, 40, 41, 48, and 62 of the Crimes Act 1961. Any employee who fires a shot must be personally satisfied through their perceived cumulative assessment that there exists justification for doing so.
96. An offender must not be shot without first considering communication (asking them to surrender) unless it impractical or unsafe to do so. Officers must consider where there are less violent alternatives and whether any further delay in apprehending the offender would be dangerous or impractical.

About the Authority

WHO IS THE INDEPENDENT POLICE CONDUCT AUTHORITY?

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

We are not part of the Police – the law requires us to be fully independent. The Authority is overseen by a Board, which is chaired by Judge Colin Doherty.

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

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

WHAT ARE THE AUTHORITY'S FUNCTIONS?

Under the Independent Police Conduct Authority Act 1988, the Authority receives and may choose to investigate:

- complaints alleging misconduct or neglect of duty by Police;
- complaints about Police practices, policies and procedures affecting the complainant in a personal capacity;
- notifications of incidents in which Police actions have caused or appear to have caused death or serious bodily harm; and
- referrals by Police under a Memorandum of Understanding between the Authority and Police, which covers instances of potential reputational risk to Police (including serious offending by a Police officer or Police actions that may have an element of corruption).

The Authority's investigation may include visiting the scene of the incident, interviewing the officers involved and any witnesses, and reviewing evidence from the Police's investigation.

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.

THIS REPORT

This report is the result of the work of a multi-disciplinary team. At significant points in the investigation itself and in the preparation of the report, the Authority conducted audits of both process and content.



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